

By: Senator(s) Dearing

To: Judiciary, Division A

SENATE BILL NO. 2317

1 AN ACT TO AMEND SECTION 93-1-17, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE RETIRED JUDGES TO SOLEMNIZE MARRIAGES; TO AMEND SECTION
3 45-9-101, MISSISSIPPI CODE OF 1972, TO ALLOW RETIRED JUDGES TO
4 OBTAIN A CONCEALED WEAPON LICENSE AT NO COST EXCEPT FOR
5 FINGERPRINT AND RELATED CHARGES; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 93-1-17, Mississippi Code of 1972, is
8 amended as follows:

9 93-1-17. Any minister of the gospel ordained according to
10 the rules of his church or society, in good standing; any Rabbi or
11 other spiritual leader of any other religious body authorized
12 under the rules of such religious body to solemnize rites of
13 matrimony and being in good standing; any judge of the Supreme
14 Court, Court of Appeals, circuit court, chancery court or county;
15 any retired judge of the Supreme Court, Court of Appeals, circuit
16 court, chancery court or county court may solemnize the rites of
17 matrimony between any persons anywhere within this state who shall
18 produce a license granted as herein directed. Justice court
19 judges, retired justice court judges and members of the boards of



20 supervisors may likewise solemnize the rites of matrimony within
21 their respective counties. Any marriages performed by a mayor of
22 a municipality prior to March 14, 1994, are valid provided such
23 marriages satisfy the requirements of Section 93-1-18.

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

26 45-9-101. (1) (a) Except as otherwise provided, the
27 Department of Public Safety is authorized to issue licenses to
28 carry stun guns, concealed pistols or revolvers to persons
29 qualified as provided in this section. Such licenses shall be
30 valid throughout the state for a period of five (5) years from the
31 date of issuance. Any person possessing a valid license issued
32 pursuant to this section may carry a stun gun, concealed pistol or
33 concealed revolver.

34 (b) The licensee must carry the license, together with
35 valid identification, at all times in which the licensee is
36 carrying a stun gun, concealed pistol or revolver and must display
37 both the license and proper identification upon demand by a law
38 enforcement officer. A violation of the provisions of this
39 paragraph (b) shall constitute a noncriminal violation with a
40 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable
41 by summons.

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



44 (a) Is a resident of the state. However, this
45 residency requirement may be waived if the applicant possesses a
46 valid permit from another state, is active military personnel
47 stationed in Mississippi, or is a retired law enforcement officer
48 establishing residency in the state;

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

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

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

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

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

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

62 (e) Does not chronically or habitually abuse controlled
63 substances to the extent that his normal faculties are impaired.

64 It shall be presumed that an applicant chronically and habitually
65 uses controlled substances to the extent that his faculties are
66 impaired if the applicant has been voluntarily or involuntarily
67 committed to a treatment facility for the abuse of a controlled
68 substance or been found guilty of a crime under the provisions of



69 the Uniform Controlled Substances Law or similar laws of any other
70 state or the United States relating to controlled substances
71 within a three-year period immediately preceding the date on which
72 the application is submitted;

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

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

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

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



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

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

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

101 (3) The Department of Public Safety may deny a license if
102 the applicant has been found guilty of one or more crimes of
103 violence constituting a misdemeanor unless three (3) years have
104 elapsed since probation or any other conditions set by the court
105 have been fulfilled or expunction has occurred prior to the date
106 on which the application is submitted, or may revoke a license if
107 the licensee has been found guilty of one or more crimes of
108 violence within the preceding three (3) years. The department
109 shall, upon notification by a law enforcement agency or a court
110 and subsequent written verification, suspend a license or the
111 processing of an application for a license if the licensee or
112 applicant is arrested or formally charged with a crime which would
113 disqualify such person from having a license under this section,
114 until final disposition of the case. The provisions of subsection
115 (7) of this section shall apply to any suspension or revocation of
116 a license pursuant to the provisions of this section.



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

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

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

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

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

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

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

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

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

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



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

147 (c) A nonrefundable license fee of Eighty Dollars
148 (\$80.00). Costs for processing the set of fingerprints as
149 required in paragraph (d) of this subsection shall be borne by the
150 applicant. Honorably retired law enforcement officers, disabled
151 veterans and active duty members of the Armed Forces of the United
152 States and retired judges of the Mississippi Supreme Court, Court
153 of Appeals, circuit, chancery, county, justice and municipal
154 courts shall be exempt from the payment of the license fee;

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

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

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



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

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

183 (i) Issue the license;

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



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

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

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



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

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

238 (9) Within thirty (30) days after the changing of a
239 permanent address, or within thirty (30) days after having a
240 license lost or destroyed, the licensee shall notify the



241 Department of Public Safety in writing of such change or loss.
242 Failure to notify the Department of Public Safety pursuant to the
243 provisions of this subsection shall constitute a noncriminal
244 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
245 be enforceable by a summons.

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

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

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



266 The first renewal may be processed by mail and the subsequent
267 renewal must be made in person. Thereafter every other renewal
268 may be processed by mail to assure that the applicant must appear
269 in person every ten (10) years for the purpose of obtaining a new
270 photograph.

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

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

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

280 (iv) Retired judges of the Mississippi Supreme
281 Court, Court of Appeals, circuit, chancery, county, justice and
282 municipal courts shall be exempt from the renewal fee.

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

288 (c) A licensee who fails to file a renewal application
289 on or before its expiration date must renew his license by paying
290 a late fee of Fifteen Dollars (\$15.00). No license shall be



291 renewed six (6) months or more after its expiration date, and such
292 license shall be deemed to be permanently expired. A person whose
293 license has been permanently expired may reapply for licensure;
294 however, an application for licensure and fees pursuant to
295 subsection (5) of this section must be submitted, and a background
296 investigation shall be conducted pursuant to the provisions of
297 this section.

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



316 purpose of participating in any authorized firearms-related
317 activity; inside the passenger terminal of any airport, except
318 that no person shall be prohibited from carrying any legal firearm
319 into the terminal if the firearm is encased for shipment, for
320 purposes of checking such firearm as baggage to be lawfully
321 transported on any aircraft; any church or other place of worship,
322 except as provided in Section 45-9-171; or any place where the
323 carrying of firearms is prohibited by federal law. In addition to
324 the places enumerated in this subsection, the carrying of a stun
325 gun, concealed pistol or revolver may be disallowed in any place
326 in the discretion of the person or entity exercising control over
327 the physical location of such place by the placing of a written
328 notice clearly readable at a distance of not less than ten (10)
329 feet that the "carrying of a pistol or revolver is prohibited."
330 No license issued pursuant to this section shall authorize the
331 participants in a parade or demonstration for which a permit is
332 required to carry a stun gun, concealed pistol or revolver.

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



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

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

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

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

362 (19) Any person holding a valid unrevoked and unexpired
363 license to carry stun guns, concealed pistols or revolvers issued
364 in another state shall have such license recognized by this state
365 to carry stun guns, concealed pistols or revolvers. The



366 Department of Public Safety is authorized to enter into a
367 reciprocal agreement with another state if that state requires a
368 written agreement in order to recognize licenses to carry stun
369 guns, concealed pistols or revolvers issued by this state.

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

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

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

389 (b) An honorably retired law enforcement officer and
390 honorably retired correctional officer shall provide the following



391 information to receive the license described in this section: (i)
392 a letter, with the official letterhead of the agency or department
393 from which such officer is retiring, which explains that such
394 officer is honorably retired, and (ii) a letter with the official
395 letterhead of the agency or department, which explains that such
396 officer has completed a certified law enforcement training
397 academy.

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

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

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

