

By: Senator(s) Hill

To: Judiciary, Division A

SENATE BILL NO. 2314

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE EXEMPT STATUS OF CERTAIN CONCEALED CARRY PERMIT
3 HOLDERS FROM THE PUBLIC RECORDS ACT SUBSEQUENT TO A REVOCATION OF
4 THE LICENSE TO CARRY A CONCEALED WEAPON; TO AMEND SECTION
5 25-61-11.1, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED
6 PURPOSES.

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

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

10 45-9-101. (1) (a) Except as otherwise provided, the
11 Department of Public Safety is authorized to issue licenses to
12 carry stun guns, concealed pistols or revolvers to persons
13 qualified as provided in this section. Such licenses shall be
14 valid throughout the state for a period of five (5) years from the
15 date of issuance. Any person possessing a valid license issued
16 pursuant to this section may carry a stun gun, concealed pistol or
17 concealed revolver.

18 (b) The licensee must carry the license, together with
19 valid identification, at all times in which the licensee is
20 carrying a stun gun, concealed pistol or revolver and must display



21 both the license and proper identification upon demand by a law
22 enforcement officer. A violation of the provisions of this
23 paragraph (b) shall constitute a noncriminal violation with a
24 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable
25 by summons.

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

28 (a) Is a resident of the state. However, this
29 residency requirement may be waived if the applicant possesses a
30 valid permit from another state, is active military personnel
31 stationed in Mississippi, or is a retired law enforcement officer
32 establishing residency in the state;

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

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

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

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

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



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

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

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



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

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

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

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

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

85 (3) The Department of Public Safety may deny a license if
86 the applicant has been found guilty of one or more crimes of
87 violence constituting a misdemeanor unless three (3) years have
88 elapsed since probation or any other conditions set by the court
89 have been fulfilled or expunction has occurred prior to the date
90 on which the application is submitted, or may revoke a license if
91 the licensee has been found guilty of one or more crimes of
92 violence within the preceding three (3) years. The department
93 shall, upon notification by a law enforcement agency or a court
94 and subsequent written verification, suspend a license or the



95 processing of an application for a license if the licensee or
96 applicant is arrested or formally charged with a crime which would
97 disqualify such person from having a license under this section,
98 until final disposition of the case. The provisions of subsection
99 (7) of this section shall apply to any suspension or revocation of
100 a license pursuant to the provisions of this section.

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

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

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

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

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

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

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



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

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

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

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

131 (c) A nonrefundable license fee of Eighty Dollars
132 (\$80.00). Costs for processing the set of fingerprints as
133 required in paragraph (d) of this subsection shall be borne by the
134 applicant. Honorably retired law enforcement officers, disabled
135 veterans and active duty members of the Armed Forces of the United
136 States shall be exempt from the payment of the license fee;

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

139 (e) A waiver authorizing the Department of Public
140 Safety access to any records concerning commitments of the
141 applicant to any of the treatment facilities or institutions
142 referred to in subsection (2) and permitting access to all the
143 applicant's criminal records.



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

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

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

165 (i) Issue the license;

166 (ii) Deny the application based solely on the
167 ground that the applicant fails to qualify under the criteria
168 listed in subsections (2) and (3) of this section. If the



169 Department of Public Safety denies the application, it shall
170 notify the applicant in writing, stating the ground for denial,
171 and the denial shall be subject to the appeal process set forth in
172 subsection (7); or

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

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

186 (7) (a) If the Department of Public Safety denies the
187 issuance of a license, or suspends or revokes a license, the party
188 aggrieved may appeal such denial, suspension or revocation to the
189 Commissioner of Public Safety, or his authorized agent, within
190 thirty (30) days after the aggrieved party receives written notice
191 of such denial, suspension or revocation. The Commissioner of
192 Public Safety, or his duly authorized agent, shall rule upon such
193 appeal within thirty (30) days after the appeal is filed and



194 failure to rule within this thirty-day period shall constitute
195 sustaining such denial, suspension or revocation. Such review
196 shall be conducted pursuant to such reasonable rules and
197 regulations as the Commissioner of Public Safety may adopt.

