

By: Representative Mettetal

To: Ways and Means

HOUSE BILL NO. 406

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE CERTAIN EXCEPTIONS TO THE CONCEALED WEAPON LICENSE LAW  
 3 FOR THE BENEFIT OF LICENSE APPLICANTS WHO ARE 65 YEARS OF AGE OR  
 4 OLDER; TO SET THE LICENSE FEE FOR SUCH APPLICANTS AT TWENTY-FIVE  
 5 DOLLARS; TO ALLOW SUCH APPLICANTS TO HAVE THEIR FINGERPRINTS TAKEN  
 6 AT ANY OFFICE OF THE MISSISSIPPI HIGHWAY SAFETY PATROL, FOR A  
 7 MAXIMUM FEE OF FIVE DOLLARS; TO PROVIDE THAT SUCH APPLICANTS SHALL  
 8 IMMEDIATELY HAVE THEIR FINGERPRINTS PROCESSED, BACKGROUND CHECKS  
 9 CONDUCTED, REQUIRED NOTIFICATIONS TO LOCAL LAW ENFORCEMENT  
 10 OFFICERS MADE, AND THEIR LICENSES ISSUED OR DENIED, AT THE  
 11 LOCATION WHERE THE FINGERPRINTS WERE TAKEN; AND FOR RELATED  
 12 PURPOSES.

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

14 **SECTION 1.** Section 45-9-101, Mississippi Code of 1972, is  
 15 amended as follows:

16 45-9-101. (1) (a) Except as otherwise provided, the  
 17 Department of Public Safety is authorized to issue licenses to  
 18 carry stun guns, concealed pistols or revolvers to persons  
 19 qualified as provided in this section. Such licenses shall be  
 20 valid throughout the state for a period of five (5) years from the  
 21 date of issuance. Any person possessing a valid license issued  
 22 pursuant to this section may carry a stun gun, concealed pistol or  
 23 concealed revolver.



24 (b) The licensee must carry the license, together with  
25 valid identification, at all times in which the licensee is  
26 carrying a stun gun, concealed pistol or revolver and must display  
27 both the license and proper identification upon demand by a law  
28 enforcement officer. A violation of the provisions of this  
29 paragraph (b) shall constitute a noncriminal violation with a  
30 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable  
31 by summons.

32 (2) The Department of Public Safety shall issue a license if  
33 the applicant:

34 (a) Is a resident of the state. However, this  
35 residency requirement may be waived if the applicant possesses a  
36 valid permit from another state, is active military personnel  
37 stationed in Mississippi, or is a retired law enforcement officer  
38 establishing residency in the state;

39 (b) (i) Is twenty-one (21) years of age or older; or

40 (ii) Is at least eighteen (18) years of age but  
41 not yet twenty-one (21) years of age and the applicant:

42 1. Is a member or veteran of the United  
43 States Armed Forces, including National Guard or Reserve; and

44 2. Holds a valid Mississippi driver's license  
45 or identification card issued by the Department of Public Safety;

46 (c) Does not suffer from a physical infirmity which  
47 prevents the safe handling of a stun gun, pistol or revolver;



48 (d) Is not ineligible to possess a firearm by virtue of  
49 having been convicted of a felony in a court of this state, of any  
50 other state, or of the United States without having been pardoned  
51 for same;

52 (e) Does not chronically or habitually abuse controlled  
53 substances to the extent that his normal faculties are impaired.  
54 It shall be presumed that an applicant chronically and habitually  
55 uses controlled substances to the extent that his faculties are  
56 impaired if the applicant has been voluntarily or involuntarily  
57 committed to a treatment facility for the abuse of a controlled  
58 substance or been found guilty of a crime under the provisions of  
59 the Uniform Controlled Substances Law or similar laws of any other  
60 state or the United States relating to controlled substances  
61 within a three-year period immediately preceding the date on which  
62 the application is submitted;

63 (f) Does not chronically and habitually use alcoholic  
64 beverages to the extent that his normal faculties are impaired.  
65 It shall be presumed that an applicant chronically and habitually  
66 uses alcoholic beverages to the extent that his normal faculties  
67 are impaired if the applicant has been voluntarily or  
68 involuntarily committed as an alcoholic to a treatment facility or  
69 has been convicted of two (2) or more offenses related to the use  
70 of alcohol under the laws of this state or similar laws of any  
71 other state or the United States within the three-year period



72 immediately preceding the date on which the application is  
73 submitted;

74 (g) Desires a legal means to carry a stun gun,  
75 concealed pistol or revolver to defend himself;

76 (h) Has not been adjudicated mentally incompetent, or  
77 has waited five (5) years from the date of his restoration to  
78 capacity by court order;

79 (i) Has not been voluntarily or involuntarily committed  
80 to a mental institution or mental health treatment facility unless  
81 he possesses a certificate from a psychiatrist licensed in this  
82 state that he has not suffered from disability for a period of  
83 five (5) years;

84 (j) Has not had adjudication of guilt withheld or  
85 imposition of sentence suspended on any felony unless three (3)  
86 years have elapsed since probation or any other conditions set by  
87 the court have been fulfilled;

88 (k) Is not a fugitive from justice; and

89 (l) Is not disqualified to possess a weapon based on  
90 federal law.

