

By: Senator(s) Sojourner

To: Judiciary, Division B

SENATE BILL NO. 2748

1 AN ACT ENTITLED THE "SECOND AMENDMENT PRESERVATION ACT"; TO
2 PROVIDE THAT THE MISSISSIPPI LEGISLATURE PREEMPTS THE LAW OF
3 FIREARMS, COMPONENTS, AMMUNITION AND FIREARM SUPPLIES TO THE
4 COMPLETE EXCLUSION OF ANY ORDER, ORDINANCE OR REGULATION BY ANY
5 POLITICAL SUBDIVISION OR MUNICIPALITY OF THIS STATE; TO BRING
6 FORWARD SECTIONS 45-9-51, 45-9-53 AND 45-9-101, MISSISSIPPI CODE
7 OF 1972, WHICH PROVIDE CONDITIONS ON CARRYING CONCEALED WEAPONS
8 AND TO BRING FORWARD SECTIONS 97-37-7 AND 97-37-9, MISSISSIPPI
9 CODE OF 1972, WHICH PROVIDE CONDITIONS ON CARRYING DEADLY WEAPONS
10 AND PENALTIES; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** This section shall be known and may be cited as
13 the "Second Amendment Preservation Act."

14 **SECTION 2.** (1) The Mississippi Legislature hereby occupies
15 and preempts the entire field of legislation touching in any way
16 firearms, components, ammunition and supplies to the complete
17 exclusion of any order, ordinance or regulation by any political
18 subdivision of this state. Any existing or future orders,
19 ordinances or regulations in this field are hereby and shall be
20 null and void except as provided in subsection (3) of this
21 section.



22 (2) No county, city, town, village, municipality, or other
23 political subdivision of this state shall adopt any order,
24 ordinance or regulation concerning in any way the sale, purchase,
25 purchase delay, transfer, ownership, use, keeping, possession,
26 bearing, transportation, licensing, permit, registration, taxation
27 other than sales and compensating use taxes or other controls on
28 firearms, components, ammunition, and supplies except as provided
29 in subsection (3) of this section.

30 (3) Except as provided in this subsection, nothing contained
31 in this section shall prohibit any ordinance of any political
32 subdivision which conforms exactly with any of the provisions of
33 Sections 45-9-51, 45-9-53, 45-9-101, 97-37-7 and 97-37-9,
34 Mississippi Code of 1972, with appropriate penalty provisions, or
35 which regulates the open carrying of firearms readily capable of
36 lethal use or the discharge of firearms within a jurisdiction.

37 (4) The lawful design, marketing, manufacture, distribution,
38 or sale of firearms or ammunition to the public is not an
39 abnormally dangerous activity and does not constitute a public or
40 private nuisance.

41 (5) No county, city, town, village or any other political
42 subdivision nor the state shall bring suit or have any right to
43 recover against any firearms or ammunition manufacturer, trade
44 association or dealer for damages, abatement or injunctive relief
45 resulting from or relating to the lawful design, manufacture,
46 marketing, distribution, or sale of firearms or ammunition to the



public. Provided, however, that nothing in this section shall restrict the rights of individual citizens to recover for injury or death caused by the negligent or defective design or manufacture of firearms or ammunition.

(6) Nothing in this section shall prevent the state, a county, city, town, village or any other political subdivision from bringing an action against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by the state or such political subdivision.

SECTION 3. Section 45-9-51, Mississippi Code of 1972, is brought forward as follows:

45-9-51. (1) Subject to the provisions of Section 45-9-53, no county or municipality may adopt any ordinance that restricts the possession, carrying, transportation, sale, transfer or ownership of firearms or ammunition or their components.

(2) No public housing authority operating in this state may adopt any rule or regulation restricting a lessee or tenant of a dwelling owned and operated by such public housing authority from lawfully possessing firearms or ammunition or their components within individual dwelling units or the transportation of such firearms or ammunition or their components to and from such dwelling.