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

210 (8) (a) The Department of Public Safety shall maintain an
211 automated listing of license holders and such information shall be
212 available online, upon request, at all times, to all law
213 enforcement agencies through the Mississippi Crime Information
214 Center. However, the records of the department relating to
215 applications for licenses to carry stun guns, concealed pistols or
216 revolvers and records relating to license holders shall be exempt
217 from the provisions of the Mississippi Public Records Act of 1983,



218 and shall be released only upon order of a court having proper
219 jurisdiction over a petition for release of the record or records.

220 (b) (i) For any revocation under subsection (3) or (7)
221 of this section, an administrative order of revocation that
222 becomes final or an order of the court to which the administrative
223 revocation was appealed that becomes final are not exempt from the
224 provisions of the Mississippi Public Records Act of 1983 under
225 this subsection (8).

226 (ii) The Department of Public Safety shall post on
227 its website, accessible to the public, information on all revoked
228 permits, including the permittee's name, date of revocation, reason
229 for revocation, and a photograph of the revoked permittee taken no
230 more than fifteen (15) days after the date of the revocation.

231 (9) Within thirty (30) days after the changing of a
232 permanent address, or within thirty (30) days after having a
233 license lost or destroyed, the licensee shall notify the
234 Department of Public Safety in writing of such change or loss.
235 Failure to notify the Department of Public Safety pursuant to the
236 provisions of this subsection shall constitute a noncriminal
237 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
238 be enforceable by a summons.

239 (10) In the event that a stun gun, concealed pistol or
240 revolver license is lost or destroyed, the person to whom the
241 license was issued shall comply with the provisions of subsection
242 (9) of this section and may obtain a duplicate, or substitute



243 thereof, upon payment of Fifteen Dollars (\$15.00) to the
244 Department of Public Safety, and furnishing a notarized statement
245 to the department that such license has been lost or destroyed.

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

249 (12) (a) No less than ninety (90) days prior to the
250 expiration date of the license, the Department of Public Safety
251 shall mail to each licensee a written notice of the expiration and
252 a renewal form prescribed by the department. The licensee must
253 renew his license on or before the expiration date by filing with
254 the department the renewal form, a notarized affidavit stating
255 that the licensee remains qualified pursuant to the criteria
256 specified in subsections (2) and (3) of this section, and a full
257 set of fingerprints administered by the Department of Public
258 Safety or the sheriff of the county of residence of the licensee.
259 The first renewal may be processed by mail and the subsequent
260 renewal must be made in person. Thereafter every other renewal
261 may be processed by mail to assure that the applicant must appear
262 in person every ten (10) years for the purpose of obtaining a new
263 photograph.

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



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

270 (iii) The renewal fee for a Mississippi resident
271 aged sixty-five (65) years of age or older shall be Twenty Dollars
272 (\$20.00).

273 (b) The Department of Public Safety shall forward the
274 full set of fingerprints of the applicant to the appropriate
275 agencies for state and federal processing. The license shall be
276 renewed upon receipt of the completed renewal application and
277 appropriate payment of fees.

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

288 (13) No license issued pursuant to this section shall
289 authorize any person to carry a stun gun, concealed pistol or
290 revolver into any place of nuisance as defined in Section 95-3-1,
291 Mississippi Code of 1972; any police, sheriff or highway patrol



292 station; any detention facility, prison or jail; any courthouse;
293 any courtroom, except that nothing in this section shall preclude
294 a judge from carrying a concealed weapon or determining who will
295 carry a concealed weapon in his courtroom; any polling place; any
296 meeting place of the governing body of any governmental entity;
297 any meeting of the Legislature or a committee thereof; any school,
298 college or professional athletic event not related to firearms;
299 any portion of an establishment, licensed to dispense alcoholic
300 beverages for consumption on the premises, that is primarily
301 devoted to dispensing alcoholic beverages; any portion of an
302 establishment in which beer or light wine is consumed on the
303 premises, that is primarily devoted to such purpose; any
304 elementary or secondary school facility; any junior college,
305 community college, college or university facility unless for the
306 purpose of participating in any authorized firearms-related
307 activity; inside the passenger terminal of any airport, except
308 that no person shall be prohibited from carrying any legal firearm
309 into the terminal if the firearm is encased for shipment, for
310 purposes of checking such firearm as baggage to be lawfully
311 transported on any aircraft; any church or other place of worship,
312 except as provided in Section 45-9-171; or any place where the
313 carrying of firearms is prohibited by federal law. In addition to
314 the places enumerated in this subsection, the carrying of a stun
315 gun, concealed pistol or revolver may be disallowed in any place
316 in the discretion of the person or entity exercising control over



