

By: Senator(s) Sojourner

To: Judiciary, Division B

SENATE BILL NO. 2882

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; AND FOR RELATED PURPOSES.

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

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

14 **SECTION 2.** (1) The Mississippi Legislature hereby occupies
 15 and preempts the entire field of legislation touching in any way
 16 firearms, components, ammunition and supplies to the complete
 17 exclusion of any order, ordinance or regulation by any political
 18 subdivision of this state. Any existing or future orders,
 19 ordinances or regulations in this field are hereby and shall be
 20 null and void except as provided in subsection (3) of this
 21 section.



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

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

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

41 (5) No county, city, town, village or any other political
42 subdivision nor the state shall bring suit or have any right to
43 recover against any firearms or ammunition manufacturer, trade
44 association or dealer for damages, abatement or injunctive relief
45 resulting from or relating to the lawful design, manufacture,
46 marketing, distribution, or sale of firearms or ammunition to the



47 public. Provided, however, that nothing in this section shall
48 restrict the rights of individual citizens to recover for injury
49 or death caused by the negligent or defective design or
50 manufacture of firearms or ammunition.

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

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

59 45-9-51. (1) Subject to the provisions of Section 45-9-53,
60 no county or municipality may adopt any ordinance that restricts
61 the possession, carrying, transportation, sale, transfer or
62 ownership of firearms or ammunition or their components.

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

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



72 45-9-53. (1) This section and Section 45-9-51 do not affect
73 the authority that a county or municipality may have under another
74 law:

75 (a) To require citizens or public employees to be armed
76 for personal or national defense, law enforcement, or another
77 lawful purpose;

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

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

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

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

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

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



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

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

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

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

115 (f) To regulate the carrying of a firearm at: (i) a
116 public park or at a public meeting of a county, municipality or
117 other governmental body; (ii) a political rally, parade or
118 official political meeting; or (iii) a nonfirearm-related school,
119 college or professional athletic event; or

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



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

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

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

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

140 (b) At any location under the control of the county or
141 municipality aside from a location listed in subsection (1)(f) of
142 this section or Section 45-9-101(13) indicating that the
143 possession of a firearm is prohibited on the premises, as long as
144 the sign also indicates that it does not apply to a person
145 properly licensed under Section 45-9-101 or Section 97-37-7(2) to



146 carry a concealed firearm or to a person lawfully carrying a
147 firearm that is not concealed.

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

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



171 subsection may proceed. The findings of the Attorney General
172 shall constitute a "Public Record" as defined by the Mississippi
173 Public Records Act of 1983, Section 25-61-1 et seq.

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

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

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

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



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

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

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

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

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

219 45-9-101. (1) (a) Except as otherwise provided, the
220 Department of Public Safety is authorized to issue licenses to



221 carry stun guns, concealed pistols or revolvers to persons
222 qualified as provided in this section. Such licenses shall be
223 valid throughout the state for a period of five (5) years from the
224 date of issuance, except as provided in subsection (25) of this
225 section. Any person possessing a valid license issued pursuant to
226 this section may carry a stun gun, concealed pistol or concealed
227 revolver.

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

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

238 (a) Is a resident of the state. However, this
239 residency requirement may be waived if the applicant possesses a
240 valid permit from another state, is a member of any active or
241 reserve component branch of the United States of America Armed
242 Forces stationed in Mississippi, is the spouse of a member of any
243 active or reserve component branch of the United States of America
244 Armed Forces stationed in Mississippi, or is a retired law
245 enforcement officer establishing residency in the state;



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

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

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

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

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

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

262 (e) Does not chronically or habitually abuse controlled
263 substances to the extent that his normal faculties are impaired.
264 It shall be presumed that an applicant chronically and habitually
265 uses controlled substances to the extent that his faculties are
266 impaired if the applicant has been voluntarily or involuntarily
267 committed to a treatment facility for the abuse of a controlled
268 substance or been found guilty of a crime under the provisions of
269 the Uniform Controlled Substances Law or similar laws of any other
270 state or the United States relating to controlled substances



271 within a three-year period immediately preceding the date on which
272 the application is submitted;

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

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

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

289 (i) Has not been voluntarily or involuntarily committed
290 to a mental institution or mental health treatment facility unless
291 he possesses a certificate from a psychiatrist licensed in this
292 state that he has not suffered from disability for a period of
293 five (5) years;

294 (j) Has not had adjudication of guilt withheld or
295 imposition of sentence suspended on any felony unless three (3)



296 years have elapsed since probation or any other conditions set by
297 the court have been fulfilled;

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

299 (l) Is not disqualified to possess a weapon based on
300 federal law.