SECTION 4. Section 45-9-53, Mississippi Code of 1972, is brought forward as follows:



45-9-53. (1) This section and Section 45-9-51 do not affect the authority that a county or municipality may have under another law:

(a) To require citizens or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;

(b) To regulate the discharge of firearms within the limits of the county or municipality. A county or municipality may not apply a regulation relating to the discharge of firearms or other weapons in the extraterritorial jurisdiction of the county or municipality or in an area annexed by the county or municipality after September 1, 1981, if the firearm or other weapon is:

(i) A shotgun, air rifle or air pistol, BB gun or bow and arrow discharged:

1. On a tract of land of ten (10) acres or more and more than one hundred fifty (150) feet from a residence or occupied building located on another property; and

2. In a manner not reasonably expected to cause a projectile to cross the boundary of the tract; or

(ii) A centerfire or rimfire rifle or pistol or a muzzle-loading rifle or pistol of any caliber discharged:

1. On a tract of land of fifty (50) acres or more and more than three hundred (300) feet from a residence or occupied building located on another property; and



97 2. In a manner not reasonably expected to
98 cause a projectile to cross the boundary of the tract;

99 (c) To regulate the use of property or location of
100 businesses for uses therein pursuant to fire code, zoning
101 ordinances, or land-use regulations, so long as such codes,
102 ordinances and regulations are not used to circumvent the intent
103 of Section 45-9-51 or paragraph (e) of this subsection;

104 (d) To regulate the use of firearms in cases of
105 insurrection, riots and natural disasters in which the city finds
106 such regulation necessary to protect the health and safety of the
107 public. However, the provisions of this section shall not apply
108 to the lawful possession of firearms, ammunition or components of
109 firearms or ammunition;

110 (e) To regulate the storage or transportation of
111 explosives in order to protect the health and safety of the
112 public, with the exception of black powder which is exempt up to
113 twenty-five (25) pounds per private residence and fifty (50)
114 pounds per retail dealer;

115 (f) To regulate the carrying of a firearm at: (i) a
116 public park or at a public meeting of a county, municipality or
117 other governmental body; (ii) a political rally, parade or
118 official political meeting; or (iii) a nonfirearm-related school,
119 college or professional athletic event; or

120 (g) To regulate the receipt of firearms by pawnshops.



121 (2) The exception provided by subsection (1)(f) of this
122 section does not apply if the firearm was in or carried to and
123 from an area designated for use in a lawful hunting, fishing or
124 other sporting event and the firearm is of the type commonly used
125 in the activity.

126 (3) This section and Section 45-9-51 do not authorize a
127 county or municipality or their officers or employees to act in
128 contravention of Section 33-7-303.

129 (4) No county or a municipality may use the written notice
130 provisions of Section 45-9-101(13) to prohibit concealed firearms
131 on property under their control except:

132 (a) At a location listed in Section 45-9-101(13)
133 indicating that a license issued under Section 45-9-101 does not
134 authorize the holder to carry a firearm into that location, as
135 long as the sign also indicates that carrying a firearm is
136 unauthorized only for license holders without a training
137 endorsement or that it is a location included in Section
138 97-37-7(2) where carrying a firearm is unauthorized for all
139 license holders; and

140 (b) At any location under the control of the county or
141 municipality aside from a location listed in subsection (1)(f) of
142 this section or Section 45-9-101(13) indicating that the
143 possession of a firearm is prohibited on the premises, as long as
144 the sign also indicates that it does not apply to a person
145 properly licensed under Section 45-9-101 or Section 97-37-7(2) to



146 carry a concealed firearm or to a person lawfully carrying a
147 firearm that is not concealed.

