

By: Representatives Gipson, Arnold, Baker, Barnett, Beckett, Bomgar, Bounds, Boyd, Byrd, Carpenter, Chism, Criswell, Currie, Gibbs (36th), Guice, Hale, Hopkins, Mangold, Massengill, McLeod, Mettetal, Oliver, Roberson, Rogers (14th), Rogers (61st), Scoggin, Staples, Steverson, Tullos, Wilson, Ford, Horne, Mims, Shirley, Patterson, Crawford, Morgan, Brown, Weathersby, Henley

To: Judiciary B

HOUSE BILL NO. 1083
(As Passed the House)

1 AN ACT TO AMEND SECTION 97-37-7, MISSISSIPPI CODE OF 1972, TO
 2 AUTHORIZE ANY PERSON WHO HAS AN ENHANCED FIREARMS LICENSE TO CARRY
 3 SUCH FIREARM ON PUBLIC PROPERTY; TO AMEND SECTION 45-9-101,
 4 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING AMENDMENT;
 5 TO AMEND SECTION 45-9-171, MISSISSIPPI CODE OF 1972, TO REVISE
 6 "THE MISSISSIPPI CHURCH PROTECTION ACT"; TO BRING FORWARD SECTIONS
 7 97-37-9 AND 97-3-15, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF
 8 AMENDMENT; AND FOR RELATED PURPOSES.

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

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

12 97-37-7. (1) (a) It shall not be a violation of Section
 13 97-37-1 or any other statute for pistols, firearms or other
 14 suitable and appropriate weapons to be carried by duly constituted
 15 bank guards, company guards, watchmen, railroad special agents or
 16 duly authorized representatives who are not sworn law enforcement
 17 officers, agents or employees of a patrol service, guard service,
 18 or a company engaged in the business of transporting money,
 19 securities or other valuables, while actually engaged in the
 20 performance of their duties as such, provided that such persons
 21 have made a written application and paid a nonrefundable permit



22 fee of One Hundred Dollars (\$100.00) to the Department of Public
23 Safety.

24 (b) No permit shall be issued to any person who has
25 ever been convicted of a felony under the laws of this or any
26 other state or of the United States. To determine an applicant's
27 eligibility for a permit, the person shall be fingerprinted. If
28 no disqualifying record is identified at the state level, the
29 fingerprints shall be forwarded by the Department of Public Safety
30 to the Federal Bureau of Investigation for a national criminal
31 history record check. The department shall charge a fee which
32 includes the amounts required by the Federal Bureau of
33 Investigation and the department for the national and state
34 criminal history record checks and any necessary costs incurred by
35 the department for the handling and administration of the criminal
36 history background checks. In the event a legible set of
37 fingerprints, as determined by the Department of Public Safety and
38 the Federal Bureau of Investigation, cannot be obtained after a
39 minimum of three (3) attempts, the Department of Public Safety
40 shall determine eligibility based upon a name check by the
41 Mississippi Highway Safety Patrol and a Federal Bureau of
42 Investigation name check conducted by the Mississippi Highway
43 Safety Patrol at the request of the Department of Public Safety.

44 (c) A person may obtain a duplicate of a lost or
45 destroyed permit upon payment of a Fifteen Dollar (\$15.00)
46 replacement fee to the Department of Public Safety, if he



47 furnishes a notarized statement to the department that the permit
48 has been lost or destroyed.

49 (d) (i) No less than ninety (90) days prior to the
50 expiration date of a permit, the Department of Public Safety shall
51 mail to the permit holder written notice of expiration together
52 with the renewal form prescribed by the department. The permit
53 holder shall renew the permit on or before the expiration date by
54 filing with the department the renewal form, a notarized affidavit
55 stating that the permit holder remains qualified, and the renewal
56 fee of Fifty Dollars (\$50.00); honorably retired law enforcement
57 officers shall be exempt from payment of the renewal fee. A
58 permit holder who fails to file a renewal application on or before
59 its expiration date shall pay a late fee of Fifteen Dollars
60 (\$15.00).

