

By: Representatives Smith, Hopkins,
Williamson

To: Constitution

HOUSE BILL NO. 265

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; TO PROVIDE THAT THE COMPREHENSIVE FIREARMS CODE OF
 11 THE STATE OF MISSISSIPPI IS INTERPOSED IN PLACE OF ANY FEDERAL LAW
 12 CONFISCATING FIREARMS OF LAW-ABIDING CITIZENS; AND FOR RELATED
 13 PURPOSES.

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

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

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



23 null and void except as provided in subsection (3) of this
24 section.

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

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

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

44 (5) No county, city, town, village or any other political
45 subdivision nor the state shall bring suit or have any right to
46 recover against any firearms or ammunition manufacturer, trade
47 association or dealer for damages, abatement or injunctive relief



48 resulting from or relating to the lawful design, manufacture,
49 marketing, distribution, or sale of firearms or ammunition to the
50 public. Provided, however, that nothing in this section shall
51 restrict the rights of individual citizens to recover for injury
52 or death caused by the negligent or defective design or
53 manufacture of firearms or ammunition.

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

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

62 45-9-51. (1) Subject to the provisions of Section 45-9-53,
63 no county or municipality may adopt any ordinance that restricts
64 the possession, carrying, transportation, sale, transfer or
65 ownership of firearms or ammunition or their components.

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



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

75 45-9-53. (1) This section and Section 45-9-51 do not affect
76 the authority that a county or municipality may have under another
77 law:

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

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

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

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

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

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



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

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

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

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

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

118 (f) To regulate the carrying of a firearm at: (i) a
119 public park or at a public meeting of a county, municipality or
120 other governmental body; (ii) a political rally, parade or



121 official political meeting; or (iii) a nonfirearm-related school,
122 college or professional athletic event; or

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

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

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

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

135 (a) At a location listed in Section 45-9-101(13)
136 indicating that a license issued under Section 45-9-101 does not
137 authorize the holder to carry a firearm into that location, as
138 long as the sign also indicates that carrying a firearm is
139 unauthorized only for license holders without a training
140 endorsement or that it is a location included in Section
141 97-37-7(2) where carrying a firearm is unauthorized for all
142 license holders; and

143 (b) At any location under the control of the county or
144 municipality aside from a location listed in subsection (1)(f) of
145 this section or Section 45-9-101(13) indicating that the



146 possession of a firearm is prohibited on the premises, as long as
147 the sign also indicates that it does not apply to a person
148 properly licensed under Section 45-9-101 or Section 97-37-7(2) to
149 carry a concealed firearm or to a person lawfully carrying a
150 firearm that is not concealed.

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

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



171 (30) days from receipt of that notice to cure the violation. If
172 the county or municipality fails to cure the violation within that
173 thirty-day time period, a suit under paragraph (a) of this
174 subsection may proceed. The findings of the Attorney General
175 shall constitute a "Public Record" as defined by the Mississippi
176 Public Records Act of 1983, Section 25-61-1 et seq.

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

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

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



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

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

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

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

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



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

222 45-9-101. (1) (a) Except as otherwise provided, the
223 Department of Public Safety is authorized to issue licenses to
224 carry stun guns, concealed pistols or revolvers to persons
225 qualified as provided in this section. Such licenses shall be
226 valid throughout the state for a period of five (5) years from the
227 date of issuance, except as provided in subsection (25) of this
228 section. Any person possessing a valid license issued pursuant to
229 this section may carry a stun gun, concealed pistol or concealed
230 revolver.

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

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

241 (a) Is a resident of the state. However, this
242 residency requirement may be waived if the applicant possesses a
243 valid permit from another state, is a member of any active or
244 reserve component branch of the United States of America Armed



245 Forces stationed in Mississippi, is the spouse of a member of any
246 active or reserve component branch of the United States of America
247 Armed Forces stationed in Mississippi, or is a retired law
248 enforcement officer establishing residency in the state;

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

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

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

254 2. Holds a valid Mississippi driver's license
255 or identification card issued by the Department of Public Safety
256 or a valid and current tribal identification card issued by a
257 federally recognized Indian tribe containing a photograph of the
258 holder;