148 (5) (a) A citizen of this state, or a person licensed to
149 carry a concealed pistol or revolver under Section 45-9-101, or a
150 person licensed to carry a concealed pistol or revolver with the
151 endorsement under Section 97-37-7, who is adversely affected by an
152 ordinance or posted written notice adopted by a county or
153 municipality in violation of this section may file suit for
154 declarative and injunctive relief against a county or municipality
155 in the circuit court which shall have jurisdiction over the county
156 or municipality where the violation of this section occurs.

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



subsection may proceed. The findings of the Attorney General shall constitute a "Public Record" as defined by the Mississippi Public Records Act of 1983, Section 25-61-1 et seq.

(c) If the circuit court finds that a county or municipality adopted an ordinance or posted written notice in violation of this section and failed to cure that violation in accordance with paragraph (b) of this subsection, the circuit court shall issue a permanent injunction against a county or municipality prohibiting it from enforcing the ordinance or posted written notice. Any elected county or municipal official under whose jurisdiction the violation occurred may be civilly liable in a sum not to exceed One Thousand Dollars (\$1,000.00), plus all reasonable attorney's fees and costs incurred by the party bringing the suit. Public funds may not be used to defend or reimburse officials who are found by the court to have violated this section.

(d) It shall be an affirmative defense to any claim brought against an elected county or municipal official under this subsection (5) that the elected official:

(i) Did not vote in the affirmative for the adopted ordinance or posted written notice deemed by the court to be in violation of this section;

(ii) Did attempt to take recorded action to cure the violation as noticed by the Attorney General in paragraph (b) of this subsection; or



(iii) Did attempt to take recorded action to rescind the ordinance or remove the posted written notice deemed by the court to be in violation of this section.

(6) No county or municipality or their officers or employees may participate in any program in which individuals are given a thing of value provided by another individual or other entity in exchange for surrendering a firearm to the county, municipality or other governmental body unless:

(a) The county or municipality has adopted an ordinance authorizing the participation of the county or municipality, or participation by an officer or employee of the county or municipality in such a program; and

(b) Any ordinance enacted pursuant to this section must require that any firearm received shall be offered for sale at auction as provided by Sections 19-3-85 and 21-39-21 to federally licensed firearms dealers, with the proceeds from such sale at auction reverting to the general operating fund of the county, municipality or other governmental body. Any firearm remaining in possession of the county, municipality or other governmental body after attempts to sell at auction may be disposed of in a manner that the body deems appropriate.

SECTION 5. Section 45-9-101, Mississippi Code of 1972, is brought forward as follows:

45-9-101. (1) (a) Except as otherwise provided, the Department of Public Safety is authorized to issue licenses to



221 carry stun guns, concealed pistols or revolvers to persons
222 qualified as provided in this section. Such licenses shall be
223 valid throughout the state for a period of five (5) years from the
224 date of issuance. Any person possessing a valid license issued
225 pursuant to this section may carry a stun gun, concealed pistol or
226 concealed revolver.

227 (b) The licensee must carry the license, together with
228 valid identification, at all times in which the licensee is
229 carrying a stun gun, concealed pistol or revolver and must display
230 both the license and proper identification upon demand by a law
231 enforcement officer. A violation of the provisions of this
232 paragraph (b) shall constitute a noncriminal violation with a
233 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable
234 by summons.

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

237 (a) Is a resident of the state. However, this
238 residency requirement may be waived if the applicant possesses a
239 valid permit from another state, is active military personnel
240 stationed in Mississippi, or is a retired law enforcement officer
241 establishing residency in the state;

