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To: Judiciary B

HOUSE BILL NO. 912

1 AN ACT TO PROVIDE THAT A FIREARM SUPPRESSOR MANUFACTURED AND
 2 REMAINING IN THE STATE OF MISSISSIPPI IS NOT SUBJECT TO FEDERAL
 3 LAWS AND REGULATIONS GOVERNING FIREARM SUPPRESSORS; TO PROHIBIT
 4 STATE AND LOCAL GOVERNMENTAL AUTHORITIES FROM ENFORCING FEDERAL
 5 REGULATIONS ON SUPPRESSORS MADE IN MISSISSIPPI; TO REQUIRE STATE
 6 FUNDING TO BE WITHHELD FROM ANY GOVERNMENTAL ENTITY THAT ADOPTS A
 7 RULE OR POLICY ENFORCING THE FEDERAL LAWS GOVERNING FIREARM
 8 SUPPRESSORS; TO REQUIRE THE DISMISSAL OF CHARGES OF ILLEGALLY
 9 CARRYING A MUFFLER OR SILENCER WHICH ARE PENDING ON JULY 1, 2023;
 10 TO AMEND SECTIONS 11-1-67, 97-37-1 AND 97-37-5, MISSISSIPPI CODE
 11 OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO REPEAL
 12 SECTION 97-37-31, MISSISSIPPI CODE OF 1972, WHICH CREATES THE
 13 MISDEMEANOR OFFENSE OF MAKING, MANUFACTURING, SELLING OR
 14 POSSESSING A DEVICE THAT WILL MUFFLE THE REPORT OF A FIREARM BY A
 15 PERSON NOT AUTHORIZED TO DO SUCH UNDER FEDERAL LAW; AND FOR
 16 RELATED PURPOSES.

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

18 **SECTION 1.** (1) As used in this section, the following words
 19 and phrases have the meanings ascribed in this subsection unless
 20 the context clearly requires otherwise:

21 (a) "Firearm" means any device designed, made or
 22 adapted to expel a projectile through a barrel by using the energy
 23 generated by an explosion or burning substance or any device
 24 readily convertible to that use. "Firearm" does not include a



25 firearm that may have, as an integral part, a folding knife blade
26 or other characteristics of illegal weapons which are:

27 (i) An antique or curio firearm manufactured
28 before 1899; or

29 (ii) A replica of an antique or curio firearm
30 manufactured before 1899, but only if the replica does not use rim
31 fire or center fire ammunition.

32 (b) "Firearm suppressor" means any device designed,
33 made or adapted to muffle the report of a firearm.

34 (c) "Generic and insignificant part" means an item that
35 has manufacturing or consumer product applications other than
36 inclusion in a firearm suppressor. The term includes a spring,
37 screw, nut and pin.

38 (d) "Manufacture" includes forging, casting, machining
39 or another process for working a material.

40 (2) A firearm suppressor is considered to be manufactured in
41 this state if the item is manufactured:

42 (a) In this state from basic materials; and

43 (b) Without the inclusion of any part imported from
44 another state other than a generic and insignificant part.

45 (3) A firearm suppressor is manufactured in this state if it
46 is manufactured as described in subsection (2) without regard to
47 whether a firearm imported into this state from another state is
48 attached to or used in conjunction with the suppressor.



49 (4) A firearm suppressor that is manufactured in this state
50 and remains in this state is not subject to federal law or federal
51 regulation, including registration, under the authority of the
52 United States Congress to regulate interstate commerce.

53 (5) Basic material from which a firearm suppressor is
54 manufactured in this state, including unmachined steel, is not a
55 firearm suppressor and is not subject to federal regulation under
56 the authority of the United States Congress to regulate interstate
57 commerce as if it actually were a firearm suppressor.

58 (6) A firearm suppressor manufactured and sold in this state
59 must have the words "Made in Mississippi" clearly stamped on it.

60 (7) On written notification to the Attorney General by a
61 United States citizen who resides in this state of the citizen's
62 intent to manufacture a firearm suppressor to which subsection (4)
63 applies, the Attorney General shall seek a declaratory judgment
64 from a federal district court in this state that subsection (4) is
65 consistent with the United States Constitution.

66 (8) This section applies only to a firearm suppressor that
67 is manufactured on or after July 1, 2023.

68 **SECTION 2.** (1) This section applies to:

69 (a) The State of Mississippi, including an agency,
70 department, commission, bureau, board, office, council, court or
71 other entity that is in any branch of state government and which
72 is created by the constitution or a statute of this state;



73 (b) The governing body of a municipality, county,
74 school district or other district;

75 (c) An officer, employee or body that is part of a
76 municipality, county, school district or other district, including
77 a sheriff, municipal police department, municipal attorney or
78 county attorney; and

79 (d) A district attorney or other prosecuting attorney.

