

By: Representative Young

To: Judiciary B;
Constitution

HOUSE BILL NO. 100

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE PROOF OF A MENTAL HEALTH EXAMINATION TO PROVE MENTAL
3 HEALTH BEFORE A PERSON MAY BE APPROVED FOR A LICENSE TO CARRY A
4 FIREARM; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 45-9-101, Mississippi Code of 1972, is
7 amended as follows:

8 45-9-101. (1) (a) Except as otherwise provided, the
9 Department of Public Safety is authorized to issue licenses to
10 carry stun guns, concealed pistols or revolvers to persons
11 qualified as provided in this section. Such licenses shall be
12 valid throughout the state for a period of five (5) years from the
13 date of issuance, except as provided in subsection (25) of this
14 section. Any person possessing a valid license issued pursuant to
15 this section may carry a stun gun, concealed pistol or concealed
16 revolver.

17 (b) The licensee must carry the license, together with
18 valid identification, at all times in which the licensee is
19 carrying a stun gun, concealed pistol or revolver and must display



both the license and proper identification upon demand by a law enforcement officer. A violation of the provisions of this paragraph (b) shall constitute a noncriminal violation with a penalty of Twenty-five Dollars (\$25.00) and shall be enforceable by summons.

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

(a) Is a resident of the state. However, this residency requirement may be waived if the applicant possesses a valid permit from another state, is a member of any active or reserve component branch of the United States of America Armed Forces stationed in Mississippi, is the spouse of a member of any active or reserve component branch of the United States of America Armed Forces 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 or a valid and current tribal identification card issued by a federally recognized Indian tribe containing a photograph of the holder;



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

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

51 (e) Does not chronically or habitually abuse controlled
52 substances to the extent that his normal faculties are impaired.
53 It shall be presumed that an applicant chronically and habitually
54 uses controlled substances to the extent that his faculties are
55 impaired if the applicant has been voluntarily or involuntarily
56 committed to a treatment facility for the abuse of a controlled
57 substance or been found guilty of a crime under the provisions of
58 the Uniform Controlled Substances Law or similar laws of any other
59 state or the United States relating to controlled substances
60 within a three-year period immediately preceding the date on which
61 the application is submitted;

62 (f) Does not chronically and habitually use alcoholic
63 beverages to the extent that his normal faculties are impaired.
64 It shall be presumed that an applicant chronically and habitually
65 uses alcoholic beverages to the extent that his normal faculties
66 are impaired if the applicant has been voluntarily or
67 involuntarily committed as an alcoholic to a treatment facility or
68 has been convicted of two (2) or more offenses related to the use
69 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; * * *

(l) Is not disqualified to possess a weapon based on federal law * * *; and

(m) Has not failed to provide proof of a mental health evaluation evidencing a lack of mental illness as required in subsection (26) of this section.

(3) The Department of Public Safety may deny a license if the applicant has been found guilty of one or more crimes of



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

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

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

114 (b) The driver's license number or social security
115 number of applicant;

116 (c) Any previous address of the applicant for the two
117 (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, and law enforcement officers employed with a law enforcement agency of a municipality, county or state at the time of application for the license, 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) of this section 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



193 eligibility based upon a name check by the Mississippi Highway
194 Safety Patrol and a Federal Bureau of Investigation name check
195 conducted by the Mississippi Highway Safety Patrol at the request
196 of the Department of Public Safety.

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

209 (b) If the revocation, suspension or denial of issuance
210 is sustained by the Commissioner of Public Safety, or his duly
211 authorized agent pursuant to paragraph (a) of this subsection, the
212 aggrieved party may file within ten (10) days after the rendition
213 of such decision a petition in the circuit or county court of his
214 residence for review of such decision. A hearing for review shall
215 be held and shall proceed before the court without a jury upon the
216 record made at the hearing before the Commissioner of Public
217 Safety or his duly authorized agent. No such party shall be



218 allowed to carry a stun gun, concealed pistol or revolver pursuant
219 to the provisions of this section while any such appeal is
220 pending.

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

231 (9) Within thirty (30) days after the changing of a
232 permanent address, or within thirty (30) days after having a
233 license lost or destroyed, the licensee shall notify the
234 Department of Public Safety in writing of such change or loss.
235 Failure to notify the Department of Public Safety pursuant to the
236 provisions of this subsection shall constitute a noncriminal
237 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
238 be enforceable by a summons.