91 (3) The Department of Public Safety may deny a license if  
92 the applicant has been found guilty of one or more crimes of  
93 violence constituting a misdemeanor unless three (3) years have  
94 elapsed since probation or any other conditions set by the court  
95 have been fulfilled or expunction has occurred prior to the date  
96 on which the application is submitted, or may revoke a license if



97 the licensee has been found guilty of one or more crimes of  
98 violence within the preceding three (3) years. The department  
99 shall, upon notification by a law enforcement agency or a court  
100 and subsequent written verification, suspend a license or the  
101 processing of an application for a license if the licensee or  
102 applicant is arrested or formally charged with a crime which would  
103 disqualify such person from having a license under this section,  
104 until final disposition of the case. The provisions of subsection  
105 (7) of this section shall apply to any suspension or revocation of  
106 a license pursuant to the provisions of this section.

107 (4) The application shall be completed, under oath, on a  
108 form promulgated by the Department of Public Safety and shall  
109 include only:

110 (a) The name, address, place and date of birth, race,  
111 sex and occupation of the applicant;

112 (b) The driver's license number or social security  
113 number of applicant;

114 (c) Any previous address of the applicant for the two  
115 (2) years preceding the date of the application;

116 (d) A statement that the applicant is in compliance  
117 with criteria contained within subsections (2) and (3) of this  
118 section;

119 (e) A statement that the applicant has been furnished a  
120 copy of this section and is knowledgeable of its provisions;



121 (f) A conspicuous warning that the application is  
122 executed under oath and that a knowingly false answer to any  
123 question, or the knowing submission of any false document by the  
124 applicant, subjects the applicant to criminal prosecution; and

125 (g) A statement that the applicant desires a legal  
126 means to carry a stun gun, concealed pistol or revolver to defend  
127 himself.

128 (5) The applicant shall submit only the following to the  
129 Department of Public Safety:

130 (a) A completed application as described in subsection  
131 (4) of this section;

132 (b) A full-face photograph of the applicant taken  
133 within the preceding thirty (30) days in which the head, including  
134 hair, in a size as determined by the Department of Public Safety,  
135 except that an applicant who is younger than twenty-one (21) years  
136 of age must submit a photograph in profile of the applicant;

137 (c) Except as otherwise provided in this paragraph for  
138 applicants age sixty-five (65) or older, a nonrefundable license  
139 fee of Eighty Dollars (\$80.00). An applicant who is sixty-five  
140 (65) years or older, a nonrefundable license fee of Twenty-five  
141 Dollars (\$25.00). Costs for processing the set of fingerprints as  
142 required in paragraph (d) of this subsection shall be borne by the  
143 applicant; however, the costs for processing the set of  
144 fingerprints of a person who is sixty-five (65) years of age or  
145 older shall not exceed Five Dollars (\$5.00). Honorably retired



146 law enforcement officers, disabled veterans and active duty  
147 members of the Armed Forces of the United States shall be exempt  
148 from the payment of the license fee;

149 (d) A full set of fingerprints of the applicant  
150 administered by the Department of Public Safety, and if the  
151 applicant is sixty-five (65) years of age or older, a full set of  
152 fingerprints of the applicants administered at any office of the  
153 Mississippi Highway Safety Patrol; and

154 (e) A waiver authorizing the Department of Public  
155 Safety access to any records concerning commitments of the  
156 applicant to any of the treatment facilities or institutions  
157 referred to in subsection (2) and permitting access to all the  
158 applicant's criminal records.

159 (6) Except as otherwise provided in subsection (22) of this  
160 section for an applicant who is sixty-five (65) years of age or  
161 older, the following apply to the issuance of a license under this  
162 section:

163 (a) The Department of Public Safety, upon receipt of  
164 the items listed in subsection (5) of this section, shall forward  
165 the full set of fingerprints of the applicant to the appropriate  
166 agencies for state and federal processing.