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



245 1. Is a member or veteran of the United
246 States Armed Forces, including National Guard or Reserve; and
247 2. Holds a valid Mississippi driver's license
248 or identification card issued by the Department of Public Safety;
249 (c) Does not suffer from a physical infirmity which
250 prevents the safe handling of a stun gun, pistol or revolver;
251 (d) Is not ineligible to possess a firearm by virtue of
252 having been convicted of a felony in a court of this state, of any
253 other state, or of the United States without having been pardoned
254 for same;
255 (e) Does not chronically or habitually abuse controlled
256 substances to the extent that his normal faculties are impaired.
257 It shall be presumed that an applicant chronically and habitually
258 uses controlled substances to the extent that his faculties are
259 impaired if the applicant has been voluntarily or involuntarily
260 committed to a treatment facility for the abuse of a controlled
261 substance or been found guilty of a crime under the provisions of
262 the Uniform Controlled Substances Law or similar laws of any other
263 state or the United States relating to controlled substances
264 within a three-year period immediately preceding the date on which
265 the application is submitted;
266 (f) Does not chronically and habitually use alcoholic
267 beverages to the extent that his normal faculties are impaired.
268 It shall be presumed that an applicant chronically and habitually
269 uses alcoholic beverages to the extent that his normal faculties



are impaired if the applicant has been voluntarily or involuntarily committed as an alcoholic to a treatment facility or has been convicted of two (2) or more offenses related to the use of alcohol under the laws of this state or similar laws of any other state or the United States within the three-year period immediately preceding the date on which the application is submitted;

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

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

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

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

(k) Is not a fugitive from justice; and

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



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

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

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

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

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



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

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

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

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

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

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

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

(c) A nonrefundable license fee of Eighty Dollars (\$80.00). Costs for processing the set of fingerprints as required in paragraph (d) of this subsection shall be borne by the applicant. Honorably retired law enforcement officers, disabled



veterans and active duty members of the Armed Forces of the United States shall be exempt from the payment of the license fee;

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

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

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

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



sheriff or police chief, such sheriff or police chief shall be reimbursed at a rate set by the department.

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

(i) Issue the license;

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

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

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



393 conducted by the Mississippi Highway Safety Patrol at the request
394 of the Department of Public Safety.

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

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



417 to the provisions of this section while any such appeal is
418 pending.

419 (8) The Department of Public Safety shall maintain an
420 automated listing of license holders and such information shall be
421 available online, upon request, at all times, to all law
422 enforcement agencies through the Mississippi Crime Information
423 Center. However, the records of the department relating to
424 applications for licenses to carry stun guns, concealed pistols or
425 revolvers and records relating to license holders shall be exempt
426 from the provisions of the Mississippi Public Records Act of 1983,
427 and shall be released only upon order of a court having proper
428 jurisdiction over a petition for release of the record or records.

429 (9) Within thirty (30) days after the changing of a
430 permanent address, or within thirty (30) days after having a
431 license lost or destroyed, the licensee shall notify the
432 Department of Public Safety in writing of such change or loss.
433 Failure to notify the Department of Public Safety pursuant to the
434 provisions of this subsection shall constitute a noncriminal
435 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
436 be enforceable by a summons.

437 (10) In the event that a stun gun, concealed pistol or
438 revolver license is lost or destroyed, the person to whom the
439 license was issued shall comply with the provisions of subsection
440 (9) of this section and may obtain a duplicate, or substitute
441 thereof, upon payment of Fifteen Dollars (\$15.00) to the



Department of Public Safety, and furnishing a notarized statement to the department that such license has been lost or destroyed.

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

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

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



490 station; any detention facility, prison or jail; any courthouse;
491 any courtroom, except that nothing in this section shall preclude
492 a judge from carrying a concealed weapon or determining who will
493 carry a concealed weapon in his courtroom; any polling place; any
494 meeting place of the governing body of any governmental entity;
495 any meeting of the Legislature or a committee thereof; any school,
496 college or professional athletic event not related to firearms;
497 any portion of an establishment, licensed to dispense alcoholic
498 beverages for consumption on the premises, that is primarily
499 devoted to dispensing alcoholic beverages; any portion of an
500 establishment in which beer or light wine is consumed on the
501 premises, that is primarily devoted to such purpose; any
502 elementary or secondary school facility; any junior college,
503 community college, college or university facility unless for the
504 purpose of participating in any authorized firearms-related
505 activity; inside the passenger terminal of any airport, except
506 that no person shall be prohibited from carrying any legal firearm
507 into the terminal if the firearm is encased for shipment, for
508 purposes of checking such firearm as baggage to be lawfully
509 transported on any aircraft; any church or other place of worship,
510 except as provided in Section 45-9-171; or any place where the
511 carrying of firearms is prohibited by federal law. In addition to
512 the places enumerated in this subsection, the carrying of a stun
513 gun, concealed pistol or revolver may be disallowed in any place
514 in the discretion of the person or entity exercising control over



