

By: Representatives Hood, Morgan, Patterson, To: Judiciary B
Mettetal, Beckett, Rogers (61st), Tullos,
Oliver, Baker, Kinkade, Hale, Rushing,
Formby, Chism, Byrd, Mims, Criswell, Willis,
Currie, Boyd, Henley, Bomgar, Hopkins,
Weathersby, Moore, Shirley, Staples, Crawford, Dixon, Horne, Brown,
Ladner

HOUSE BILL NO. 758
(As Passed the House)

1 AN ACT TO AMEND SECTIONS 45-9-51 AND 45-9-53, MISSISSIPPI
2 CODE OF 1972, TO CLARIFY THAT NO CITY, COUNTY, STATE AGENCY, BOARD
3 OR COMMISSION MAY REQUIRE A SPECIAL TAXATION ON THE CARRYING OF
4 FIREARMS; TO ALSO PROHIBIT SUCH FROM CREATING RESTRICTIONS
5 REGARDING FIREARMS; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 45-9-51, Mississippi Code of 1972, is
8 amended as follows:

9 45-9-51. (1) Subject to the provisions of Section 45-9-53,
10 no county * * *, municipality, state agency, commission or board
11 may adopt any ordinance or regulation that restricts or requires
12 special taxation on the possession, carrying, transportation,
13 sale, transfer or ownership of firearms or ammunition or their
14 components.

15 (2) No public housing authority operating in this state may
16 adopt any rule or regulation restricting a lessee or tenant of a
17 dwelling owned and operated by such public housing authority from
18 lawfully possessing firearms or ammunition or their components
19 within individual dwelling units or the transportation of such



20 firearms or ammunition or their components to and from such
21 dwelling.

22 **SECTION 2.** Section 45-9-53, Mississippi Code of 1972, is
23 amended as follows:

24 45-9-53. (1) This section and Section 45-9-51 do not affect
25 the authority that a county * * *, municipality, state agency,
26 commission or board may have under another law:

27 (a) To require citizens or public employees to be armed
28 for personal or national defense, law enforcement, or another
29 lawful purpose;

30 (b) To regulate the discharge of firearms within the
31 limits of the county * * *, municipality, or on property owned,
32 controlled or regulated by a state agency, commission or board. A
33 county or municipality may not apply a regulation relating to the
34 discharge of firearms or other weapons in the extraterritorial
35 jurisdiction of the county or municipality or in an area annexed
36 by the county or municipality after September 1, 1981, if the
37 firearm or other weapon is:

38 (i) A shotgun, air rifle or air pistol, BB gun or
39 bow and arrow discharged:

40 1. On a tract of land of ten (10) acres or
41 more and more than one hundred fifty (150) feet from a residence
42 or occupied building located on another property; and

43 2. In a manner not reasonably expected to
44 cause a projectile to cross the boundary of the tract; or



45 (ii) A center fire or rimfire rifle or pistol or a
46 muzzle-loading rifle or pistol of any caliber discharged:

47 1. On a tract of land of fifty (50) acres or
48 more and more than three hundred (300) feet from a residence or
49 occupied building located on another property; and

50 2. In a manner not reasonably expected to
51 cause a projectile to cross the boundary of the tract;

52 (c) To regulate the use of property or location of
53 businesses for uses therein pursuant to fire code, zoning
54 ordinances, or land-use regulations, so long as such codes,
55 ordinances and regulations are not used to circumvent the intent
56 of Section 45-9-51 or paragraph (e) of this subsection;

57 (d) To regulate the use of firearms in cases of
58 insurrection, riots and natural disasters in which the city finds
59 such regulation necessary to protect the health and safety of the
60 public. However, the provisions of this section shall not apply
61 to the lawful possession of firearms, ammunition or components of
62 firearms or ammunition;

63 (e) To regulate the storage or transportation of
64 explosives in order to protect the health and safety of the
65 public, with the exception of black powder which is exempt up to
66 twenty-five (25) pounds per private residence and fifty (50)
67 pounds per retail dealer;

68 (f) To regulate the carrying of a firearm at: (i) a
69 public park or at a public meeting of a county,



70 municipality * * *, other governmental body state agency,
71 commission or board; (ii) a political rally, parade or official
72 political meeting; or (iii) a nonfirearm-related school, college
73 or professional athletic event; or

74 (g) To regulate the receipt of firearms by pawnshops.

75 (2) The exception provided by subsection (1)(f) of this
76 section does not apply if the firearm was in or carried to and
77 from an area designated for use in a lawful hunting, fishing or
78 other sporting event and the firearm is of the type commonly used
79 in the activity.

80 (3) This section and Section 45-9-51 do not authorize a
81 county or municipality or their officers or employees to act in
82 contravention of Section 33-7-303.