80 (2) (a) An entity described in subsection (1) may not adopt
81 a rule, regulation, order, ordinance or policy under which the
82 entity enforces, or by consistent action allows the enforcement
83 of, a federal statute, order, rule or regulation that purports to
84 regulate a firearm suppressor, as defined in Section 1 of this
85 act, if the rule, regulation, order, ordinance or policy imposes a
86 prohibition, restriction or other regulation that does not exist
87 under the laws of this state.

88 (b) An entity or person employed by or otherwise under
89 the direction or control of an entity described in subsection (1)
90 may not enforce or attempt to enforce any federal statute, order,
91 rule or regulation described under subsection (a).

92 (3) (a) An entity described in subsection (1) may not
93 receive state funds if the entity adopts a rule, regulation,
94 order, ordinance or policy under which the entity enforces a
95 federal law described under subsection (2)(a) or, by consistent
96 action, allows the enforcement of a federal law described under
97 subsection (2)(a).



98 (b) State funds for the entity must be denied for the
99 fiscal year following the year in which a final judicial
100 determination in an action brought under this section is made that
101 the entity has violated subsection (2) (a).

102 (4) (a) Any citizen residing in the jurisdiction of an
103 entity described in subsection (1) may file a complaint with the
104 Attorney General if the citizen offers evidence to support an
105 allegation that the entity has adopted a rule, regulation, order,
106 ordinance or policy under which the entity enforces a federal law
107 described under subsection (2) (a) or that the entity, by
108 consistent action, allows the enforcement of a federal law
109 described under subsection (2) (a). The citizen must include with
110 the complaint any evidence the citizen has in support of the
111 complaint.

112 (b) If the Attorney General determines that a complaint
113 filed under paragraph (a) against an entity described in
114 subsection (1) is valid, to compel the entity's compliance with
115 this section, the Attorney General may file a petition for a writ
116 of mandamus or apply for other appropriate equitable relief in the
117 chancery court in Hinds County or in the county in which the
118 principal office of the entity is located. The Attorney General
119 may recover reasonable expenses incurred obtaining relief under
120 this subsection, including court costs, reasonable attorney's
121 fees, investigative costs, witness fees and deposition costs.



122 **SECTION 3.** An alleged offense under Section 97-37-1, as it
123 existed on June 30, 2023, of concealed carrying of a muffler or
124 silencer for any firearm, or under Section 97-37-5, as it existed
125 on June 30, 2023, of possession by a person who has been convicted
126 of a felony of a muffler or silencer for any firearm, or under
127 Section 97-37-31, as it existed on June 30, 2023, of possession of
128 a device that is used to muffle a firearm, may not be prosecuted
129 on or after July 1, 2023. If on July 1, 2023, a criminal action
130 is pending for an offense described in this section, the action is
131 dismissed on that date. However, a final conviction for an
132 offense described in this section which exists on July 1, 2023, is
133 unaffected by this act.

134 **SECTION 4.** Section 11-1-67, Mississippi Code of 1972, is
135 amended as follows:

136 11-1-67. (1) The authority to bring an action against any
137 firearms or ammunition manufacturer, distributor or dealer duly
138 licensed under federal law on behalf of any governmental entity
139 created by or pursuant to an act of the Mississippi Legislature or
140 the Mississippi Constitution of 1890, or any department, agency or
141 authority thereof, for damages, abatement, injunctive relief or
142 any other relief or remedy resulting from or relating to the
143 lawful design, manufacture, distribution or sale of firearms,
144 firearm components, * * * ammunition or ammunition components to
145 the public, shall be exclusively reserved to the state. This
146 section shall not prohibit a political subdivision from bringing



147 an action against a firearm or ammunition manufacturer,
148 distributor or dealer for breach of contract or warranty as to
149 firearms or ammunition purchased by the political subdivision, or
150 for injuries resulting from a firearm malfunction due to defects
151 in materials or workmanship.

152 (2) "Political subdivision" and "governmental entity" shall
153 have the meanings ascribed in Section 11-46-1.

154 **SECTION 5.** Section 97-37-1, Mississippi Code of 1972, is
155 amended as follows:

156 97-37-1. (1) Except as otherwise provided in Section
157 45-9-101, any person who carries, concealed on or about one's
158 person, any bowie knife, dirk knife, butcher knife, switchblade
159 knife, metallic knuckles, blackjack, slingshot, pistol, revolver,
160 or any rifle with a barrel of less than sixteen (16) inches in
161 length, or any shotgun with a barrel of less than eighteen (18)
162 inches in length, machine gun or any fully automatic firearm or
163 deadly weapon, * * * or uses or attempts to use against another
164 person any imitation firearm, shall, upon conviction, be punished
165 as follows:

166 (a) By a fine of not less than One Hundred Dollars
167 (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by
168 imprisonment in the county jail for not more than six (6) months,
169 or both, in the discretion of the court, for the first conviction
170 under this section.



