

By: Representatives Staples, Evans (45th),
Massengill, Horne

To: Judiciary B

HOUSE BILL NO. 924

1 AN ACT TO AMEND SECTION 97-37-1, MISSISSIPPI CODE OF 1972, TO
2 REMOVE KNIVES FROM THE LIST OF WEAPONS IN THE PROVISIONS OF LAW
3 REGULATING CONCEALED WEAPONS; TO AMEND SECTION 45-9-101,
4 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; AND
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 97-37-1, Mississippi Code of 1972, is
8 amended as follows:

9 97-37-1. (1) Except as otherwise provided in Section
10 45-9-101, any person who carries, concealed on or about one's
11 person * * * metallic knuckles, blackjack, slingshot, pistol,
12 revolver, or any rifle with a barrel of less than sixteen (16)
13 inches in length, or any shotgun with a barrel of less than
14 eighteen (18) inches in length, machine gun or any fully automatic
15 firearm or deadly weapon, or any muffler or silencer for any
16 firearm, whether or not it is accompanied by a firearm, or uses or
17 attempts to use against another person any imitation firearm,
18 shall, upon conviction, be punished as follows:



19 (a) By a fine of not less than One Hundred Dollars
20 (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by
21 imprisonment in the county jail for not more than six (6) months,
22 or both, in the discretion of the court, for the first conviction
23 under this section.

24 (b) By a fine of not less than One Hundred Dollars
25 (\$100.00) nor more than Five Hundred Dollars (\$500.00), and
26 imprisonment in the county jail for not less than thirty (30) days
27 nor more than six (6) months, for the second conviction under this
28 section.

29 (c) By confinement in the custody of the Department of
30 Corrections for not less than one (1) year nor more than five (5)
31 years, for the third or subsequent conviction under this section.

32 (d) By confinement in the custody of the Department of
33 Corrections for not less than one (1) year nor more than ten (10)
34 years for any person previously convicted of any felony who is
35 convicted under this section.

36 (2) It shall not be a violation of this section for any
37 person over the age of eighteen (18) years to carry a firearm or
38 deadly weapon concealed within the confines of his own home or his
39 place of business, or any real property associated with his home
40 or business or within any motor vehicle.

41 (3) It shall not be a violation of this section for any
42 person to carry a firearm or deadly weapon concealed if the
43 possessor of the weapon is then engaged in a legitimate



44 weapon-related sports activity or is going to or returning from
45 such activity. For purposes of this subsection, "legitimate
46 weapon-related sports activity" means hunting, fishing, target
47 shooting or any other legal activity which normally involves the
48 use of a firearm or other weapon.

49 (4) For the purposes of this section, "concealed" means
50 hidden or obscured from common observation and shall not include
51 any weapon listed in subsection (1) of this section, including,
52 but not limited to, a loaded or unloaded pistol carried upon the
53 person in a sheath, belt holster or shoulder holster that is
54 wholly or partially visible, or carried upon the person in a
55 scabbard or case for carrying the weapon that is wholly or
56 partially visible.

57 **SECTION 2.** Section 45-9-101, Mississippi Code of 1972, is
58 amended as follows:

59 45-9-101. (1) (a) Except as otherwise provided, the
60 Department of Public Safety is authorized to issue licenses to
61 carry stun guns, concealed pistols or revolvers to persons
62 qualified as provided in this section. Such licenses shall be
63 valid throughout the state for a period of five (5) years from the
64 date of issuance. Any person possessing a valid license issued
65 pursuant to this section may carry a stun gun, concealed pistol or
66 concealed revolver.

67 (b) The licensee must carry the license, together with
68 valid identification, at all times in which the licensee is



69 carrying a stun gun, concealed pistol or revolver and must display
70 both the license and proper identification upon demand by a law
71 enforcement officer. A violation of the provisions of this
72 paragraph (b) shall constitute a noncriminal violation with a
73 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable
74 by summons.

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

77 (a) Is a resident of the state. However, this
78 residency requirement may be waived if the applicant possesses a
79 valid permit from another state, is active military personnel
80 stationed in Mississippi, or is a retired law enforcement officer
81 establishing residency in the state;

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

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

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

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

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

91 (d) Is not ineligible to possess a firearm by virtue of
92 having been convicted of a felony in a court of this state, of any



other state, or of the United States without having been pardoned
for same;

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

(f) Does not chronically and habitually use alcoholic
beverages to the extent that his normal faculties are impaired.
It shall be presumed that an applicant chronically and habitually
uses alcoholic beverages to the extent that his normal faculties
are impaired if the applicant has been voluntarily or
involuntarily committed as an alcoholic to a treatment facility or
has been convicted of two (2) or more offenses related to the use
of alcohol under the laws of this state or similar laws of any
other state or the United States within the three-year period
immediately preceding the date on which the application is
submitted;



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

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

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

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

(k) Is not a fugitive from justice; and

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

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



shall, upon notification by a law enforcement agency or a court and subsequent written verification, suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime which would disqualify such person from having a license under this section, until final disposition of the case. The provisions of subsection (7) of this section shall apply to any suspension or revocation of a license pursuant to the provisions of this section.

