

By: Senator(s) DeBar, Moran, Blackwell, Branning, Carter, Caughman, Chassaniol, Fillingane, Harkins, Hill, McCaughn, McMahan, Michel, Parks, Seymour, Sparks, Suber, Tate, Whaley, Williams, Younger, McLendon

To: Judiciary, Division B

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2107

1 AN ACT TO AMEND SECTION 45-9-51, MISSISSIPPI CODE OF 1972, TO
2 PROHIBIT A COUNTY OR MUNICIPALITY FROM ENTERING INTO ANY CONTRACT
3 OR RENTAL AGREEMENT THAT RESTRICTS THE POSSESSION, CARRYING,
4 TRANSPORTATION, SALE, TRANSFER OR OWNERSHIP OF FIREARMS; TO
5 PROVIDE THAT STATE AGENCIES MAY NOT INTERFERE WITH THE RIGHT OF
6 CITIZENS TO POSSESS FIREARMS; TO CREATE A CIVIL CAUSE OF ACTION TO
7 CHALLENGE ORDINANCES AND REGULATIONS IN VIOLATION OF THAT RIGHT;
8 TO EXEMPT THE REGULATORY AUTHORITY OF CERTAIN ENTITIES FROM THIS
9 SECTION; TO AMEND SECTION 45-9-53, MISSISSIPPI CODE OF 1972, TO
10 CONFORM; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 45-9-51, Mississippi Code of 1972, is
13 amended as follows:

14 45-9-51. (1) Subject to the provisions of Section 45-9-53,
15 no county or municipality may adopt any ordinance or enter into
16 any contract or rental agreement that restricts the possession,
17 carrying, transportation, sale, transfer or ownership of firearms
18 or ammunition or their components.

19 (2) No public housing authority operating in this state may
20 adopt any rule or regulation restricting a lessee or tenant of a
21 dwelling owned and operated by such public housing authority from
22 lawfully possessing firearms or ammunition or their components



23 within individual dwelling units or the transportation of such
24 firearms or ammunition or their components to and from such
25 dwelling.

26 (3) (a) No state agency may adopt a posted written notice,
27 rule, regulation, order or policy or enter into any contract or
28 rental agreement that restricts the possession, carrying,
29 transportation, sale, transfer or ownership of firearms or
30 ammunition or their components.

31 (b) No state agency or their officers or employees may
32 participate in any program in which individuals are given a thing
33 of value provided by another individual or other entity in
34 exchange for surrendering a firearm to the state agency or other
35 governmental body.

36 (4) (a) A citizen of this state, or a person licensed to
37 carry a concealed pistol or revolver under Section 45-9-101, or a
38 person licensed to carry a concealed pistol or revolver with the
39 endorsement under Section 97-37-7, who is adversely affected by a
40 posted written notice, rule, regulation, order or policy adopted
41 or verbally imposed by a state agency in violation of this
42 section, may file suit for declarative and injunctive relief
43 against the state agency or state agency head or member of a state
44 agency's governing body in the circuit court. Venue for the
45 action shall be proper against the state agency where the
46 violation of this section occurs.



47 (b) If the circuit court finds that a state agency
48 adopted a posted written notice, rule, regulation, order or policy
49 in violation of this section, the circuit court shall issue a
50 permanent injunction against the state agency prohibiting it from
51 enforcing the posted written notice, rule, regulation, order or
52 policy. Any state agency head or member of a state agency's
53 governing body under whose jurisdiction the violation occurred may
54 be civilly liable in a sum not to exceed One Thousand Dollars
55 (\$1,000.00), plus all reasonable attorney's fees and costs
56 incurred by the party bringing the suit. Public funds may not be
57 used to defend or reimburse officials who are found by the court
58 to have violated this section.

59 (c) It shall be an affirmative defense to any claim
60 brought against a state agency head or member of a state agency's
61 governing body under this subsection (4) that the state official:

62 (i) Did not vote in the affirmative for, support
63 or adopt the posted written notice, rule, regulation, order or
64 policy deemed by the court to be in violation of this section; and

65 (ii) Attempted to take recorded action to rescind
66 the written notice, rule, regulation, order or policy deemed by
67 the court to be in violation of this section.

68 (5) This section does not apply to:

69 (a) The authority of a state law enforcement agency to
70 regulate the possession, carrying, transportation, sale, transfer
71 or ownership of firearms or ammunition or their components issued



72 or used by law enforcement officers in the course of their
73 official duties.

74 (b) The authority of the Commission on Wildlife,
75 Fisheries and Parks or the Department of Wildlife, Fisheries and
76 Parks to regulate the use of firearms or ammunition as a method of
77 taking wildlife and to regulate the shooting ranges managed by the
78 commission and department.

79 (c) A court established under Article VI, Mississippi
80 Constitution of 1890, or a court established by statute, provided
81 that the court, agency or institution has adopted related rules
82 and regulations which comply with all applicable state and federal
83 laws.

84 (d) A state agency listed in Article VIII, Section
85 213-A, Mississippi Constitution of 1890, provided that the agency
86 or institution has adopted related rules and regulations which
87 comply with all applicable state and federal laws.