167 (b) The Department of Public Safety shall forward a  
168 copy of the applicant's application to the sheriff of the  
169 applicant's county of residence and, if applicable, the police  
170 chief of the applicant's municipality of residence. The sheriff



171 of the applicant's county of residence and, if applicable, the  
172 police chief of the applicant's municipality of residence may, at  
173 his discretion, participate in the process by submitting a  
174 voluntary report to the Department of Public Safety containing any  
175 readily discoverable prior information that he feels may be  
176 pertinent to the licensing of any applicant. The reporting shall  
177 be made within thirty (30) days after the date he receives the  
178 copy of the application. Upon receipt of a response from a  
179 sheriff or police chief, such sheriff or police chief shall be  
180 reimbursed at a rate set by the department.

181 (c) The Department of Public Safety shall, within  
182 forty-five (45) days after the date of receipt of the items listed  
183 in subsection (5) of this section:

184 (i) Issue the license;

185 (ii) Deny the application based solely on the  
186 ground that the applicant fails to qualify under the criteria  
187 listed in subsections (2) and (3) of this section. If the  
188 Department of Public Safety denies the application, it shall  
189 notify the applicant in writing, stating the ground for denial,  
190 and the denial shall be subject to the appeal process set forth in  
191 subsection (7); or

192 (iii) Notify the applicant that the department is  
193 unable to make a determination regarding the issuance or denial of  
194 a license within the forty-five-day period prescribed by this





195 subsection, and provide an estimate of the amount of time the  
196 department will need to make the determination.

197 (d) In the event a legible set of fingerprints, as  
198 determined by the Department of Public Safety and the Federal  
199 Bureau of Investigation, cannot be obtained after a minimum of two  
200 (2) attempts, the Department of Public Safety shall determine  
201 eligibility based upon a name check by the Mississippi Highway  
202 Safety Patrol and a Federal Bureau of Investigation name check  
203 conducted by the Mississippi Highway Safety Patrol at the request  
204 of the Department of Public Safety.

205 (7) (a) If the Department of Public Safety denies the  
206 issuance of a license, or suspends or revokes a license, the party  
207 aggrieved may appeal such denial, suspension or revocation to the  
208 Commissioner of Public Safety, or his authorized agent, within  
209 thirty (30) days after the aggrieved party receives written notice  
210 of such denial, suspension or revocation. The Commissioner of  
211 Public Safety, or his duly authorized agent, shall rule upon such  
212 appeal within thirty (30) days after the appeal is filed and  
213 failure to rule within this thirty-day period shall constitute  
214 sustaining such denial, suspension or revocation. Such review  
215 shall be conducted pursuant to such reasonable rules and  
216 regulations as the Commissioner of Public Safety may adopt.

217 (b) If the revocation, suspension or denial of issuance  
218 is sustained by the Commissioner of Public Safety, or his duly  
219 authorized agent pursuant to paragraph (a) of this subsection, the



220 aggrieved party may file within ten (10) days after the rendition  
221 of such decision a petition in the circuit or county court of his  
222 residence for review of such decision. A hearing for review shall  
223 be held and shall proceed before the court without a jury upon the  
224 record made at the hearing before the Commissioner of Public  
225 Safety or his duly authorized agent. No such party shall be  
226 allowed to carry a stun gun, concealed pistol or revolver pursuant  
227 to the provisions of this section while any such appeal is  
228 pending.

229 (8) The Department of Public Safety shall maintain an  
230 automated listing of license holders and such information shall be  
231 available online, upon request, at all times, to all law  
232 enforcement agencies through the Mississippi Crime Information  
233 Center. However, the records of the department relating to  
234 applications for licenses to carry stun guns, concealed pistols or  
235 revolvers and records relating to license holders shall be exempt  
236 from the provisions of the Mississippi Public Records Act of 1983,  
237 and shall be released only upon order of a court having proper  
238 jurisdiction over a petition for release of the record or records.

239 (9) Within thirty (30) days after the changing of a  
240 permanent address, or within thirty (30) days after having a  
241 license lost or destroyed, the licensee shall notify the  
242 Department of Public Safety in writing of such change or loss.  
243 Failure to notify the Department of Public Safety pursuant to the  
244 provisions of this subsection shall constitute a noncriminal



245 violation with a penalty of Twenty-five Dollars (\$25.00) and shall  
246 be enforceable by a summons.

247 (10) In the event that a stun gun, concealed pistol or  
248 revolver license is lost or destroyed, the person to whom the  
249 license was issued shall comply with the provisions of subsection  
250 (9) of this section and may obtain a duplicate, or substitute  
251 thereof, upon payment of Fifteen Dollars (\$15.00) to the  
252 Department of Public Safety, and furnishing a notarized statement  
253 to the department that such license has been lost or destroyed.