61 (ii) Renewal of the permit shall be required every
62 four (4) years. The permit of a qualified renewal applicant shall
63 be renewed upon receipt of the completed renewal application and
64 appropriate payment of fees.

65 (iii) A permit cannot be renewed six (6) months or
66 more after its expiration date, and such permit shall be deemed to
67 be permanently expired; the holder may reapply for an original
68 permit as provided in this section.

69 (2) It shall not be a violation of this or any other statute
70 for pistols, firearms or other suitable and appropriate weapons to
71 be carried by Department of Wildlife, Fisheries and Parks law



72 enforcement officers, railroad special agents who are sworn law
73 enforcement officers, investigators employed by the Attorney
74 General, criminal investigators employed by the district
75 attorneys, all prosecutors, public defenders, investigators or
76 probation officers employed by the Department of Corrections,
77 employees of the State Auditor who are authorized by the State
78 Auditor to perform investigative functions, or any deputy fire
79 marshal or investigator employed by the State Fire Marshal, while
80 engaged in the performance of their duties as such, or by fraud
81 investigators with the Department of Human Services, or by judges
82 of the Mississippi Supreme Court, Court of Appeals, circuit,
83 chancery, county, justice and municipal courts, or by coroners.
84 Before any person shall be authorized under this subsection to
85 carry a weapon, he shall complete a weapons training course
86 approved by the Board of Law Enforcement Officer Standards and
87 Training. Before any criminal investigator employed by a district
88 attorney shall be authorized under this section to carry a pistol,
89 firearm or other weapon, he shall have complied with Section
90 45-6-11 or any training program required for employment as an
91 agent of the Federal Bureau of Investigation. A law enforcement
92 officer, as defined in Section 45-6-3, shall be authorized to
93 carry weapons in courthouses in performance of his official
94 duties. A person licensed under Section 45-9-101 to carry a
95 concealed pistol, who (a) has voluntarily completed an
96 instructional course in the safe handling and use of firearms



97 offered by an instructor certified by a nationally recognized
98 organization that customarily offers firearms training, or by any
99 other organization approved by the Department of Public Safety,
100 (b) is a member or veteran of any active or reserve component
101 branch of the United States of America Armed Forces having
102 completed law enforcement or combat training with pistols or other
103 handguns as recognized by such branch after submitting an
104 affidavit attesting to have read, understand and agree to comply
105 with all provisions of the enhanced carry law, or (c) is an
106 honorably retired law enforcement officer or honorably retired
107 member or veteran of any active or reserve component branch of the
108 United States of America Armed Forces having completed law
109 enforcement or combat training with pistols or other handguns,
110 after submitting an affidavit attesting to have read, understand
111 and agree to comply with all provisions of Mississippi enhanced
112 carry law shall also be authorized to carry weapons in courthouses
113 except in courtrooms during a judicial proceeding, * * * any
114 location listed in subsection (13) of Section 45-9-101, and any
115 other public property, or portion of public property, except any
116 place of nuisance as defined in Section 95-3-1, any police,
117 sheriff or highway patrol station or any detention facility,
118 prison or jail. Any rule, regulation, or other policy that has
119 the effect of limiting the locations on public property, or a
120 portion of public property where a person may carry a concealed
121 pistol pursuant to the Mississippi enhanced carry law beyond the



122 locations described in this subsection shall have no force or
123 effect. For the purposes of this subsection (2), component branch
124 of the United States Armed Forces includes the Army, Navy, Air
125 Force, Coast Guard or Marine Corps, or the Army National Guard,
126 the Army National Guard of the United States, the Air National
127 Guard or the Air National Guard of the United States, as those
128 terms are defined in Section 101, Title 10, United States Code,
129 and any other reserve component of the United States Armed Forces
130 enumerated in Section 10101, Title 10, United States Code. The
131 department shall promulgate rules and regulations allowing
132 concealed pistol permit holders to obtain an endorsement on their
133 permit indicating that they have completed the aforementioned
134 course and have the authority to carry in these locations. This
135 section shall in no way interfere with the right of a trial judge
136 to restrict the carrying of firearms in the courtroom.