88 (e) A public community or junior college coordinated
89 under Section 37-4-3(1), provided the college has adopted related
90 rules and regulations which comply with all applicable state and
91 federal laws.

92 (f) A public school to include public school districts,
93 public charter schools, agricultural high schools, the Mississippi
94 School for the Deaf and Blind, the Mississippi School of the Arts,
95 and the Mississippi School for Mathematics and Science, provided



96 the school has adopted related rules and regulations which comply
97 with all applicable state and federal laws.

98 **SECTION 2.** Section 45-9-53, Mississippi Code of 1972, is
99 amended as follows:

100 45-9-53. (1) This section and Section 45-9-51 do not affect
101 the authority that a county or municipality may have under another
102 law:

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

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

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

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

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



120 (ii) A center fire or rimfire rifle or pistol or a
121 muzzle-loading rifle or pistol of any caliber discharged:

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

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

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

132 (d) To regulate the use of firearms in cases of
133 insurrection, riots and natural disasters in which the city finds
134 such regulation necessary to protect the health and safety of the
135 public. However, the provisions of this section shall not apply
136 to the lawful possession, transfer, sale, transportation, storage,
137 display, carry or use of firearms, ammunition or components of
138 firearms or ammunition;

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



144 (f) To regulate the carrying of a firearm at: (i) a
145 public park or at a public meeting of a county, municipality or
146 other governmental body; (ii) a political rally, parade or
147 official political meeting; or (iii) a nonfirearm-related school,
148 college or professional athletic event; or

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

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

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

158 (4) No county or a municipality may use the written notice
159 provisions of Section 45-9-101(13) or any rules, regulations,
160 orders or policies to prohibit concealed firearms on property
161 under their control except:

162 (a) At a location listed in Section 45-9-101(13)
163 indicating that a license issued under Section 45-9-101 does not
164 authorize the holder to carry a firearm into that location, as
165 long as the sign also indicates that carrying a firearm is
166 unauthorized only for license holders without a training
167 endorsement or that it is a location included in Section



168 97-37-7(2) where carrying a firearm is unauthorized for all
169 license holders; and

170 (b) At any location under the control of the county or
171 municipality aside from a location listed in subsection (1)(f) of
172 this section or Section 45-9-101(13) indicating that the
173 possession of a firearm is prohibited on the premises, as long as
174 the sign also indicates that it does not apply to a person
175 properly licensed under Section 45-9-101 or Section 97-37-7(2) to
176 carry a concealed firearm or to a person lawfully carrying a
177 firearm that is not concealed.

178 (5) (a) A citizen of this state, or a person licensed to
179 carry a concealed pistol or revolver under Section 45-9-101, or a
180 person licensed to carry a concealed pistol or revolver with the
181 endorsement under Section 97-37-7, who is adversely affected by an
182 ordinance * * *, posted written notice or any other rule,
183 regulation, order or policy adopted or verbally imposed by a
184 county or municipality in violation of this section may file suit
185 for declarative and injunctive relief against a county or
186 municipality in the circuit court which shall have jurisdiction
187 over the county or municipality where the violation of this
188 section occurs.

189 (b) Before instituting suit under this subsection, the
190 party adversely impacted by the ordinance or posted written notice
191 shall notify the Attorney General in writing of the violation and
192 include evidence of the violation. The Attorney General shall,



193 within thirty (30) days, investigate whether the county or
194 municipality adopted an ordinance or posted written notice in
195 violation of this section and provide the chief administrative
196 officer of the county or municipality notice of his findings,
197 including, if applicable, a description of the violation and
198 specific language of the ordinance or posted written notice found
199 to be in violation. The county or municipality shall have thirty
200 (30) days from receipt of that notice to cure the violation. If
201 the county or municipality fails to cure the violation within that
202 thirty-day time period, a suit under paragraph (a) of this
203 subsection may proceed. The findings of the Attorney General
204 shall constitute a "Public Record" as defined by the Mississippi
205 Public Records Act of 1983, Section 25-61-1 et seq.

206 (c) If the circuit court finds that a county or
207 municipality adopted an ordinance or posted written notice or
208 imposed any rule, regulation, order or policy in violation of this
209 section and failed to cure that violation in accordance with
210 paragraph (b) of this subsection, the circuit court shall issue a
211 permanent injunction against a county or municipality prohibiting
212 it from enforcing the ordinance, rule, regulation, order, policy
213 or posted written notice. Any elected county or municipal
214 official under whose jurisdiction the violation occurred may be
215 civilly liable in a sum not to exceed One Thousand Dollars
216 (\$1,000.00), plus all reasonable attorney's fees and costs
217 incurred by the party bringing the suit. Public funds may not be



218 used to defend or reimburse officials who are found by the court
219 to have violated this section.

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

223 (i) Did not vote in the affirmative for the
224 adopted ordinance * * *, posted written notice, rule, regulation,
225 order or policy deemed by the court to be in violation of this
226 section;

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

230 (iii) Did attempt to take recorded action to
231 rescind the ordinance, rule, regulation, order or policy or remove
232 the posted written notice deemed by the court to be in violation
233 of this section.

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

239 * * *

240 **SECTION 3.** This act shall take effect and be in force from
241 and after July 1, 2021, and shall stand repealed on June 30, 2021.