171 (b) By a fine of not less than One Hundred Dollars
172 (\$100.00) nor more than Five Hundred Dollars (\$500.00), and
173 imprisonment in the county jail for not less than thirty (30) days
174 nor more than six (6) months, for the second conviction under this
175 section.

176 (c) By confinement in the custody of the Department of
177 Corrections for not less than one (1) year nor more than five (5)
178 years, for the third or subsequent conviction under this section.

179 (d) By confinement in the custody of the Department of
180 Corrections for not less than one (1) year nor more than ten (10)
181 years for any person previously convicted of any felony who is
182 convicted under this section.

183 (2) It shall not be a violation of this section for any
184 person over the age of eighteen (18) years to carry a firearm or
185 deadly weapon concealed within the confines of his own home or his
186 place of business, or any real property associated with his home
187 or business or within any motor vehicle.

188 (3) It shall not be a violation of this section for any
189 person to carry a firearm or deadly weapon concealed if the
190 possessor of the weapon is then engaged in a legitimate
191 weapon-related sports activity or is going to or returning from
192 such activity. For purposes of this subsection, "legitimate
193 weapon-related sports activity" means hunting, fishing, target
194 shooting or any other legal activity which normally involves the
195 use of a firearm or other weapon.



196 (4) For the purposes of this section, "concealed" means
197 hidden or obscured from common observation and shall not include
198 any weapon listed in subsection (1) of this section, including,
199 but not limited to, a loaded or unloaded pistol carried upon the
200 person in a sheath, belt holster or shoulder holster that is
201 wholly or partially visible, or carried upon the person in a
202 scabbard or case for carrying the weapon that is wholly or
203 partially visible.

204 **SECTION 6.** Section 97-37-5, Mississippi Code of 1972, is
205 amended as follows:

206 97-37-5. (1) It shall be unlawful for any person who has
207 been convicted of a felony under the laws of this state, any other
208 state, or of the United States to possess any firearm or any bowie
209 knife, dirk knife, butcher knife, switchblade knife, metallic
210 knuckles * * * or blackjack * * * unless such person has received
211 a pardon for such felony, has received a relief from disability
212 pursuant to Section 925(c) of Title 18 of the United States Code,
213 or has received a certificate of rehabilitation pursuant to
214 subsection (3) of this section.

215 (2) Any person violating this section shall be guilty of a
216 felony and, upon conviction thereof, shall be fined not more than
217 Five Thousand Dollars (\$5,000.00), or committed to the custody of
218 the State Department of Corrections for not less than one (1) year
219 nor more than ten (10) years, or both.



220 (3) A person who has been convicted of a felony under the
221 laws of this state, under the laws of another state, under federal
222 law or in state military court may apply for a certificate of
223 rehabilitation as provided in this section. If the person was
224 convicted of a felony under the laws of this state, he or she may
225 apply to the court in which he was convicted for a certificate of
226 rehabilitation. If the person was convicted of a felony under the
227 laws of another state, under federal law or in state military
228 court, he or she may apply to the court in the person's county of
229 residence for a certificate of rehabilitation. A person convicted
230 of a felony under the laws of another state, under federal law or
231 in state military court shall attach a certified copy of his or
232 her judgment and a certified copy of his or her completion of
233 sentence to the petition for a certificate of rehabilitation. The
234 court may grant such certificate in its discretion upon a showing
235 to the satisfaction of the court that the applicant has been
236 rehabilitated and has led a useful, productive and law-abiding
237 life since the completion of his or her sentence and upon the
238 finding of the court that he or she will not be likely to act in a
239 manner dangerous to public safety.

240 (4) (a) A person who is discharged from court-ordered
241 mental health treatment may petition the court which entered the
242 commitment order for an order stating that the person qualifies
243 for relief from a firearms disability.



244 (b) In determining whether to grant relief, the court
245 must hear and consider evidence about:

246 (i) The circumstances that led to imposition of
247 the firearms disability under 18 USCS, Section 922(d)(4);

248 (ii) The person's mental history;

249 (iii) The person's criminal history; and

250 (iv) The person's reputation.

251 (c) A court may not grant relief unless it makes and
252 enters in the record the following affirmative findings:

253 (i) That the person is no longer likely to act in
254 a manner dangerous to public safety; and

255 (ii) Removing the person's disability to purchase
256 a firearm is not against the public interest.

257 **SECTION 7.** Section 97-37-31, Mississippi Code of 1972, which
258 creates the misdemeanor offense of making, manufacturing, selling
259 or possessing a device that will muffle the report of a firearm by
260 a person not authorized to do such under federal law, is repealed.

261 **SECTION 8.** This act shall take effect and be in force from
262 and after July 1, 2023.