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

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

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

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

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

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

(f) A conspicuous warning that the application is executed under oath and that a knowingly false answer to any



question, or the knowing submission of any false document by the applicant, subjects the applicant to criminal prosecution; and

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

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

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

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

(c) A nonrefundable license fee of Eighty Dollars (\$80.00). Costs for processing the set of fingerprints as required in paragraph (d) of this subsection shall be borne by the applicant. Honorably retired law enforcement officers, disabled veterans and active duty members of the Armed Forces of the United States shall be exempt from the payment of the license fee;

(d) A full set of fingerprints of the applicant administered by the Department of Public Safety; and

(e) A waiver authorizing the Department of Public Safety access to any records concerning commitments of the applicant to any of the treatment facilities or institutions



referred to in subsection (2) and permitting access to all the applicant's criminal records.

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

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

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

(i) Issue the license;



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

(iii) Notify the applicant that the department is unable to make a determination regarding the issuance or denial of a license within the forty-five-day period prescribed by this subsection, and provide an estimate of the amount of time the department will need to make the determination.

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

(7) (a) If the Department of Public Safety denies the issuance of a license, or suspends or revokes a license, the party aggrieved may appeal such denial, suspension or revocation to the Commissioner of Public Safety, or his authorized agent, within thirty (30) days after the aggrieved party receives written notice



of such denial, suspension or revocation. The Commissioner of Public Safety, or his duly authorized agent, shall rule upon such appeal within thirty (30) days after the appeal is filed and failure to rule within this thirty-day period shall constitute sustaining such denial, suspension or revocation. Such review shall be conducted pursuant to such reasonable rules and regulations as the Commissioner of Public Safety may adopt.

(b) If the revocation, suspension or denial of issuance is sustained by the Commissioner of Public Safety, or his duly authorized agent pursuant to paragraph (a) of this subsection, the aggrieved party may file within ten (10) days after the rendition of such decision a petition in the circuit or county court of his residence for review of such decision. A hearing for review shall be held and shall proceed before the court without a jury upon the record made at the hearing before the Commissioner of Public Safety or his duly authorized agent. No such party shall be allowed to carry a stun gun, concealed pistol or revolver pursuant to the provisions of this section while any such appeal is pending.

(8) The Department of Public Safety shall maintain an automated listing of license holders and such information shall be available online, upon request, at all times, to all law enforcement agencies through the Mississippi Crime Information Center. However, the records of the department relating to applications for licenses to carry stun guns, concealed pistols or



265 revolvers and records relating to license holders shall be exempt
266 from the provisions of the Mississippi Public Records Act of 1983,
267 and shall be released only upon order of a court having proper
268 jurisdiction over a petition for release of the record or records.

269 (9) Within thirty (30) days after the changing of a
270 permanent address, or within thirty (30) days after having a
271 license lost or destroyed, the licensee shall notify the
272 Department of Public Safety in writing of such change or loss.
273 Failure to notify the Department of Public Safety pursuant to the
274 provisions of this subsection shall constitute a noncriminal
275 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
276 be enforceable by a summons.

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

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

287 (12) (a) No less than ninety (90) days prior to the
288 expiration date of the license, the Department of Public Safety
289 shall mail to each licensee a written notice of the expiration and



290 a renewal form prescribed by the department. The licensee must
291 renew his license on or before the expiration date by filing with
292 the department the renewal form, a notarized affidavit stating
293 that the licensee remains qualified pursuant to the criteria
294 specified in subsections (2) and (3) of this section, and a full
295 set of fingerprints administered by the Department of Public
296 Safety or the sheriff of the county of residence of the licensee.
297 The first renewal may be processed by mail and the subsequent
298 renewal must be made in person. Thereafter every other renewal
299 may be processed by mail to assure that the applicant must appear
300 in person every ten (10) years for the purpose of obtaining a new
301 photograph.

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

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

308 (iii) The renewal fee for a Mississippi resident
309 aged sixty-five (65) years of age or older shall be Twenty Dollars
310 (\$20.00).

311 (b) The Department of Public Safety shall forward the
312 full set of fingerprints of the applicant to the appropriate
313 agencies for state and federal processing. The license shall be



renewed upon receipt of the completed renewal application and appropriate payment of fees.