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

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

265 (e) Does not chronically or habitually abuse controlled
266 substances to the extent that his normal faculties are impaired.
267 It shall be presumed that an applicant chronically and habitually
268 uses controlled substances to the extent that his faculties are
269 impaired if the applicant has been voluntarily or involuntarily



270 committed to a treatment facility for the abuse of a controlled
271 substance or been found guilty of a crime under the provisions of
272 the Uniform Controlled Substances Law or similar laws of any other
273 state or the United States relating to controlled substances
274 within a three-year period immediately preceding the date on which
275 the application is submitted;

276 (f) Does not chronically and habitually use alcoholic
277 beverages to the extent that his normal faculties are impaired.
278 It shall be presumed that an applicant chronically and habitually
279 uses alcoholic beverages to the extent that his normal faculties
280 are impaired if the applicant has been voluntarily or
281 involuntarily committed as an alcoholic to a treatment facility or
282 has been convicted of two (2) or more offenses related to the use
283 of alcohol under the laws of this state or similar laws of any
284 other state or the United States within the three-year period
285 immediately preceding the date on which the application is
286 submitted;

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

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

292 (i) Has not been voluntarily or involuntarily committed
293 to a mental institution or mental health treatment facility unless
294 he possesses a certificate from a psychiatrist licensed in this



295 state that he has not suffered from disability for a period of
296 five (5) years;

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

301 (k) Is not a fugitive from justice; and

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

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



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

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

325 (b) The driver's license number or social security
326 number of applicant;

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

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

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

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

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

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

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



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

350 (c) A nonrefundable license fee of Eighty Dollars
351 (\$80.00). Costs for processing the set of fingerprints as
352 required in paragraph (d) of this subsection shall be borne by the
353 applicant. Honorably retired law enforcement officers, disabled
354 veterans and active duty members of the Armed Forces of the United
355 States, and law enforcement officers employed with a law
356 enforcement agency of a municipality, county or state at the time
357 of application for the license, shall be exempt from the payment
358 of the license fee;

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

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

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



370 (b) The Department of Public Safety shall forward a
371 copy of the applicant's application to the sheriff of the
372 applicant's county of residence and, if applicable, the police
373 chief of the applicant's municipality of residence. The sheriff
374 of the applicant's county of residence, and, if applicable, the
375 police chief of the applicant's municipality of residence may, at
376 his discretion, participate in the process by submitting a
377 voluntary report to the Department of Public Safety containing any
378 readily discoverable prior information that he feels may be
379 pertinent to the licensing of any applicant. The reporting shall
380 be made within thirty (30) days after the date he receives the
381 copy of the application. Upon receipt of a response from a
382 sheriff or police chief, such sheriff or police chief shall be
383 reimbursed at a rate set by the department.

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

387 (i) Issue the license;

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



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

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

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



420 (b) If the revocation, suspension or denial of issuance
421 is sustained by the Commissioner of Public Safety, or his duly
422 authorized agent pursuant to paragraph (a) of this subsection, the
423 aggrieved party may file within ten (10) days after the rendition
424 of such decision a petition in the circuit or county court of his
425 residence for review of such decision. A hearing for review shall
426 be held and shall proceed before the court without a jury upon the
427 record made at the hearing before the Commissioner of Public
428 Safety or his duly authorized agent. No such party shall be
429 allowed to carry a stun gun, concealed pistol or revolver pursuant
430 to the provisions of this section while any such appeal is
431 pending.

432 (8) The Department of Public Safety shall maintain an
433 automated listing of license holders and such information shall be
434 available online, upon request, at all times, to all law
435 enforcement agencies through the Mississippi Crime Information
436 Center. However, the records of the department relating to
437 applications for licenses to carry stun guns, concealed pistols or
438 revolvers and records relating to license holders shall be exempt
439 from the provisions of the Mississippi Public Records Act of 1983,
440 and shall be released only upon order of a court having proper
441 jurisdiction over a petition for release of the record or records.

442 (9) Within thirty (30) days after the changing of a
443 permanent address, or within thirty (30) days after having a
444 license lost or destroyed, the licensee shall notify the



445 Department of Public Safety in writing of such change or loss.
446 Failure to notify the Department of Public Safety pursuant to the
447 provisions of this subsection shall constitute a noncriminal
448 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
449 be enforceable by a summons.

