

By: Representative Zuber

To: Judiciary B

## HOUSE BILL NO. 451

1 AN ACT TO AMEND SECTION 97-37-1, MISSISSIPPI CODE OF 1972, TO  
2 REMOVE THE REFERENCES TO "KNIVES" IN THE PROVISIONS OF LAW  
3 REGULATING CONCEALED WEAPONS; TO AMEND SECTIONS 97-37-19 AND  
4 45-9-101, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING  
5 SECTIONS; TO AMEND SECTION 97-37-5, MISSISSIPPI CODE OF 1972,  
6 WHICH REGULATES POSSESSION OF WEAPONS BY FELONS, TO CONFORM; AND  
7 FOR RELATED PURPOSES.

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

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

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



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

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

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

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

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

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



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

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

59 **SECTION 2.** Section 97-37-19, Mississippi Code of 1972, is  
60 amended as follows:

61 97-37-19. If any person, having or carrying any \* \* \* sword,  
62 sword-cane, or any deadly weapon, or other weapon the carrying of  
63 which concealed is prohibited by Section 97-37-1, shall, in the  
64 presence of another person, brandish or wield the same in a  
65 threatening manner, not in necessary self-defense, or shall in any  
66 manner unlawfully use the same in any fight or quarrel, the person  
67 so offending, upon conviction thereof, shall be fined in a sum not  
68 exceeding Five Hundred Dollars (\$500.00) or be imprisoned in the  
69 county jail not exceeding three (3) months, or both. In  
70 prosecutions under this section it shall not be necessary for the



71 affidavit or indictment to aver, nor for the state to prove on the  
72 trial, that any gun, pistol, or other firearm was charged, loaded,  
73 or in condition to be discharged.

74       **SECTION 3.** Section 45-9-101, Mississippi Code of 1972, is  
75 amended as follows:

76       45-9-101. (1) (a) Except as otherwise provided, the  
77 Department of Public Safety is authorized to issue licenses to  
78 carry stun guns, concealed pistols or revolvers to persons  
79 qualified as provided in this section. Such licenses shall be  
80 valid throughout the state for a period of five (5) years from the  
81 date of issuance. Any person possessing a valid license issued  
82 pursuant to this section may carry a stun gun, concealed pistol or  
83 concealed revolver.

84       (b) The licensee must carry the license, together with  
85 valid identification, at all times in which the licensee is  
86 carrying a stun gun, concealed pistol or revolver and must display  
87 both the license and proper identification upon demand by a law  
88 enforcement officer. A violation of the provisions of this  
89 paragraph (b) shall constitute a noncriminal violation with a  
90 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable  
91 by summons.

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

94       (a) Is a resident of the state. However, this  
95 residency requirement may be waived if the applicant possesses a



valid permit from another state, is active military personnel stationed in Mississippi, or is a retired law enforcement officer establishing residency in the state;

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

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

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

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

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

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

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



121 within a three-year period immediately preceding the date on which  
122 the application is submitted;

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

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

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

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

144 (j) Has not had adjudication of guilt withheld or  
145 imposition of sentence suspended on any felony unless three (3)



years have elapsed since probation or any other conditions set by the court have been fulfilled;

(k) Is not a fugitive from justice; and

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

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

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



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

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

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

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

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

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

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

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

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

192 (b) A full-face photograph of the applicant taken  
193 within the preceding thirty (30) days in which the head, including  
194 hair, in a size as determined by the Department of Public Safety,





except that an applicant who is younger than twenty-one (21) years of age must submit a photograph in profile of the applicant;

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

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

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

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

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



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

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

(i) Issue the license;

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

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



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

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

(b) If the revocation, suspension or denial of issuance is sustained by the Commissioner of Public Safety, or his duly authorized agent pursuant to paragraph (a) of this subsection, the aggrieved party may file within ten (10) days after the rendition of such decision a petition in the circuit or county court of his



269 residence for review of such decision. A hearing for review shall  
270 be held and shall proceed before the court without a jury upon the  
271 record made at the hearing before the Commissioner of Public  
272 Safety or his duly authorized agent. No such party shall be  
273 allowed to carry a stun gun, concealed pistol or revolver pursuant  
274 to the provisions of this section while any such appeal is  
275 pending.

276 (8) The Department of Public Safety shall maintain an  
277 automated listing of license holders and such information shall be  
278 available online, upon request, at all times, to all law  
279 enforcement agencies through the Mississippi Crime Information  
280 Center. However, the records of the department relating to  
281 applications for licenses to carry stun guns, concealed pistols or  
282 revolvers and records relating to license holders shall be exempt  
283 from the provisions of the Mississippi Public Records Act of 1983,  
284 and shall be released only upon order of a court having proper  
285 jurisdiction over a petition for release of the record or records.

286 (9) Within thirty (30) days after the changing of a  
287 permanent address, or within thirty (30) days after having a  
288 license lost or destroyed, the licensee shall notify the  
289 Department of Public Safety in writing of such change or loss.  
290 Failure to notify the Department of Public Safety pursuant to the  
291 provisions of this subsection shall constitute a noncriminal  
292 violation with a penalty of Twenty-five Dollars (\$25.00) and shall  
293 be enforceable by a summons.