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

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



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

322 (b) The driver's license number or social security
323 number of applicant;

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

326 (d) A statement that the applicant is in compliance
327 with criteria contained within subsections (2) and (3) of this
328 section;

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

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

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

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

340 (a) A completed application as described in subsection
341 (4) of this section;

342 (b) A full-face photograph of the applicant taken
343 within the preceding thirty (30) days in which the head, including
344 hair, in a size as determined by the Department of Public Safety,



345 except that an applicant who is younger than twenty-one (21) years
346 of age must submit a photograph in profile of the applicant;

347 (c) A nonrefundable license fee of Eighty Dollars
348 (\$80.00). Costs for processing the set of fingerprints as
349 required in paragraph (d) of this subsection shall be borne by the
350 applicant. Honorably retired law enforcement officers, disabled
351 veterans and active duty members of the Armed Forces of the United
352 States, and law enforcement officers employed with a law
353 enforcement agency of a municipality, county or state at the time
354 of application for the license, shall be exempt from the payment
355 of the license fee;

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

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

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

367 (b) The Department of Public Safety shall forward a
368 copy of the applicant's application to the sheriff of the
369 applicant's county of residence and, if applicable, the police



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

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

384 (i) Issue the license;

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

392 (iii) Notify the applicant that the department is
393 unable to make a determination regarding the issuance or denial of
394 a license within the forty-five-day period prescribed by this



395 subsection, and provide an estimate of the amount of time the
396 department will need to make the determination.

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

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

417 (b) If the revocation, suspension or denial of issuance
418 is sustained by the Commissioner of Public Safety, or his duly
419 authorized agent pursuant to paragraph (a) of this subsection, the



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

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

439 (9) Within thirty (30) days after the changing of a
440 permanent address, or within thirty (30) days after having a
441 license lost or destroyed, the licensee shall notify the
442 Department of Public Safety in writing of such change or loss.
443 Failure to notify the Department of Public Safety pursuant to the
444 provisions of this subsection shall constitute a noncriminal



445 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
446 be enforceable by a summons.

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

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

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



470 processed by mail to assure that the applicant must appear in
471 person every ten (10) years for the purpose of obtaining a new
472 photograph.

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

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

481 (iii) The renewal fee for a Mississippi resident
482 aged sixty-five (65) years of age or older shall be Twenty Dollars
483 (\$20.00).

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

489 (c) A licensee who fails to file a renewal application
490 on or before its expiration date must renew his license by paying
491 a late fee of Fifteen Dollars (\$15.00). No license shall be
492 renewed six (6) months or more after its expiration date, and such
493 license shall be deemed to be permanently expired. A person whose
494 license has been permanently expired may reapply for licensure;



495 however, an application for licensure and fees pursuant to
496 subsection (5) of this section must be submitted, and a background
497 investigation shall be conducted pursuant to the provisions of
498 this section.

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



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

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

542 (a) The Commissioner of Public Safety shall promulgate
543 rules and regulations to provide licenses to law enforcement
544 officers as defined in Section 45-6-3 who choose to obtain a



545 license under the provisions of this section, which shall include
546 a distinction that the officer is an "active duty" law enforcement
547 officer and an endorsement that such officer is authorized to
548 carry in the locations listed in subsection (13). A law
549 enforcement officer shall provide the following information to
550 receive the license described in this subsection: (i) a letter,
551 with the official letterhead of the agency or department for which
552 the officer is employed at the time of application and (ii) a
553 letter with the official letterhead of the agency or department,
554 which explains that such officer has completed a certified law
555 enforcement training academy.

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

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

566 (16) All fees collected by the Department of Public Safety
567 pursuant to this section shall be deposited into a special fund
568 hereby created in the State Treasury and shall be used for
569 implementation and administration of this section. After the



570 close of each fiscal year, the balance in this fund shall be
571 certified to the Legislature and then may be used by the
572 Department of Public Safety as directed by the Legislature.

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

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

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

589 (20) The provisions of this section shall be under the
590 supervision of the Commissioner of Public Safety. The
591 commissioner is authorized to promulgate reasonable rules and
592 regulations to carry out the provisions of this section.

593 (21) For the purposes of this section, the term "stun gun"
594 means a portable device or weapon from which an electric current,



595 impulse, wave or beam may be directed, which current, impulse,
596 wave or beam is designed to incapacitate temporarily, injure,
597 momentarily stun, knock out, cause mental disorientation or
598 paralyze.

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

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



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

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

641 (25) An applicant for a license under this section shall
642 have the option of, instead of being issued a separate card for
643 the license, having the license appear as a notation on the



644 individual's driver's license or identification card. If the
645 applicant chooses this option, the license issued under this
646 section shall have the same expiration date as the driver's
647 license or identification card, and renewal shall take place at
648 the same time and place as renewal of the driver's license or
649 identification card. The Commissioner of Public Safety shall have
650 the authority to promulgate rules and regulations which may be
651 necessary to ensure the effectiveness of the concurrent
652 application and renewal processes.