137 (3) It shall not be a violation of this or any other statute
138 for pistols, firearms or other suitable and appropriate weapons,
139 to be carried by any out-of-state, full-time commissioned law
140 enforcement officer who holds a valid commission card from the
141 appropriate out-of-state law enforcement agency and a photo
142 identification. The provisions of this subsection shall only
143 apply if the state where the out-of-state officer is employed has
144 entered into a reciprocity agreement with the state that allows
145 full-time commissioned law enforcement officers in Mississippi to
146 lawfully carry or possess a weapon in such other states. The



147 Commissioner of Public Safety is authorized to enter into
148 reciprocal agreements with other states to carry out the
149 provisions of this subsection.

150 (4) (a) A person licensed to carry a concealed pistol or
151 revolver with the endorsement under Section 97-37-7, who is
152 adversely affected by a rule, regulation, policy, or posted
153 written notice adopted by an agency, entity, or person in
154 violation of this section may file suit for declarative and
155 injunctive relief against the agency, entity, or person in the
156 circuit court which shall have jurisdiction over the location
157 where the violation of this section occurs.

158 (b) Before instituting suit under this subsection, the
159 party adversely impacted by the rule, regulation, policy, or
160 posted written notice shall notify the Attorney General in writing
161 of the violation and include evidence of the violation. The
162 Attorney General shall, within thirty (30) days, investigate
163 whether the agency, entity, or person adopted a rule, regulation,
164 policy, or posted written notice in violation of this section and
165 provide the appropriate authority notice of his findings,
166 including, if applicable, a description of the violation and
167 specific language of the rule, regulation, policy, or posted
168 written notice found to be in violation. The agency, entity, or
169 person shall have thirty (30) days from receipt of that notice to
170 cure the violation. If the agency, entity, or person fails to
171 cure the violation within that thirty-day time period, a suit



172 under paragraph (a) of this subsection may proceed. The findings
173 of the Attorney General shall constitute a "Public Record" as
174 defined by the Mississippi Public Records Act of 1983, Section
175 25-61-1 et seq.

176 (c) If the circuit court finds that an agency, entity,
177 or person adopted a rule, regulation, policy, or posted written
178 notice in violation of this section and failed to cure that
179 violation in accordance with paragraph (b) of this subsection, the
180 circuit court shall issue a permanent injunction against an
181 agency, entity, or person prohibiting the enforcement of the rule,
182 regulation, policy, or posted written notice.

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

185 45-9-101. (1) (a) Except as otherwise provided, the
186 Department of Public Safety is authorized to issue licenses to
187 carry stun guns, concealed pistols or revolvers to persons
188 qualified as provided in this section. Such licenses shall be
189 valid throughout the state for a period of five (5) years from the
190 date of issuance. Any person possessing a valid license issued
191 pursuant to this section may carry a stun gun, concealed pistol or
192 concealed revolver.

193 (b) The licensee must carry the license, together with
194 valid identification, at all times in which the licensee is
195 carrying a stun gun, concealed pistol or revolver and must display
196 both the license and proper identification upon demand by a law



197 enforcement officer. A violation of the provisions of this
198 paragraph (b) shall constitute a noncriminal violation with a
199 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable
200 by summons.