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

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

304           (12) (a) No less than ninety (90) days prior to the  
305 expiration date of the license, the Department of Public Safety  
306 shall mail to each licensee a written notice of the expiration and  
307 a renewal form prescribed by the department. The licensee must  
308 renew his license on or before the expiration date by filing with  
309 the department the renewal form, a notarized affidavit stating  
310 that the licensee remains qualified pursuant to the criteria  
311 specified in subsections (2) and (3) of this section, and a full  
312 set of fingerprints administered by the Department of Public  
313 Safety or the sheriff of the county of residence of the licensee.  
314 The first renewal may be processed by mail and the subsequent  
315 renewal must be made in person. Thereafter every other renewal  
316 may be processed by mail to assure that the applicant must appear  
317 in person every ten (10) years for the purpose of obtaining a new  
318 photograph.



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

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

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

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

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



343           (13) No license issued pursuant to this section shall  
344 authorize any person to carry a stun gun, concealed pistol or  
345 revolver into any place of nuisance as defined in Section 95-3-1,  
346 Mississippi Code of 1972; any police, sheriff or highway patrol  
347 station; any detention facility, prison or jail; any courthouse;  
348 any courtroom, except that nothing in this section shall preclude  
349 a judge from carrying a concealed weapon or determining who will  
350 carry a concealed weapon in his courtroom; any polling place; any  
351 meeting place of the governing body of any governmental entity;  
352 any meeting of the Legislature or a committee thereof; any school,  
353 college or professional athletic event not related to firearms;  
354 any portion of an establishment, licensed to dispense alcoholic  
355 beverages for consumption on the premises, that is primarily  
356 devoted to dispensing alcoholic beverages; any portion of an  
357 establishment in which beer or light wine is consumed on the  
358 premises, that is primarily devoted to such purpose; any  
359 elementary or secondary school facility; any junior college,  
360 community college, college or university facility unless for the  
361 purpose of participating in any authorized firearms-related  
362 activity; inside the passenger terminal of any airport, except  
363 that no person shall be prohibited from carrying any legal firearm  
364 into the terminal if the firearm is encased for shipment, for  
365 purposes of checking such firearm as baggage to be lawfully  
366 transported on any aircraft; any church or other place of worship,  
367 except as provided in Section 45-9-171; or any place where the



368 carrying of firearms is prohibited by federal law. In addition to  
369 the places enumerated in this subsection, the carrying of a stun  
370 gun, concealed pistol or revolver may be disallowed in any place  
371 in the discretion of the person or entity exercising control over  
372 the physical location of such place by the placing of a written  
373 notice clearly readable at a distance of not less than ten (10)  
374 feet that the "carrying of a pistol or revolver is prohibited."  
375 No license issued pursuant to this section shall authorize the  
376 participants in a parade or demonstration for which a permit is  
377 required to carry a stun gun, concealed pistol or revolver.

378 (14) A law enforcement officer as defined in Section 45-6-3,  
379 chiefs of police, sheriffs and persons licensed as professional  
380 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of  
381 1972, shall be exempt from the licensing requirements of this  
382 section. The licensing requirements of this section do not apply  
383 to the carrying by any person of a stun gun, pistol or  
384 revolver, \* \* \* or other deadly weapon that is not concealed as  
385 defined in Section 97-37-1.

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





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

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

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

407           (19) Any person holding a valid unrevoked and unexpired  
408 license to carry stun guns, concealed pistols or revolvers issued  
409 in another state shall have such license recognized by this state  
410 to carry stun guns, concealed pistols or revolvers. The  
411 Department of Public Safety is authorized to enter into a  
412 reciprocal agreement with another state if that state requires a  
413 written agreement in order to recognize licenses to carry stun  
414 guns, concealed pistols or revolvers issued by this state.

415           (20) The provisions of this section shall be under the  
416 supervision of the Commissioner of Public Safety. The



commissioner is authorized to promulgate reasonable rules and regulations to carry out the provisions of this section.

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

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

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



officer has completed a certified law enforcement training academy.

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

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

**SECTION 4.** Section 97-37-5, Mississippi Code of 1972, is amended as follows:

97-37-5. (1) It shall be unlawful for any person who has been convicted of a felony under the laws of this state, any other state, or of the United States to possess any firearm or any bowie knife, dirk knife, butcher knife, switchblade knife, metallic knuckles, blackjack, or any muffler or silencer for any firearm unless such person has received a pardon for such felony, has received a relief from disability pursuant to Section 925(c) of



Title 18 of the United States Code, or has received a certificate of rehabilitation pursuant to subsection (3) of this section.

(2) Any person violating this section shall be guilty of a felony and, upon conviction thereof, shall be fined not more than Five Thousand Dollars (\$5,000.00), or committed to the custody of the State Department of Corrections for not less than one (1) year nor more than ten (10) years, or both.

(3) A person who has been convicted of a felony under the laws of this state may apply to the court in which he was convicted for a certificate of rehabilitation. The court may grant such certificate in its discretion upon a showing to the satisfaction of the court that the applicant has been rehabilitated and has led a useful, productive and law-abiding life since the completion of his sentence and upon the finding of the court that he will not be likely to act in a manner dangerous to public safety.

(4) (a) A person who is discharged from court-ordered mental health treatment may petition the court which entered the commitment order for an order stating that the person qualifies for relief from a firearms disability.

(b) In determining whether to grant relief, the court must hear and consider evidence about:

(i) The circumstances that led to imposition of the firearms disability under 18 \* \* \* USCS, Section 922(d)(4);

(ii) The person's mental history;



490 (iii) The person's criminal history; and  
491 (iv) The person's reputation.  
492 (c) A court may not grant relief unless it makes and  
493 enters in the record the following affirmative findings:  
494 (i) That the person is no longer likely to act in  
495 a manner dangerous to public safety; and  
496 (ii) Removing the person's disability to purchase  
497 a firearm is not against the public interest.  
498 **SECTION 5.** This act shall take effect and be in force from  
499 and after July 1, 2020.