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

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

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

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



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

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

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

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

(20) The provisions of this section shall be under the
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 6. Section 97-37-7, Mississippi Code of 1972, is brought forward as follows:

97-37-7. (1) (a) It shall not be a violation of Section 97-37-1 or any other statute for pistols, firearms or other suitable and appropriate weapons to be carried by duly constituted bank guards, company guards, watchmen, railroad special agents or duly authorized representatives who are not sworn law enforcement officers, agents or employees of a patrol service, guard service, or a company engaged in the business of transporting money, securities or other valuables, while actually engaged in the performance of their duties as such, provided that such persons have made a written application and paid a nonrefundable permit fee of One Hundred Dollars (\$100.00) to the Department of Public Safety.

(b) No permit shall be issued to any person who has ever been convicted of a felony under the laws of this or any



other state or of the United States. To determine an applicant's eligibility for a permit, the person shall be fingerprinted. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the Federal Bureau of Investigation for a national criminal history record check. The department shall charge a fee which includes the amounts required by the Federal Bureau of Investigation and the department for the national and state criminal history record checks and any necessary costs incurred by the department for the handling and administration of the criminal history background checks. 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 three (3) 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.

(c) A person may obtain a duplicate of a lost or destroyed permit upon payment of a Fifteen Dollar (\$15.00) replacement fee to the Department of Public Safety, if he furnishes a notarized statement to the department that the permit has been lost or destroyed.

(d) (i) No less than ninety (90) days prior to the expiration date of a permit, the Department of Public Safety shall



640 mail to the permit holder written notice of expiration together
641 with the renewal form prescribed by the department. The permit
642 holder shall renew the permit on or before the expiration date by
643 filing with the department the renewal form, a notarized affidavit
644 stating that the permit holder remains qualified, and the renewal
645 fee of Fifty Dollars (\$50.00); honorably retired law enforcement
646 officers shall be exempt from payment of the renewal fee. A
647 permit holder who fails to file a renewal application on or before
648 its expiration date shall pay a late fee of Fifteen Dollars
649 (\$15.00).

650 (ii) Renewal of the permit shall be required every
651 four (4) years. The permit of a qualified renewal applicant shall
652 be renewed upon receipt of the completed renewal application and
653 appropriate payment of fees.

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

658 (2) It shall not be a violation of this or any other statute
659 for pistols, firearms or other suitable and appropriate weapons to
660 be carried by Department of Wildlife, Fisheries and Parks law
661 enforcement officers, railroad special agents who are sworn law
662 enforcement officers, investigators employed by the Attorney
663 General, criminal investigators employed by the district
664 attorneys, all prosecutors, public defenders, investigators or



665 probation officers employed by the Department of Corrections,
666 employees of the State Auditor who are authorized by the State
667 Auditor to perform investigative functions, or any deputy fire
668 marshal or investigator employed by the State Fire Marshal, while
669 engaged in the performance of their duties as such, or by fraud
670 investigators with the Department of Human Services, or by judges
671 of the Mississippi Supreme Court, Court of Appeals, circuit,
672 chancery, county, justice and municipal courts, or by coroners.
673 Before any person shall be authorized under this subsection to
674 carry a weapon, he shall complete a weapons training course
675 approved by the Board of Law Enforcement Officer Standards and
676 Training. Before any criminal investigator employed by a district
677 attorney shall be authorized under this section to carry a pistol,
678 firearm or other weapon, he shall have complied with Section
679 45-6-11 or any training program required for employment as an
680 agent of the Federal Bureau of Investigation. A law enforcement
681 officer, as defined in Section 45-6-3, shall be authorized to
682 carry weapons in courthouses in performance of his official
683 duties. A person licensed under Section 45-9-101 to carry a
684 concealed pistol, who (a) has voluntarily completed an
685 instructional course in the safe handling and use of firearms
686 offered by an instructor certified by a nationally recognized
687 organization that customarily offers firearms training, or by any
688 other organization approved by the Department of Public Safety,
689 (b) is a member or veteran of any active or reserve component