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

203 (a) Is a resident of the state. However, this
204 residency requirement may be waived if the applicant possesses a
205 valid permit from another state, is active military personnel
206 stationed in Mississippi, or is a retired law enforcement officer
207 establishing residency in the state;

208 (b) (i) Is twenty-one (21) years of age or older; or
209 (ii) Is at least eighteen (18) years of age but
210 not yet twenty-one (21) years of age and the applicant:

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

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

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

217 (d) Is not ineligible to possess a firearm by virtue of
218 having been convicted of a felony in a court of this state, of any
219 other state, or of the United States without having been pardoned
220 for same, unless that pardon expressly provides that the person
221 may not ship, transport, possess or receive firearms. A



222 conviction which has been expunged pursuant to state law shall not
223 be considered a conviction for purposes of this subsection;

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

309 (c) A nonrefundable license fee of Eighty Dollars
310 (\$80.00). Costs for processing the set of fingerprints as
311 required in paragraph (d) of this subsection shall be borne by the
312 applicant. Honorably retired law enforcement officers, disabled
313 veterans and active duty members of the Armed Forces of the United
314 States shall be exempt from the payment of the license fee;

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

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



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

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

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

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

343 (i) Issue the license;



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

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

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

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



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

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

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



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

398 (9) Within thirty (30) days after the changing of a
399 permanent address, or within thirty (30) days after having a
400 license lost or destroyed, the licensee shall notify the
401 Department of Public Safety in writing of such change or loss.
402 Failure to notify the Department of Public Safety pursuant to the
403 provisions of this subsection shall constitute a noncriminal
404 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
405 be enforceable by a summons.

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

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

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



419 a renewal form prescribed by the department. The licensee must
420 renew his license on or before the expiration date by filing with
421 the department the renewal form, a notarized affidavit stating
422 that the licensee remains qualified pursuant to the criteria
423 specified in subsections (2) and (3) of this section, and a full
424 set of fingerprints administered by the Department of Public
425 Safety or the sheriff of the county of residence of the licensee.
426 The first renewal may be processed by mail and the subsequent
427 renewal must be made in person. Thereafter every other renewal
428 may be processed by mail to assure that the applicant must appear
429 in person every ten (10) years for the purpose of obtaining a new
430 photograph.

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

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

437 (iii) The renewal fee for a Mississippi resident
438 aged sixty-five (65) years of age or older shall be Twenty Dollars
439 (\$20.00).

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



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

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

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



468 devoted to dispensing alcoholic beverages; any portion of an
469 establishment in which beer or light wine is consumed on the
470 premises, that is primarily devoted to such purpose; any
471 elementary or secondary school facility; any junior college,
472 community college, college or university facility unless for the
473 purpose of participating in any authorized firearms-related
474 activity; inside the passenger terminal of any airport, except
475 that no person shall be prohibited from carrying any legal firearm
476 into the terminal if the firearm is encased for shipment, for
477 purposes of checking such firearm as baggage to be lawfully
478 transported on any aircraft; any church or other place of worship,
479 except as provided in Section 45-9-171; or any place where the
480 carrying of firearms is prohibited by federal law. In addition to
481 the places enumerated in this subsection, the carrying of a stun
482 gun, concealed pistol or revolver may be disallowed in any place
483 in the discretion of the person or entity exercising control over
484 the physical location of such place by the placing of a written
485 notice clearly readable at a distance of not less than ten (10)
486 feet that the "carrying of a pistol or revolver is prohibited."
487 No license issued pursuant to this section shall authorize the
488 participants in a parade or demonstration for which a permit is
489 required to carry a stun gun, concealed pistol or revolver.

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



493 1972, shall be exempt from the licensing requirements of this
494 section. The licensing requirements of this section do not apply
495 to the carrying by any person of a stun gun, pistol or revolver,
496 knife, or other deadly weapon that is not concealed as defined in
497 Section 97-37-1.

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

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

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



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

519 (19) Any person holding a valid unrevoked and unexpired
520 license to carry stun guns, concealed pistols or revolvers issued
521 in another state shall have such license recognized by this state
522 to carry stun guns, concealed pistols or revolvers. The
523 Department of Public Safety is authorized to enter into a
524 reciprocal agreement with another state if that state requires a
525 written agreement in order to recognize licenses to carry stun
526 guns, concealed pistols or revolvers issued by this state.