254 (11) A license issued under this section shall be revoked if  
255 the licensee becomes ineligible under the criteria set forth in  
256 subsection (2) of this section.

257 (12) (a) No less than ninety (90) days prior to the  
258 expiration date of the license, the Department of Public Safety  
259 shall mail to each licensee a written notice of the expiration and  
260 a renewal form prescribed by the department. The licensee must  
261 renew his license on or before the expiration date by filing with  
262 the department the renewal form, a notarized affidavit stating  
263 that the licensee remains qualified pursuant to the criteria  
264 specified in subsections (2) and (3) of this section, and a full  
265 set of fingerprints administered by the Department of Public  
266 Safety or the sheriff of the county of residence of the licensee.  
267 The first renewal may be processed by mail and the subsequent  
268 renewal must be made in person. Thereafter every other renewal  
269 may be processed by mail to assure that the applicant must appear



270 in person every ten (10) years for the purpose of obtaining a new  
271 photograph.

272 (i) Except as provided in this subsection, a  
273 renewal fee of Forty Dollars (\$40.00) shall also be submitted  
274 along with costs for processing the fingerprints;

275 (ii) Honorably retired law enforcement officers,  
276 disabled veterans and active duty members of the Armed Forces of  
277 the United States shall be exempt from the renewal fee; and

278 (iii) The renewal fee for a Mississippi resident  
279 aged sixty-five (65) years of age or older shall be Twenty Dollars  
280 (\$20.00).

281 (b) The Department of Public Safety shall forward the  
282 full set of fingerprints of the applicant to the appropriate  
283 agencies for state and federal processing. The license shall be  
284 renewed upon receipt of the completed renewal application and  
285 appropriate payment of fees.

286 (c) A licensee who fails to file a renewal application  
287 on or before its expiration date must renew his license by paying  
288 a late fee of Fifteen Dollars (\$15.00). No license shall be  
289 renewed six (6) months or more after its expiration date, and such  
290 license shall be deemed to be permanently expired. A person whose  
291 license has been permanently expired may reapply for licensure;  
292 however, an application for licensure and fees pursuant to  
293 subsection (5) of this section must be submitted, and a background



294 investigation shall be conducted pursuant to the provisions of  
295 this section.

296 (13) No license issued pursuant to this section shall  
297 authorize any person to carry a stun gun, concealed pistol or  
298 revolver into any place of nuisance as defined in Section 95-3-1,  
299 Mississippi Code of 1972; any police, sheriff or highway patrol  
300 station; any detention facility, prison or jail; any courthouse;  
301 any courtroom, except that nothing in this section shall preclude  
302 a judge from carrying a concealed weapon or determining who will  
303 carry a concealed weapon in his courtroom; any polling place; any  
304 meeting place of the governing body of any governmental entity;  
305 any meeting of the Legislature or a committee thereof; any school,  
306 college or professional athletic event not related to firearms;  
307 any portion of an establishment, licensed to dispense alcoholic  
308 beverages for consumption on the premises, that is primarily  
309 devoted to dispensing alcoholic beverages; any portion of an  
310 establishment in which beer or light wine is consumed on the  
311 premises, that is primarily devoted to such purpose; any  
312 elementary or secondary school facility; any junior college,  
313 community college, college or university facility unless for the  
314 purpose of participating in any authorized firearms-related  
315 activity; inside the passenger terminal of any airport, except  
316 that no person shall be prohibited from carrying any legal firearm  
317 into the terminal if the firearm is encased for shipment, for  
318 purposes of checking such firearm as baggage to be lawfully



319 transported on any aircraft; any church or other place of worship,  
320 except as provided in Section 45-9-171; or any place where the  
321 carrying of firearms is prohibited by federal law. In addition to  
322 the places enumerated in this subsection, the carrying of a stun  
323 gun, concealed pistol or revolver may be disallowed in any place  
324 in the discretion of the person or entity exercising control over  
325 the physical location of such place by the placing of a written  
326 notice clearly readable at a distance of not less than ten (10)  
327 feet that the "carrying of a pistol or revolver is prohibited."  
328 No license issued pursuant to this section shall authorize the  
329 participants in a parade or demonstration for which a permit is  
330 required to carry a stun gun, concealed pistol or revolver.

331 (14) A law enforcement officer as defined in Section 45-6-3,  
332 chiefs of police, sheriffs and persons licensed as professional  
333 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of  
334 1972, shall be exempt from the licensing requirements of this  
335 section. The licensing requirements of this section do not apply  
336 to the carrying by any person of a stun gun, pistol or revolver,  
337 knife, or other deadly weapon that is not concealed as defined in  
338 Section 97-37-1.