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

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

460 (12) (a) Except as provided in subsection (25) of this
461 section, no less than ninety (90) days prior to the expiration
462 date of the license, the Department of Public Safety shall mail to
463 each licensee a written notice of the expiration and a renewal
464 form prescribed by the department. The licensee must renew his
465 license on or before the expiration date by filing with the
466 department the renewal form, a notarized affidavit stating that
467 the licensee remains qualified pursuant to the criteria specified
468 in subsections (2) and (3) of this section, and a full set of
469 fingerprints administered by the Department of Public Safety or



470 the sheriff of the county of residence of the licensee. The first
471 renewal may be processed by mail and the subsequent renewal must
472 be made in person. Thereafter every other renewal may be
473 processed by mail to assure that the applicant must appear in
474 person every ten (10) years for the purpose of obtaining a new
475 photograph.

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

479 (ii) Honorably retired law enforcement officers,
480 disabled veterans, active duty members of the Armed Forces of the
481 United States and law enforcement officers employed with a law
482 enforcement agency of a municipality, county or state at the time
483 of renewal, shall be exempt from the renewal fee; and

484 (iii) The renewal fee for a Mississippi resident
485 aged sixty-five (65) years of age or older shall be Twenty Dollars
486 (\$20.00).

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

492 (c) A licensee who fails to file a renewal application
493 on or before its expiration date must renew his license by paying
494 a late fee of Fifteen Dollars (\$15.00). No license shall be



495 renewed six (6) months or more after its expiration date, and such
496 license shall be deemed to be permanently expired. A person whose
497 license has been permanently expired may reapply for licensure;
498 however, an application for licensure and fees pursuant to
499 subsection (5) of this section must be submitted, and a background
500 investigation shall be conducted pursuant to the provisions of
501 this section.

502 (13) No license issued pursuant to this section shall
503 authorize any person, except a law enforcement officer as defined
504 in Section 45-6-3 with a distinct license authorized by the
505 Department of Public Safety, to carry a stun gun, concealed pistol
506 or revolver into any place of nuisance as defined in Section
507 95-3-1, Mississippi Code of 1972; any police, sheriff or highway
508 patrol station; any detention facility, prison or jail; any
509 courthouse; any courtroom, except that nothing in this section
510 shall preclude a judge from carrying a concealed weapon or
511 determining who will carry a concealed weapon in his courtroom;
512 any polling place; any meeting place of the governing body of any
513 governmental entity; any meeting of the Legislature or a committee
514 thereof; any school, college or professional athletic event not
515 related to firearms; any portion of an establishment, licensed to
516 dispense alcoholic beverages for consumption on the premises, that
517 is primarily devoted to dispensing alcoholic beverages; any
518 portion of an establishment in which beer, light spirit product or
519 light wine is consumed on the premises, that is primarily devoted



520 to such purpose; any elementary or secondary school facility; any
521 junior college, community college, college or university facility
522 unless for the purpose of participating in any authorized
523 firearms-related activity; inside the passenger terminal of any
524 airport, except that no person shall be prohibited from carrying
525 any legal firearm into the terminal if the firearm is encased for
526 shipment, for purposes of checking such firearm as baggage to be
527 lawfully transported on any aircraft; any church or other place of
528 worship, except as provided in Section 45-9-171; or any place
529 where the carrying of firearms is prohibited by federal law. In
530 addition to the places enumerated in this subsection, the carrying
531 of a stun gun, concealed pistol or revolver may be disallowed in
532 any place in the discretion of the person or entity exercising
533 control over the physical location of such place by the placing of
534 a written notice clearly readable at a distance of not less than
535 ten (10) feet that the "carrying of a pistol or revolver is
536 prohibited." No license issued pursuant to this section shall
537 authorize the participants in a parade or demonstration for which
538 a permit is required to carry a stun gun, concealed pistol or
539 revolver.

540 (14) A law enforcement officer as defined in Section 45-6-3,
541 chiefs of police, sheriffs and persons licensed as professional
542 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of
543 1972, shall be exempt from the licensing requirements of this
544 section.