527 (20) The provisions of this section shall be under the
528 supervision of the Commissioner of Public Safety. The
529 commissioner is authorized to promulgate reasonable rules and
530 regulations to carry out the provisions of this section.

531 (21) For the purposes of this section, the term "stun gun"
532 means a portable device or weapon from which an electric current,
533 impulse, wave or beam may be directed, which current, impulse,
534 wave or beam is designed to incapacitate temporarily, injure,
535 momentarily stun, knock out, cause mental disorientation or
536 paralyze.

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



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

546 (b) An honorably retired law enforcement officer and
547 honorably retired correctional officer shall provide the following
548 information to receive the license described in this section: (i)
549 a letter, with the official letterhead of the agency or department
550 from which such officer is retiring, which explains that such
551 officer is honorably retired, and (ii) a letter with the official
552 letterhead of the agency or department, which explains that such
553 officer has completed a certified law enforcement training
554 academy.

555 (23) A disabled veteran who seeks to qualify for an
556 exemption under this section shall be required to provide, as
557 proof of service-connected disability, verification from the
558 United States Department of Veterans Affairs. A Veterans Health
559 Identification Card issued by the United States Department of
560 Veterans Affairs indicating a service-connected disability is
561 sufficient proof.

562 (24) A license under this section is not required for a
563 loaded or unloaded pistol or revolver to be carried upon the
564 person in a sheath, belt holster or shoulder holster or in a
565 purse, handbag, satchel, other similar bag or briefcase or fully



566 enclosed case if the person is not engaged in criminal activity
567 other than a misdemeanor traffic offense, is not otherwise
568 prohibited from possessing a pistol or revolver under state or
569 federal law, and is not in a location prohibited under subsection
570 (13) of this section.

571 **SECTION 3.** Section 45-9-171, Mississippi Code of 1972, is
572 amended as follows:

573 45-9-171. (1) This section shall be known and may be cited
574 as the "Mississippi Church Protection Act."

575 (2) (a) The governing body of any church or place of
576 worship may establish a security program by which designated
577 members are authorized to carry firearms for the protection of the
578 congregation of the church or place of worship, including
579 resisting any unlawful attempt to commit a violent felony listed
580 in Section 97-3-2(1) upon a member or other attendee in the church
581 or place of worship or on the immediate premises thereof, or
582 church-sponsored events off-campus within the State of
583 Mississippi. A church or place of worship may establish a
584 security program that meets the requirements of subsection (2) (b)
585 of this section, and a member of the security program shall be
586 immune from civil liability for any action taken by a member of
587 the security program if the action in question occurs during the
588 reasonable exercise of and within the course and scope of the
589 member's official duties as a member of the security program for
590 the church or place of worship. For purposes of this section,



591 "church" or "place of worship" means only a bona fide duly
592 constituted religious society, ecclesiastical body, or any
593 congregation thereof.

594 (b) In order to be eligible for the immunity provided
595 in this section:

596 (i) The program at a minimum must require that
597 each participant of the program possesses a firearms permit issued
598 under Section 45-9-101 and has completed an instructional course
599 in the safe handling and use of firearms as described in Section
600 97-37-7, and may include any Mississippi certified law enforcement
601 officer or other person authorized to carry firearms under 97-37-
602 7(2). The program may also include one or more persons with law
603 enforcement or military background who may assist the church or
604 place of worship in training of the members of the program;

605 (ii) The names of the members designated by the
606 church or place of worship to serve in the security program must
607 be spread upon the minutes of the body or otherwise noted in
608 writing at the time of the member's designation if the body does
609 not maintain minutes, and this written record must be made
610 available to law enforcement upon request during the course of
611 investigation after an incident in which the member used a firearm
612 while acting as a member of the security program; and

613 (iii) The member of the program who is claiming
614 immunity under the provisions of this section must have met the
615 requirements of this paragraph (b).