83 (4) No county * * *, municipality, state agency, commission
84 or board may use the written notice provisions of Section
85 45-9-101(13) to prohibit concealed firearms on property under
86 their control except:

87 (a) At a location listed in Section 45-9-101(13)
88 indicating that a license issued under Section 45-9-101 does not
89 authorize the holder to carry a firearm into that location, as
90 long as the sign also indicates that carrying a firearm is
91 unauthorized only for license holders without a training
92 endorsement or that it is a location included in Section
93 97-37-7(2) where carrying a firearm is unauthorized for all
94 license holders; and



95 (b) At any location under the control of the county or
96 municipality aside from a location listed in subsection (1)(f) of
97 this section or Section 45-9-101(13) indicating that the
98 possession of a firearm is prohibited on the premises, as long as
99 the sign also indicates that it does not apply to a person
100 properly licensed under Section 45-9-101 or Section 97-37-7(2) to
101 carry a concealed firearm or to a person lawfully carrying a
102 firearm that is not concealed.

103 (5) (a) A citizen of this state, or a person licensed to
104 carry a concealed pistol or revolver under Section 45-9-101, or a
105 person licensed to carry a concealed pistol or revolver with the
106 endorsement under Section 97-37-7, who is adversely affected by an
107 ordinance, regulation, or posted written notice adopted by a
108 county or municipality, state agency, commission or board in
109 violation of this section may file suit for declarative and
110 injunctive relief against a county * * *, municipality, state
111 agency, commission or board in the circuit court which shall have
112 jurisdiction over the county * * *, municipality, state agency,
113 commission or board where the violation of this section occurs.

114 (b) Before instituting suit under this subsection, the
115 party adversely impacted by the ordinance, regulation or posted
116 written notice shall notify the Attorney General in writing of the
117 violation and include evidence of the violation. The Attorney
118 General shall, within thirty (30) days, investigate whether the
119 county * * *, municipality, state agency, commission or board



120 adopted an ordinance, regulation, or posted written notice in
121 violation of this section and provide the chief administrative
122 officer of the county * * *, municipality, state agency,
123 commission or board notice of his findings, including, if
124 applicable, a description of the violation and specific language
125 of the ordinance, * * * regulation, or posted written notice found
126 to be in violation. The county * * *, municipality, state agency,
127 commission or board shall have thirty (30) days from receipt of
128 that notice to cure the violation. If the county * * *,
129 municipality, state agency, commission or board fails to cure the
130 violation within that thirty-day time period, a suit under
131 paragraph (a) of this subsection may proceed. The findings of the
132 Attorney General shall constitute a "Public Record" as defined by
133 the Mississippi Public Records Act of 1983, Section 25-61-1 et
134 seq.

135 (c) If the circuit court finds that a county * * *,
136 municipality, state agency, commission or board adopted an
137 ordinance, regulation, or posted written notice in violation of
138 this section and failed to cure that violation in accordance with
139 paragraph (b) of this subsection, the circuit court shall issue a
140 permanent injunction against a county * * *, municipality, state
141 agency, commission or board prohibiting it from enforcing the
142 ordinance, regulation or posted written notice. Any * * *
143 official under whose jurisdiction the violation occurred may be
144 civilly liable in a sum not to exceed One Thousand Dollars



145 (\$1,000.00), plus all reasonable attorney's fees and costs
146 incurred by the party bringing the suit. Public funds may not be
147 used to defend or reimburse officials who are found by the court
148 to have violated this section.

149 (d) It shall be an affirmative defense to any claim
150 brought against an elected county or municipal official under this
151 subsection (5) that the elected official:

152 (i) Did not vote in the affirmative for the
153 adopted ordinance or posted written notice deemed by the court to
154 be in violation of this section;

155 (ii) Did attempt to take recorded action to cure
156 the violation as noticed by the Attorney General in paragraph (b)
157 of this subsection; or

158 (iii) Did attempt to take recorded action to
159 rescind the ordinance or remove the posted written notice deemed
160 by the court to be in violation of this section.

161 (6) No county * * *, municipality, state agency, commission
162 or board or their officers or employees may participate in any
163 program in which individuals are given a thing of value provided
164 by another individual or other entity in exchange for surrendering
165 a firearm to the county, municipality or other governmental body
166 unless:

167 (a) The * * * ordinance or regulation authorizing the
168 participation * * * in such a program is duly adopted by the
169 appropriate body; and



170 (b) Any ordinance or regulation enacted pursuant to
171 this section must require that any firearm received shall be
172 offered for sale at auction as provided by Sections 19-3-85 and
173 21-39-21 to federally licensed firearms dealers, with the proceeds
174 from such sale at auction reverting to the general operating fund
175 of the county, municipality * * *, other governmental body, state
176 agency, commission or board. Any firearm remaining in possession
177 of the county, municipality or other governmental body after
178 attempts to sell at auction may be disposed of in a manner that
179 the body deems appropriate.

180 (7) This section and Section 45-9-51 do not affect the
181 authority of a state agency, commission or board that controls or
182 otherwise regulates a highway patrol station, detention facility,
183 prison, jail or courtroom during a judicial proceeding or any
184 place of nuisance as defined in Section 95-3-1.

185 **SECTION 3.** This act shall take effect and be in force from
186 and after July 1, 2016.