545 (a) The Commissioner of Public Safety shall promulgate
546 rules and regulations to provide licenses to law enforcement
547 officers as defined in Section 45-6-3 who choose to obtain a
548 license under the provisions of this section, which shall include
549 a distinction that the officer is an "active duty" law enforcement
550 officer and an endorsement that such officer is authorized to
551 carry in the locations listed in subsection (13). A law
552 enforcement officer shall provide the following information to
553 receive the license described in this subsection: (i) a letter,
554 with the official letterhead of the agency or department for which
555 the officer is employed at the time of application and (ii) a
556 letter with the official letterhead of the agency or department,
557 which explains that such officer has completed a certified law
558 enforcement training academy.

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

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



569 (16) All fees collected by the Department of Public Safety
570 pursuant to this section shall be deposited into a special fund
571 hereby created in the State Treasury and shall be used for
572 implementation and administration of this section. After the
573 close of each fiscal year, the balance in this fund shall be
574 certified to the Legislature and then may be used by the
575 Department of Public Safety as directed by the Legislature.

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

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

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

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



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

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

602 (22) (a) From and after January 1, 2016, the Commissioner
603 of Public Safety shall promulgate rules and regulations which
604 provide that licenses authorized by this section for honorably
605 retired law enforcement officers and honorably retired
606 correctional officers from the Mississippi Department of
607 Corrections shall (i) include the words "retired law enforcement
608 officer" on the front of the license, and (ii) unless the licensee
609 chooses to have this license combined with a driver's license or
610 identification card under subsection (25) of this section, that
611 the license itself have a red background to distinguish it from
612 other licenses issued under this section.

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



619 letterhead of the agency or department, which explains that such
620 officer has completed a certified law enforcement training
621 academy.

622 (23) A disabled veteran who seeks to qualify for an
623 exemption under this section shall be required to provide a
624 veterans health services identification card issued by the United
625 States Department of Veterans Affairs indicating a
626 service-connected disability, which shall be sufficient proof of
627 such service-connected disability.

628 (24) A license under this section is not required for a
629 loaded or unloaded pistol or revolver to be carried upon the
630 person in a sheath, belt holster or shoulder holster or in a
631 purse, handbag, satchel, other similar bag or briefcase or fully
632 enclosed case if the person is not engaged in criminal activity
633 other than a misdemeanor traffic offense, is not otherwise
634 prohibited from possessing a pistol or revolver under state or
635 federal law, and is not in a location prohibited under subsection
636 (13) of this section. However, the medical use of medical
637 cannabis by a cardholder who is a registered qualifying patient
638 which is lawful under the provisions of the Mississippi Medical
639 Cannabis Act and in compliance with rules and regulations adopted
640 thereunder shall not disqualify a person under this subsection
641 (24) solely because the person is prohibited from possessing a
642 firearm under 18 USCS Section 922(g)(3) due to such medical use of
643 medical cannabis.



644 (25) An applicant for a license under this section shall
645 have the option of, instead of being issued a separate card for
646 the license, having the license appear as a notation on the
647 individual's driver's license or identification card. If the
648 applicant chooses this option, the license issued under this
649 section shall have the same expiration date as the driver's
650 license or identification card, and renewal shall take place at
651 the same time and place as renewal of the driver's license or
652 identification card. The Commissioner of Public Safety shall have
653 the authority to promulgate rules and regulations which may be
654 necessary to ensure the effectiveness of the concurrent
655 application and renewal processes.

656 **SECTION 6.** Section 97-37-7, Mississippi Code of 1972, is
657 brought forward as follows:

658 97-37-7. (1) (a) It shall not be a violation of Section
659 97-37-1 or any other statute for pistols, firearms or other
660 suitable and appropriate weapons to be carried by duly constituted
661 bank guards, company guards, watchmen, railroad special agents or
662 duly authorized representatives who are not sworn law enforcement
663 officers, agents or employees of a patrol service, guard service,
664 or a company engaged in the business of transporting money,
665 securities or other valuables, while actually engaged in the
666 performance of their duties as such, provided that such persons
667 have made a written application and paid a nonrefundable permit



668 fee of One Hundred Dollars (\$100.00) to the Department of Public
669 Safety.

