

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

SENATE BILL NO. 2107
(As Passed the Senate)

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 STATE LAW ENFORCEMENT AGENCIES FROM REGULATING LAW
9 ENFORCEMENT OFFICERS IN THE COURSE OF THEIR OFFICIAL DUTIES; TO
10 AMEND SECTION 45-9-53, MISSISSIPPI CODE OF 1972, TO CONFORM; AND
11 FOR RELATED PURPOSES.

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

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

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

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



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

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

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

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



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

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

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

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

69 (5) This section does not apply to the authority of a state
70 law enforcement agency to regulate the possession, carrying,
71 transportation, sale, transfer or ownership of firearms or



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

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

76 45-9-53. (1) This section and Section 45-9-51 do not affect
77 the authority that a county or municipality may have under another
78 law:

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

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

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

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

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



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

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

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

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

108 (d) To regulate the use of firearms in cases of
109 insurrection, riots and natural disasters in which the city finds
110 such regulation necessary to protect the health and safety of the
111 public. However, the provisions of this section shall not apply
112 to the lawful possession, transfer, sale, transportation, storage,
113 display, carry or use of firearms, ammunition or components of
114 firearms or ammunition;

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



120 (f) To regulate the carrying of a firearm at: (i) a
121 public park or at a public meeting of a county, municipality or
122 other governmental body; (ii) a political rally, parade or
123 official political meeting; or (iii) a nonfirearm-related school,
124 college or professional athletic event; or

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

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

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

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

138 (a) At a location listed in Section 45-9-101(13)
139 indicating that a license issued under Section 45-9-101 does not
140 authorize the holder to carry a firearm into that location, as
141 long as the sign also indicates that carrying a firearm is
142 unauthorized only for license holders without a training
143 endorsement or that it is a location included in Section



144 97-37-7(2) where carrying a firearm is unauthorized for all
145 license holders; and

146 (b) At any location under the control of the county or
147 municipality aside from a location listed in subsection (1)(f) of
148 this section or Section 45-9-101(13) indicating that the
149 possession of a firearm is prohibited on the premises, as long as
150 the sign also indicates that it does not apply to a person
151 properly licensed under Section 45-9-101 or Section 97-37-7(2) to
152 carry a concealed firearm or to a person lawfully carrying a
153 firearm that is not concealed.

154 (5) (a) A citizen of this state, or a person licensed to
155 carry a concealed pistol or revolver under Section 45-9-101, or a
156 person licensed to carry a concealed pistol or revolver with the
157 endorsement under Section 97-37-7, who is adversely affected by an
158 ordinance * * *, posted written notice or any other rule,
159 regulation, order or policy adopted or verbally imposed by a
160 county or municipality in violation of this section may file suit
161 for declarative and injunctive relief against a county or
162 municipality in the circuit court which shall have jurisdiction
163 over the county or municipality where the violation of this
164 section occurs.

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



169 within thirty (30) days, investigate whether the county or
170 municipality adopted an ordinance or posted written notice in
171 violation of this section and provide the chief administrative
172 officer of the county or municipality notice of his findings,
173 including, if applicable, a description of the violation and
174 specific language of the ordinance or posted written notice found
175 to be in violation. The county or municipality shall have thirty
176 (30) days from receipt of that notice to cure the violation. If
177 the county or municipality fails to cure the violation within that
178 thirty-day time period, a suit under paragraph (a) of this
179 subsection may proceed. The findings of the Attorney General
180 shall constitute a "Public Record" as defined by the Mississippi
181 Public Records Act of 1983, Section 25-61-1 et seq.

182 (c) If the circuit court finds that a county or
183 municipality adopted an ordinance or posted written notice or
184 imposed any rule, regulation, order or policy in violation of this
185 section and failed to cure that violation in accordance with
186 paragraph (b) of this subsection, the circuit court shall issue a
187 permanent injunction against a county or municipality prohibiting
188 it from enforcing the ordinance, rule, regulation, order, policy
189 or posted written notice. Any elected county or municipal
190 official under whose jurisdiction the violation occurred may be
191 civilly liable in a sum not to exceed One Thousand Dollars
192 (\$1,000.00), plus all reasonable attorney's fees and costs
193 incurred by the party bringing the suit. Public funds may not be



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

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

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

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

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

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

215 * * *

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