690 branch of the United States of America Armed Forces having
691 completed law enforcement or combat training with pistols or other
692 handguns as recognized by such branch after submitting an
693 affidavit attesting to have read, understand and agree to comply
694 with all provisions of the enhanced carry law, or (c) is an
695 honorably retired law enforcement officer or honorably retired
696 member or veteran of any active or reserve component branch of the
697 United States of America Armed Forces having completed law
698 enforcement or combat training with pistols or other handguns,
699 after submitting an affidavit attesting to have read, understand
700 and agree to comply with all provisions of Mississippi enhanced
701 carry law shall also be authorized to carry weapons in courthouses
702 except in courtrooms during a judicial proceeding, and any
703 location listed in subsection (13) of Section 45-9-101, except any
704 place of nuisance as defined in Section 95-3-1, any police,
705 sheriff or highway patrol station or any detention facility,
706 prison or jail. For the purposes of this subsection (2),
707 component branch of the United States Armed Forces includes the
708 Army, Navy, Air Force, Coast Guard or Marine Corps, or the Army
709 National Guard, the Army National Guard of the United States, the
710 Air National Guard or the Air National Guard of the United States,
711 as those terms are defined in Section 101, Title 10, United States
712 Code, and any other reserve component of the United States Armed
713 Forces enumerated in Section 10101, Title 10, United States Code.
714 The department shall promulgate rules and regulations allowing



concealed pistol permit holders to obtain an endorsement on their permit indicating that they have completed the aforementioned course and have the authority to carry in these locations. This section shall in no way interfere with the right of a trial judge to restrict the carrying of firearms in the courtroom.

For purposes of this subsection (2), the following words shall have the meanings described herein, unless the context otherwise requires:

(i) "Courthouse" means any building in which a circuit court, chancery court, youth court, municipal court, justice court or any appellate court is located, or any building in which a court of law is regularly held.

(ii) "Courtroom" means the actual room in which a judicial proceeding occurs, including any jury room, witness room, judge's chamber, office housing the judge's staff, or similar room. "Courtroom" shall not mean hallways, courtroom entrances, courthouse grounds, lobbies, corridors, or other areas within a courthouse which are generally open to the public for the transaction of business outside of an active judicial proceeding, the grassed areas, cultivated flower beds, sidewalks, parking lots, or other areas contained within the boundaries of the public land upon which the courthouse is located.

(3) It shall not be a violation of this or any other statute for pistols, firearms or other suitable and appropriate weapons, to be carried by any out-of-state, full-time commissioned law



enforcement officer who holds a valid commission card from the appropriate out-of-state law enforcement agency and a photo identification. The provisions of this subsection shall only apply if the state where the out-of-state officer is employed has entered into a reciprocity agreement with the state that allows full-time commissioned law enforcement officers in Mississippi to lawfully carry or possess a weapon in such other states. The Commissioner of Public Safety is authorized to enter into reciprocal agreements with other states to carry out the provisions of this subsection.

SECTION 7. Section 97-37-9, Mississippi Code of 1972, is brought forward as follows:

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

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

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

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

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

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



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

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

770 (h) That he was lawfully engaged in legitimate sports;
771 or

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

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

784 **SECTION 8.** This act shall take effect and be in force from
785 and after July 1, 2020.