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

(13) No license issued pursuant to this section shall authorize any person to carry a stun gun, concealed pistol or revolver into any place of nuisance as defined in Section 95-3-1, Mississippi Code of 1972; any police, sheriff or highway patrol station; any detention facility, prison or jail; any courthouse; any courtroom, except that nothing in this section shall preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his courtroom; any polling place; any meeting place of the governing body of any governmental entity; any meeting of the Legislature or a committee thereof; any school, college or professional athletic event not related to firearms; any portion of an establishment, licensed to dispense alcoholic beverages for consumption on the premises, that is primarily



339 devoted to dispensing alcoholic beverages; any portion of an
340 establishment in which beer or light wine is consumed on the
341 premises, that is primarily devoted to such purpose; any
342 elementary or secondary school facility; any junior college,
343 community college, college or university facility unless for the
344 purpose of participating in any authorized firearms-related
345 activity; inside the passenger terminal of any airport, except
346 that no person shall be prohibited from carrying any legal firearm
347 into the terminal if the firearm is encased for shipment, for
348 purposes of checking such firearm as baggage to be lawfully
349 transported on any aircraft; any church or other place of worship,
350 except as provided in Section 45-9-171; or any place where the
351 carrying of firearms is prohibited by federal law. In addition to
352 the places enumerated in this subsection, the carrying of a stun
353 gun, concealed pistol or revolver may be disallowed in any place
354 in the discretion of the person or entity exercising control over
355 the physical location of such place by the placing of a written
356 notice clearly readable at a distance of not less than ten (10)
357 feet that the "carrying of a pistol or revolver is prohibited."
358 No license issued pursuant to this section shall authorize the
359 participants in a parade or demonstration for which a permit is
360 required to carry a stun gun, concealed pistol or revolver.

361 (14) A law enforcement officer as defined in Section 45-6-3,
362 chiefs of police, sheriffs and persons licensed as professional
363 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of



1972, shall be exempt from the licensing requirements of this section. The licensing requirements of this section do not apply to the carrying by any person of a stun gun, pistol or revolver, * * * or other deadly weapon that is not concealed as defined in Section 97-37-1.

(15) Any person who knowingly submits a false answer to any question on an application for a license issued pursuant to this section, or who knowingly submits a false document when applying for a license issued pursuant to this section, shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided in Section 99-19-31, Mississippi Code of 1972.

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

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



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

390 (19) Any person holding a valid unrevoked and unexpired
391 license to carry stun guns, concealed pistols or revolvers issued
392 in another state shall have such license recognized by this state
393 to carry stun guns, concealed pistols or revolvers. The
394 Department of Public Safety is authorized to enter into a
395 reciprocal agreement with another state if that state requires a
396 written agreement in order to recognize licenses to carry stun
397 guns, concealed pistols or revolvers issued by this state.

398 (20) The provisions of this section shall be under the
399 supervision of the Commissioner of Public Safety. The
400 commissioner is authorized to promulgate reasonable rules and
401 regulations to carry out the provisions of this section.

402 (21) For the purposes of this section, the term "stun gun"
403 means a portable device or weapon from which an electric current,
404 impulse, wave or beam may be directed, which current, impulse,
405 wave or beam is designed to incapacitate temporarily, injure,
406 momentarily stun, knock out, cause mental disorientation or
407 paralyze.

408 (22) (a) From and after January 1, 2016, the Commissioner
409 of Public Safety shall promulgate rules and regulations which
410 provide that licenses authorized by this section for honorably
411 retired law enforcement officers and honorably retired



412 correctional officers from the Mississippi Department of
413 Corrections shall (i) include the words "retired law enforcement
414 officer" on the front of the license, and (ii) that the license
415 itself have a red background to distinguish it from other licenses
416 issued under this section.

417 (b) An honorably retired law enforcement officer and
418 honorably retired correctional officer shall provide the following
419 information to receive the license described in this section: (i)
420 a letter, with the official letterhead of the agency or department
421 from which such officer is retiring, which explains that such
422 officer is honorably retired, and (ii) a letter with the official
423 letterhead of the agency or department, which explains that such
424 officer has completed a certified law enforcement training
425 academy.

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

430 (24) A license under this section is not required for a
431 loaded or unloaded pistol or revolver to be carried upon the
432 person in a sheath, belt holster or shoulder holster or in a
433 purse, handbag, satchel, other similar bag or briefcase or fully
434 enclosed case if the person is not engaged in criminal activity
435 other than a misdemeanor traffic offense, is not otherwise
436 prohibited from possessing a pistol or revolver under state or



437 federal law, and is not in a location prohibited under subsection
438 (13) of this section.

439 **SECTION 3.** This act shall take effect and be in force from
440 and after July 1, 2018.