616 (3) A person who is indicted or charged with a violation of
617 criminal law while acting as a member of a security program of a
618 church or place of worship may assert as a defense, in addition to
619 any other defense available, that at the time of the action in
620 question, the person was a member of a church body or place of
621 worship security program, was then actually engaged in the
622 performance of the person's duties as a member of the program, and
623 had met the requirements of this section at the time of the action
624 in question.

625 **SECTION 4.** Section 97-37-9, Mississippi Code of 1972, is
626 brought forward as follows:

627 97-37-9. Any person indicted or charged for a violation of
628 Section 97-37-1 may show as a defense:

629 (a) That he was threatened, and had good and sufficient
630 reason to apprehend a serious attack from any enemy, and that he
631 did so apprehend; or

632 (b) That he was traveling and was not a tramp, or was
633 setting out on a journey and was not a tramp; or

634 (c) That he was a law enforcement or peace officer in
635 the discharge of his duties; or

636 (d) That he was at the time in the discharge of his
637 duties as a mail carrier; or

638 (e) That he was at the time engaged in transporting
639 valuables for an express company or bank; or



640 (f) That he was a member of the Armed Forces of the
641 United States, National Guard, State Militia, Emergency Management
642 Corps, guard or patrolman in a state or municipal institution
643 while in the performance of his official duties; or

644 (g) That he was in lawful pursuit of a felon; or

645 (h) That he was lawfully engaged in legitimate sports;

646 (i) That at the time he was a company guard, bank
647 guard, watchman, or other person enumerated in Section 97-37-7,
648 and was then actually engaged in the performance of his duties as
649 such, and then held a valid permit from the sheriff, the
650 commissioner of public safety, or a valid permit issued by the
651 Secretary of State prior to May 1, 1974, to carry the weapon; and
652 the burden of proving either of said defenses shall be on the
653 accused; or

654 (j) That at the time he or she was a member of a church
655 or place of worship security program, and was then actually
656 engaged in the performance of his or her duties as such and met
657 the requirements of Section 45-9-171.

658 **SECTION 5.** Section 97-3-15, Mississippi Code of 1972, is
659 brought forward as follows:

660 97-3-15. (1) The killing of a human being by the act,
661 procurement or omission of another shall be justifiable in the
662 following cases:



663 (a) When committed by public officers, or those acting
664 by their aid and assistance, in obedience to any judgment of a
665 competent court;

666 (b) When necessarily committed by public officers, or
667 those acting by their command in their aid and assistance, in
668 overcoming actual resistance to the execution of some legal
669 process, or to the discharge of any other legal duty;

670 (c) When necessarily committed by public officers, or
671 those acting by their command in their aid and assistance, in
672 retaking any felon who has been rescued or has escaped;

673 (d) When necessarily committed by public officers, or
674 those acting by their command in their aid and assistance, in
675 arresting any felon fleeing from justice;

676 (e) When committed by any person in resisting any
677 attempt unlawfully to kill such person or to commit any felony
678 upon him, or upon or in any dwelling, in any occupied vehicle, in
679 any place of business, in any place of employment or in the
680 immediate premises thereof in which such person shall be;

681 (f) When committed in the lawful defense of one's own
682 person or any other human being, where there shall be reasonable
683 ground to apprehend a design to commit a felony or to do some
684 great personal injury, and there shall be imminent danger of such
685 design being accomplished;

686 (g) When necessarily committed in attempting by lawful
687 ways and means to apprehend any person for any felony committed;



688 (h) When necessarily committed in lawfully suppressing
689 any riot or in lawfully keeping and preserving the peace; and

690 (i) When necessarily committed in the performance of
691 duty as a member of a church or place of worship security program
692 as described in Section 45-9-171.