670 (b) No permit shall be issued to any person who has
671 ever been convicted of a felony under the laws of this or any
672 other state or of the United States. To determine an applicant's
673 eligibility for a permit, the person shall be fingerprinted. If
674 no disqualifying record is identified at the state level, the
675 fingerprints shall be forwarded by the Department of Public Safety
676 to the Federal Bureau of Investigation for a national criminal
677 history record check. The department shall charge a fee which
678 includes the amounts required by the Federal Bureau of
679 Investigation and the department for the national and state
680 criminal history record checks and any necessary costs incurred by
681 the department for the handling and administration of the criminal
682 history background checks. In the event a legible set of
683 fingerprints, as determined by the Department of Public Safety and
684 the Federal Bureau of Investigation, cannot be obtained after a
685 minimum of three (3) attempts, the Department of Public Safety
686 shall determine eligibility based upon a name check by the
687 Mississippi Highway Safety Patrol and a Federal Bureau of
688 Investigation name check conducted by the Mississippi Highway
689 Safety Patrol at the request of the Department of Public Safety.

690 (c) A person may obtain a duplicate of a lost or
691 destroyed permit upon payment of a Fifteen Dollar (\$15.00)
692 replacement fee to the Department of Public Safety, if he



693 furnishes a notarized statement to the department that the permit
694 has been lost or destroyed.

695 (d) (i) No less than ninety (90) days prior to the
696 expiration date of a permit, the Department of Public Safety shall
697 mail to the permit holder written notice of expiration together
698 with the renewal form prescribed by the department. The permit
699 holder shall renew the permit on or before the expiration date by
700 filing with the department the renewal form, a notarized affidavit
701 stating that the permit holder remains qualified, and the renewal
702 fee of Fifty Dollars (\$50.00); honorably retired law enforcement
703 officers shall be exempt from payment of the renewal fee. A
704 permit holder who fails to file a renewal application on or before
705 its expiration date shall pay a late fee of Fifteen Dollars
706 (\$15.00).

707 (ii) Renewal of the permit shall be required every
708 four (4) years. The permit of a qualified renewal applicant shall
709 be renewed upon receipt of the completed renewal application and
710 appropriate payment of fees.

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

715 (2) It shall not be a violation of this or any other statute
716 for pistols, firearms or other suitable and appropriate weapons to
717 be carried by Department of Wildlife, Fisheries and Parks law



718 enforcement officers, railroad special agents who are sworn law
719 enforcement officers, investigators employed by the Attorney
720 General, criminal investigators employed by the district
721 attorneys, all prosecutors, public defenders, investigators or
722 probation officers employed by the Department of Corrections,
723 employees of the State Auditor who are authorized by the State
724 Auditor to perform investigative functions, or any deputy fire
725 marshal or investigator employed by the State Fire Marshal, while
726 engaged in the performance of their duties as such, or by fraud
727 investigators with the Department of Human Services, or by judges
728 of the Mississippi Supreme Court, Court of Appeals, circuit,
729 chancery, county, justice and municipal courts, or by coroners.
730 Before any person shall be authorized under this subsection to
731 carry a weapon, he shall complete a weapons training course
732 approved by the Board of Law Enforcement Officer Standards and
733 Training. Before any criminal investigator employed by a district
734 attorney shall be authorized under this section to carry a pistol,
735 firearm or other weapon, he shall have complied with Section
736 45-6-11 or any training program required for employment as an
737 agent of the Federal Bureau of Investigation. A law enforcement
738 officer, as defined in Section 45-6-3, shall be authorized to
739 carry weapons in courthouses in performance of his official
740 duties. A person licensed under Section 45-9-101 to carry a
741 concealed pistol, who (a) has voluntarily completed an
742 instructional course in the safe handling and use of firearms