339 (15) Any person who knowingly submits a false answer to any  
340 question on an application for a license issued pursuant to this  
341 section, or who knowingly submits a false document when applying  
342 for a license issued pursuant to this section, shall, upon



343 conviction, be guilty of a misdemeanor and shall be punished as  
344 provided in Section 99-19-31, Mississippi Code of 1972.

345 (16) All fees collected by the Department of Public Safety  
346 pursuant to this section shall be deposited into a special fund  
347 hereby created in the State Treasury and shall be used for  
348 implementation and administration of this section. After the  
349 close of each fiscal year, the balance in this fund shall be  
350 certified to the Legislature and then may be used by the  
351 Department of Public Safety as directed by the Legislature.

352 (17) All funds received by a sheriff or police chief  
353 pursuant to the provisions of this section shall be deposited into  
354 the general fund of the county or municipality, as appropriate,  
355 and shall be budgeted to the sheriff's office or police department  
356 as appropriate.

357 (18) Nothing in this section shall be construed to require  
358 or allow the registration, documentation or providing of serial  
359 numbers with regard to any stun gun or firearm.

360 (19) Any person holding a valid unrevoked and unexpired  
361 license to carry stun guns, concealed pistols or revolvers issued  
362 in another state shall have such license recognized by this state  
363 to carry stun guns, concealed pistols or revolvers. The  
364 Department of Public Safety is authorized to enter into a  
365 reciprocal agreement with another state if that state requires a  
366 written agreement in order to recognize licenses to carry stun  
367 guns, concealed pistols or revolvers issued by this state.



368 (20) The provisions of this section shall be under the  
369 supervision of the Commissioner of Public Safety. The  
370 commissioner is authorized to promulgate reasonable rules and  
371 regulations to carry out the provisions of this section.

372 (21) For the purposes of this section, the term "stun gun"  
373 means a portable device or weapon from which an electric current,  
374 impulse, wave or beam may be directed, which current, impulse,  
375 wave or beam is designed to incapacitate temporarily, injure,  
376 momentarily stun, knock out, cause mental disorientation or  
377 paralyze.

378 (22) (a) From and after January 1, 2016, the Commissioner  
379 of Public Safety shall promulgate rules and regulations which  
380 provide that licenses authorized by this section for honorably  
381 retired law enforcement officers and honorably retired  
382 correctional officers from the Mississippi Department of  
383 Corrections shall (i) include the words "retired law enforcement  
384 officer" on the front of the license, and (ii) that the license  
385 itself have a red background to distinguish it from other licenses  
386 issued under this section.

387 (b) An honorably retired law enforcement officer and  
388 honorably retired correctional officer shall provide the following  
389 information to receive the license described in this section: (i)  
390 a letter, with the official letterhead of the agency or department  
391 from which such officer is retiring, which explains that such  
392 officer is honorably retired, and (ii) a letter with the official





393 letterhead of the agency or department, which explains that such  
394 officer has completed a certified law enforcement training  
395 academy.

396 (23) A disabled veteran who seeks to qualify for an  
397 exemption under this section shall be required to provide, as  
398 proof of service-connected disability, verification from the  
399 United States Department of Veterans Affairs.

400 (24) A license under this section is not required for a  
401 loaded or unloaded pistol or revolver to be carried upon the  
402 person in a sheath, belt holster or shoulder holster or in a  
403 purse, handbag, satchel, other similar bag or briefcase or fully  
404 enclosed case if the person is not engaged in criminal activity  
405 other than a misdemeanor traffic offense, is not otherwise  
406 prohibited from possessing a pistol or revolver under state or  
407 federal law, and is not in a location prohibited under subsection  
408 (13) of this section.

409 (25) If the applicant is sixty-five (65) years of age or  
410 older, then the following actions shall occur immediately at the  
411 location where the applicant's fingerprints were taken:

412 (a) The applicant's fingerprints shall be processed;

413 (b) The necessary background check shall be conducted;

414 (c) The applicable sheriff and/or police chief shall be

415 notified of the application by telephone or email communication;

416 and



417           (d) The Department of Public Safety or the commanding  
418 officer of the location where the applicant's fingerprints were  
419 taken, as the case may be, shall immediately issue or deny the  
420 license, or notify the applicant that a determination regarding  
421 issuance or denial of the license cannot be made at that time and  
422 provide an estimate of the amount of time that will be needed to  
423 make the determination.

424           **SECTION 2.** This act shall take effect and be in force from  
425 and after July 1, 2018.