693 (2) (a) As used in subsection (1)(c) and (d) of this
694 section, the term "when necessarily committed" means that a public
695 officer or a person acting by or at the officer's command, aid or
696 assistance is authorized to use such force as necessary in
697 securing and detaining the felon offender, overcoming the
698 offender's resistance, preventing the offender's escape,
699 recapturing the offender if the offender escapes or in protecting
700 himself or others from bodily harm; but such officer or person
701 shall not be authorized to resort to deadly or dangerous means
702 when to do so would be unreasonable under the circumstances. The
703 public officer or person acting by or at the officer's command may
704 act upon a reasonable apprehension of the surrounding
705 circumstances; however, such officer or person shall not use
706 excessive force or force that is greater than reasonably necessary
707 in securing and detaining the offender, overcoming the offender's
708 resistance, preventing the offender's escape, recapturing the
709 offender if the offender escapes or in protecting himself or
710 others from bodily harm.

711 (b) As used in subsection (1)(c) and (d) of this
712 section the term "felon" shall include an offender who has been



713 convicted of a felony and shall also include an offender who is in
714 custody, or whose custody is being sought, on a charge or for an
715 offense which is punishable, upon conviction, by death or
716 confinement in the Penitentiary.

717 (c) As used in subsections (1)(e) and (3) of this
718 section, "dwelling" means a building or conveyance of any kind
719 that has a roof over it, whether the building or conveyance is
720 temporary or permanent, mobile or immobile, including a tent, that
721 is designed to be occupied by people lodging therein at night,
722 including any attached porch.

723 (3) A person who uses defensive force shall be presumed to
724 have reasonably feared imminent death or great bodily harm, or the
725 commission of a felony upon him or another or upon his dwelling,
726 or against a vehicle which he was occupying, or against his
727 business or place of employment or the immediate premises of such
728 business or place of employment, if the person against whom the
729 defensive force was used, was in the process of unlawfully and
730 forcibly entering, or had unlawfully and forcibly entered, a
731 dwelling, occupied vehicle, business, place of employment or the
732 immediate premises thereof or if that person had unlawfully
733 removed or was attempting to unlawfully remove another against the
734 other person's will from that dwelling, occupied vehicle,
735 business, place of employment or the immediate premises thereof
736 and the person who used defensive force knew or had reason to
737 believe that the forcible entry or unlawful and forcible act was



738 occurring or had occurred. This presumption shall not apply if
739 the person against whom defensive force was used has a right to be
740 in or is a lawful resident or owner of the dwelling, vehicle,
741 business, place of employment or the immediate premises thereof or
742 is the lawful resident or owner of the dwelling, vehicle,
743 business, place of employment or the immediate premises thereof or
744 if the person who uses defensive force is engaged in unlawful
745 activity or if the person is a law enforcement officer engaged in
746 the performance of his official duties.

747 (4) A person who is not the initial aggressor and is not
748 engaged in unlawful activity shall have no duty to retreat before
749 using deadly force under subsection (1)(e) or (f) of this section
750 if the person is in a place where the person has a right to be,
751 and no finder of fact shall be permitted to consider the person's
752 failure to retreat as evidence that the person's use of force was
753 unnecessary, excessive or unreasonable.

754 (5) (a) The presumptions contained in subsection (3) of
755 this section shall apply in civil cases in which self-defense or
756 defense of another is claimed as a defense.

757 (b) The court shall award reasonable attorney's fees,
758 court costs, compensation for loss of income, and all expenses
759 incurred by the defendant in defense of any civil action brought
760 by a plaintiff if the court finds that the defendant acted in
761 accordance with subsection (1)(e) or (f) of this section. A
762 defendant who has previously been adjudicated "not guilty" of any



763 crime by reason of subsection (1)(e) or (f) of this section shall
764 be immune from any civil action for damages arising from the same
765 conduct.

766 **SECTION 6.** This act shall take effect and be in force from
767 and after July 1, 2018.