743 offered by an instructor certified by a nationally recognized
744 organization that customarily offers firearms training, or by any
745 other organization approved by the Department of Public Safety,
746 (b) is a member or veteran of any active or reserve component
747 branch of the United States of America Armed Forces having
748 completed law enforcement or combat training with pistols or other
749 handguns as recognized by such branch after submitting an
750 affidavit attesting to have read, understand and agree to comply
751 with all provisions of the enhanced carry law, or (c) is an
752 honorably retired law enforcement officer or honorably retired
753 member or veteran of any active or reserve component branch of the
754 United States of America Armed Forces having completed law
755 enforcement or combat training with pistols or other handguns,
756 after submitting an affidavit attesting to have read, understand
757 and agree to comply with all provisions of Mississippi enhanced
758 carry law shall also be authorized to carry weapons in courthouses
759 except in courtrooms during a judicial proceeding, and any
760 location listed in subsection (13) of Section 45-9-101, except any
761 place of nuisance as defined in Section 95-3-1, any police,
762 sheriff or highway patrol station or any detention facility,
763 prison or jail. For the purposes of this subsection (2),
764 component branch of the United States Armed Forces includes the
765 Army, Navy, Air Force, Coast Guard or Marine Corps, or the Army
766 National Guard, the Army National Guard of the United States, the
767 Air National Guard or the Air National Guard of the United States,



768 as those terms are defined in Section 101, Title 10, United States
769 Code, and any other reserve component of the United States Armed
770 Forces enumerated in Section 10101, Title 10, United States Code.
771 The department shall promulgate rules and regulations allowing
772 concealed pistol permit holders to obtain an endorsement on their
773 permit indicating that they have completed the aforementioned
774 course and have the authority to carry in these locations. This
775 section shall in no way interfere with the right of a trial judge
776 to restrict the carrying of firearms in the courtroom.

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

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

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



792 lots, or other areas contained within the boundaries of the public
793 land upon which the courthouse is located.

794 (3) It shall not be a violation of this or any other statute
795 for pistols, firearms or other suitable and appropriate weapons,
796 to be carried by any out-of-state, full-time commissioned law
797 enforcement officer who holds a valid commission card from the
798 appropriate out-of-state law enforcement agency and a photo
799 identification. The provisions of this subsection shall only
800 apply if the state where the out-of-state officer is employed has
801 entered into a reciprocity agreement with the state that allows
802 full-time commissioned law enforcement officers in Mississippi to
803 lawfully carry or possess a weapon in such other states. The
804 Commissioner of Public Safety is authorized to enter into
805 reciprocal agreements with other states to carry out the
806 provisions of this subsection.

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

809 97-37-9. Any person indicted or charged for a violation of
810 Section 97-37-1 may show as a defense:

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

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



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

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

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

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

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

827 (h) That he was lawfully engaged in legitimate sports;

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

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



840 SECTION 8. (1) All federal acts, laws, orders, rules and
841 regulations, whether past, present or future, which infringe on
842 the people's right to keep and bear arms as guaranteed by the
843 Second Amendment to the United States Constitution and Article I,
844 Section 12 of the Mississippi Constitution of 1890 shall be
845 invalid in this state, shall not be recognized by this state,
846 shall be specifically rejected by this state and have no effect in
847 this state.

848 (2) Such federal acts, laws, orders, rules, and regulations
849 which include any act ordering the confiscation of firearms,
850 firearm accessories, or ammunition from law-abiding citizens.

851 (3) It shall be the duty of the courts and law enforcement
852 agencies of this state to protect the rights of law-abiding
853 citizens to keep and bear arms within the borders of this state
854 and from the infringements in subsection (2) of this section.

855 (4) No public officer or employee of this state shall have
856 any authority to enforce or attempt to enforce any of the
857 infringements on the right to keep and bear arms included in
858 subsection (2) of this section.

859 (5) Any official, agent, or employee of the United States
860 government who enforces or attempts to enforce any of the
861 infringements on the right to keep and bear arms included in
862 subsection (2) of this section is guilty of a misdemeanor.

863 (6) Any Mississippi citizen who has been subject to an
864 effort to enforce any of the infringements on the right to keep



865 and bear arms included in subsection (2) of this section shall
866 have a private cause of action for declaratory judgment and for
867 damages against any person or entity attempting such enforcement.

868 **SECTION 9.** This act shall take effect and be in force from
869 and after July 1, 2023.

