

By: Representatives Gipson, Morgan, Patterson, Mettetal, Beckett, Rogers (61st), Tullos, Oliver, Baker, Kinkade, Hale, Rushing, Formby, Chism, Bomgar, Weathersby, Shirley, Crawford, Horne

To: Judiciary B

HOUSE BILL NO. 771

1 AN ACT TO AMEND SECTIONS 45-9-51 AND 45-9-53, MISSISSIPPI
2 CODE OF 1972, TO CLARIFY THAT NO CITY, COUNTY OR STATE MAY REQUIRE
3 A SPECIAL TAXATION ON THE CARRYING OF FIREARMS; AND FOR RELATED
4 PURPOSES.

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

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

8 45-9-51. (1) Subject to the provisions of Section 45-9-53,
9 no county * * *, municipality or state agency may adopt any
10 ordinance or regulation that restricts or requires special
11 taxation on the possession, carrying, transportation, sale,
12 transfer or ownership of firearms or ammunition or their
13 components.

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



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

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

23 45-9-53. (1) This section and Section 45-9-51 do not affect
24 the authority that a county or municipality may have under another
25 law:

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

29 (b) To regulate the discharge of firearms within the
30 limits of the county or municipality. A county or municipality
31 may not apply a regulation relating to the discharge of firearms
32 or other weapons in the extraterritorial jurisdiction of the
33 county or municipality or in an area annexed by the county or
34 municipality after September 1, 1981, if the firearm or other
35 weapon is:

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

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

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



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

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

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

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

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

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

66 (f) To regulate the carrying of a firearm at: (i) a
67 public park or at a public meeting of a county, municipality or



68 other governmental body; (ii) a political rally, parade or
69 official political meeting; or (iii) a nonfirearm-related school,
70 college or professional athletic event; or

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

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

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

80 (4) No county or a municipality may use the written notice
81 provisions of Section 45-9-101(13) to prohibit concealed firearms
82 on property under their control except:

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

91 (b) At any location under the control of the county or
92 municipality aside from a location listed in subsection (1)(f) of



93 this section or Section 45-9-101(13) indicating that the
94 possession of a firearm is prohibited on the premises, as long as
95 the sign also indicates that it does not apply to a person
96 properly licensed under Section 45-9-101 or Section 97-37-7(2) to
97 carry a concealed firearm or to a person lawfully carrying a
98 firearm that is not concealed.

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

109 (b) Before instituting suit under this subsection, the
110 party adversely impacted by the ordinance, regulation or posted
111 written notice shall notify the Attorney General in writing of the
112 violation and include evidence of the violation. The Attorney
113 General shall, within thirty (30) days, investigate whether the
114 county * * *, municipality or state agency adopted an ordinance,
115 regulation, or posted written notice in violation of this section
116 and provide the chief administrative officer of the county * * *,
117 municipality or state agency notice of his findings, including, if



118 applicable, a description of the violation and specific language
119 of the ordinance, * * * regulation, or posted written notice found
120 to be in violation. The county * * *, municipality or state
121 agency shall have thirty (30) days from receipt of that notice to
122 cure the violation. If the county * * *, municipality or state
123 agency fails to cure the violation within that thirty-day time
124 period, a suit under paragraph (a) of this subsection may proceed.
125 The findings of the Attorney General shall constitute a "Public
126 Record" as defined by the Mississippi Public Records Act of 1983,
127 Section 25-61-1 et seq.

128 (c) If the circuit court finds that a county * * *,
129 municipality or state agency adopted an ordinance, regulation, or
130 posted written notice in violation of this section and failed to
131 cure that violation in accordance with paragraph (b) of this
132 subsection, the circuit court shall issue a permanent injunction
133 against a county * * *, municipality or state agency prohibiting
134 it from enforcing the ordinance, regulation or posted written
135 notice. Any elected county or municipal official under whose
136 jurisdiction the violation occurred may be civilly liable in a sum
137 not to exceed One Thousand Dollars (\$1,000.00), plus all
138 reasonable attorney's fees and costs incurred by the party
139 bringing the suit. Public funds may not be used to defend or
140 reimburse officials who are found by the court to have violated
141 this section.



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

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

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

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

154 (6) No county or municipality or their officers or employees
155 may participate in any program in which individuals are given a
156 thing of value provided by another individual or other entity in
157 exchange for surrendering a firearm to the county, municipality or
158 other governmental body unless:

159 (a) The county or municipality has adopted an ordinance
160 authorizing the participation of the county or municipality, or
161 participation by an officer or employee of the county or
162 municipality in such a program; and

163 (b) Any ordinance enacted pursuant to this section must
164 require that any firearm received shall be offered for sale at
165 auction as provided by Sections 19-3-85 and 21-39-21 to federally
166 licensed firearms dealers, with the proceeds from such sale at



167 auction reverting to the general operating fund of the county,
168 municipality or other governmental body. Any firearm remaining in
169 possession of the county, municipality or other governmental body
170 after attempts to sell at auction may be disposed of in a manner
171 that the body deems appropriate.

172 (7) This section and Section 45-9-51 do not affect the
173 authority of a state agency to prohibit firearms in a location
174 listed in Section 97-37-7(2).

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