317 the physical location of such place by the placing of a written
318 notice clearly readable at a distance of not less than ten (10)
319 feet that the "carrying of a pistol or revolver is prohibited."
320 No license issued pursuant to this section shall authorize the
321 participants in a parade or demonstration for which a permit is
322 required to carry a stun gun, concealed pistol or revolver.

323 (14) A law enforcement officer as defined in Section 45-6-3,
324 chiefs of police, sheriffs and persons licensed as professional
325 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of
326 1972, shall be exempt from the licensing requirements of this
327 section. The licensing requirements of this section do not apply
328 to the carrying by any person of a stun gun, pistol or revolver,
329 knife, or other deadly weapon that is not concealed as defined in
330 Section 97-37-1.

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

337 (16) All fees collected by the Department of Public Safety
338 pursuant to this section shall be deposited into a special fund
339 hereby created in the State Treasury and shall be used for
340 implementation and administration of this section. After the
341 close of each fiscal year, the balance in this fund shall be



342 certified to the Legislature and then may be used by the
343 Department of Public Safety as directed by the Legislature.

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

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

352 (19) Any person holding a valid unrevoked and unexpired
353 license to carry stun guns, concealed pistols or revolvers issued
354 in another state shall have such license recognized by this state
355 to carry stun guns, concealed pistols or revolvers. The
356 Department of Public Safety is authorized to enter into a
357 reciprocal agreement with another state if that state requires a
358 written agreement in order to recognize licenses to carry stun
359 guns, concealed pistols or revolvers issued by this state.

360 (20) The provisions of this section shall be under the
361 supervision of the Commissioner of Public Safety. The
362 commissioner is authorized to promulgate reasonable rules and
363 regulations to carry out the provisions of this section.

364 (21) For the purposes of this section, the term "stun gun"
365 means a portable device or weapon from which an electric current,
366 impulse, wave or beam may be directed, which current, impulse,



367 wave or beam is designed to incapacitate temporarily, injure,
368 momentarily stun, knock out, cause mental disorientation or
369 paralyze.

370 (22) (a) From and after January 1, 2016, the Commissioner
371 of Public Safety shall promulgate rules and regulations which
372 provide that licenses authorized by this section for honorably
373 retired law enforcement officers and honorably retired
374 correctional officers from the Mississippi Department of
375 Corrections shall (i) include the words "retired law enforcement
376 officer" on the front of the license, and (ii) that the license
377 itself have a red background to distinguish it from other licenses
378 issued under this section.

379 (b) An honorably retired law enforcement officer and
380 honorably retired correctional officer shall provide the following
381 information to receive the license described in this section: (i)
382 a letter, with the official letterhead of the agency or department
383 from which such officer is retiring, which explains that such
384 officer is honorably retired, and (ii) a letter with the official
385 letterhead of the agency or department, which explains that such
386 officer has completed a certified law enforcement training
387 academy.

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



392 identification card issued by the United States Department of
393 Veterans Affairs is sufficient proof.

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

403 **SECTION 2.** Section 25-61-11.1, Mississippi Code of 1972, is
404 amended as follows:

405 25-61-11.1. The name, home address, any telephone number or
406 other private information of any person who possesses a weapon
407 permit issued under Section 45-9-101 or Section 97-37-7 shall be
408 exempt from the Mississippi Public Records Act of 1983 except as
409 otherwise provided in Section 45-9-101.

410 **SECTION 3.** This act shall take effect and be in force from
411 and after July 1, 2011, it being the intention of the Legislature
412 that this act be retroactive and apply to all carry permit
413 revocations since the inception of the Instructor-Certified
414 program.