239 (10) In the event that a stun gun, concealed pistol or
240 revolver license is lost or destroyed, the person to whom the
241 license was issued shall comply with the provisions of subsection
242 (9) of this section and may obtain a duplicate, or substitute



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) Except as provided in subsection (25) of this section, 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, active duty members of the Armed Forces of the United States and law enforcement officers employed with a law enforcement agency of a municipality, county or state at the time of renewal, 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, except a law enforcement officer as defined



293 in Section 45-6-3 with a distinct license authorized by the
294 Department of Public Safety, to carry a stun gun, concealed pistol
295 or revolver into any place of nuisance as defined in Section
296 95-3-1, Mississippi Code of 1972; any police, sheriff or highway
297 patrol station; any detention facility, prison or jail; any
298 courthouse; any courtroom, except that nothing in this section
299 shall preclude a judge from carrying a concealed weapon or
300 determining who will carry a concealed weapon in his courtroom;
301 any polling place; any meeting place of the governing body of any
302 governmental entity; any meeting of the Legislature or a committee
303 thereof; any school, college or professional athletic event not
304 related to firearms; any portion of an establishment, licensed to
305 dispense alcoholic beverages for consumption on the premises, that
306 is primarily devoted to dispensing alcoholic beverages; any
307 portion of an establishment in which beer, light spirit product or
308 light wine is consumed on the premises, that is primarily devoted
309 to such purpose; any elementary or secondary school facility; any
310 junior college, community college, college or university facility
311 unless for the purpose of participating in any authorized
312 firearms-related activity; inside the passenger terminal of any
313 airport, except that no person shall be prohibited from carrying
314 any legal firearm into the terminal if the firearm is encased for
315 shipment, for purposes of checking such firearm as baggage to be
316 lawfully transported on any aircraft; any church or other place of
317 worship, except as provided in Section 45-9-171; or any place



where the carrying of firearms is prohibited by federal law. In addition to the places enumerated in this subsection, the carrying of a stun gun, concealed pistol or revolver may be disallowed in any place 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.

(a) The Commissioner of Public Safety shall promulgate rules and regulations to provide licenses to law enforcement officers as defined in Section 45-6-3 who choose to obtain a license under the provisions of this section, which shall include a distinction that the officer is an "active duty" law enforcement officer and an endorsement that such officer is authorized to carry in the locations listed in subsection (13). A law enforcement officer shall provide the following information to receive the license described in this subsection: (i) a letter,



343 with the official letterhead of the agency or department for which
344 the officer is employed at the time of application and (ii) a
345 letter with the official letterhead of the agency or department,
346 which explains that such officer has completed a certified law
347 enforcement training academy.

348 (b) The licensing requirements of this section do not
349 apply to the carrying by any person of a stun gun, pistol or
350 revolver, knife, or other deadly weapon that is not concealed as
351 defined in Section 97-37-1.

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

358 (16) All fees collected by the Department of Public Safety
359 pursuant to this section shall be deposited into a special fund
360 hereby created in the State Treasury and shall be used for
361 implementation and administration of this section. After the
362 close of each fiscal year, the balance in this fund shall be
363 certified to the Legislature and then may be used by the
364 Department of Public Safety as directed by the Legislature.

365 (17) All funds received by a sheriff or police chief
366 pursuant to the provisions of this section shall be deposited into
367 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) unless the licensee chooses to have this license combined with a driver's license or identification card under subsection (25) of this section, 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 a veterans health services identification card issued by the United States Department of Veterans Affairs indicating a service-connected disability, which shall be sufficient proof of such service-connected disability.



417 (24) A license under this section is not required for a
418 loaded or unloaded pistol or revolver to be carried upon the
419 person in a sheath, belt holster or shoulder holster or in a
420 purse, handbag, satchel, other similar bag or briefcase or fully
421 enclosed case if the person is not engaged in criminal activity
422 other than a misdemeanor traffic offense, is not otherwise
423 prohibited from possessing a pistol or revolver under state or
424 federal law, and is not in a location prohibited under subsection
425 (13) of this section. However, the medical use of medical
426 cannabis by a cardholder who is a registered qualifying patient
427 which is lawful under the provisions of the Mississippi Medical
428 Cannabis Act and in compliance with rules and regulations adopted
429 thereunder shall not disqualify a person under this subsection
430 (24) solely because the person is prohibited from possessing a
431 firearm under 18 USCS Section 922(g)(3) due to such medical use of
432 medical cannabis.

433 (25) An applicant for a license under this section shall
434 have the option of, instead of being issued a separate card for
435 the license, having the license appear as a notation on the
436 individual's driver's license or identification card. If the
437 applicant chooses this option, the license issued under this
438 section shall have the same expiration date as the driver's
439 license or identification card, and renewal shall take place at
440 the same time and place as renewal of the driver's license or
441 identification card. The Commissioner of Public Safety shall have



the authority to promulgate rules and regulations which may be necessary to ensure the effectiveness of the concurrent application and renewal processes.

(26) The Department of Public Safety shall require any person applying for a license under the provisions of this section to provide proof that the person has submitted to a mental health evaluation and such evaluation evidences no sign of mental illness. The evaluation must be performed by a psychiatrist who is licensed in this state and the evaluation must have been taken no more than twelve (12) months before submitting an application for a license under this section.

SECTION 2. This act shall take effect and be in force from and after July 1, 2023.