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

655 97-37-7. (1) (a) It shall not be a violation of Section
656 97-37-1 or any other statute for pistols, firearms or other
657 suitable and appropriate weapons to be carried by duly constituted
658 bank guards, company guards, watchmen, railroad special agents or
659 duly authorized representatives who are not sworn law enforcement
660 officers, agents or employees of a patrol service, guard service,
661 or a company engaged in the business of transporting money,
662 securities or other valuables, while actually engaged in the
663 performance of their duties as such, provided that such persons
664 have made a written application and paid a nonrefundable permit
665 fee of One Hundred Dollars (\$100.00) to the Department of Public
666 Safety.

667 (b) No permit shall be issued to any person who has
668 ever been convicted of a felony under the laws of this or any



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

687 (c) A person may obtain a duplicate of a lost or
688 destroyed permit upon payment of a Fifteen Dollar (\$15.00)
689 replacement fee to the Department of Public Safety, if he
690 furnishes a notarized statement to the department that the permit
691 has been lost or destroyed.

692 (d) (i) No less than ninety (90) days prior to the
693 expiration date of a permit, the Department of Public Safety shall



694 mail to the permit holder written notice of expiration together
695 with the renewal form prescribed by the department. The permit
696 holder shall renew the permit on or before the expiration date by
697 filing with the department the renewal form, a notarized affidavit
698 stating that the permit holder remains qualified, and the renewal
699 fee of Fifty Dollars (\$50.00); honorably retired law enforcement
700 officers shall be exempt from payment of the renewal fee. A
701 permit holder who fails to file a renewal application on or before
702 its expiration date shall pay a late fee of Fifteen Dollars
703 (\$15.00).

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

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

712 (2) It shall not be a violation of this or any other statute
713 for pistols, firearms or other suitable and appropriate weapons to
714 be carried by Department of Wildlife, Fisheries and Parks law
715 enforcement officers, railroad special agents who are sworn law
716 enforcement officers, investigators employed by the Attorney
717 General, criminal investigators employed by the district
718 attorneys, all prosecutors, public defenders, investigators or



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



744 branch of the United States of America Armed Forces having
745 completed law enforcement or combat training with pistols or other
746 handguns as recognized by such branch after submitting an
747 affidavit attesting to have read, understand and agree to comply
748 with all provisions of the enhanced carry law, or (c) is an
749 honorably retired law enforcement officer or honorably retired
750 member or veteran of any active or reserve component branch of the
751 United States of America Armed Forces having completed law
752 enforcement or combat training with pistols or other handguns,
753 after submitting an affidavit attesting to have read, understand
754 and agree to comply with all provisions of Mississippi enhanced
755 carry law shall also be authorized to carry weapons in courthouses
756 except in courtrooms during a judicial proceeding, and any
757 location listed in subsection (13) of Section 45-9-101, except any
758 place of nuisance as defined in Section 95-3-1, any police,
759 sheriff or highway patrol station or any detention facility,
760 prison or jail. For the purposes of this subsection (2),
761 component branch of the United States Armed Forces includes the
762 Army, Navy, Air Force, Coast Guard or Marine Corps, or the Army
763 National Guard, the Army National Guard of the United States, the
764 Air National Guard or the Air National Guard of the United States,
765 as those terms are defined in Section 101, Title 10, United States
766 Code, and any other reserve component of the United States Armed
767 Forces enumerated in Section 10101, Title 10, United States Code.
768 The department shall promulgate rules and regulations allowing



769 concealed pistol permit holders to obtain an endorsement on their
770 permit indicating that they have completed the aforementioned
771 course and have the authority to carry in these locations. This
772 section shall in no way interfere with the right of a trial judge
773 to restrict the carrying of firearms in the courtroom.

774 For purposes of this subsection (2), the following words
775 shall have the meanings described herein, unless the context
776 otherwise requires:

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

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

791 (3) It shall not be a violation of this or any other statute
792 for pistols, firearms or other suitable and appropriate weapons,
793 to be carried by any out-of-state, full-time commissioned law



794 enforcement officer who holds a valid commission card from the
795 appropriate out-of-state law enforcement agency and a photo
796 identification. The provisions of this subsection shall only
797 apply if the state where the out-of-state officer is employed has
798 entered into a reciprocity agreement with the state that allows
799 full-time commissioned law enforcement officers in Mississippi to
800 lawfully carry or possess a weapon in such other states. The
801 Commissioner of Public Safety is authorized to enter into
802 reciprocal agreements with other states to carry out the
803 provisions of this subsection.

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

806 97-37-9. Any person indicted or charged for a violation of
807 Section 97-37-1 may show as a defense:

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

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

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

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

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



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

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

824 (h) That he was lawfully engaged in legitimate sports;
825 or

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

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

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

