

By: Representative Ellzey

To: Judiciary B

HOUSE BILL NO. 392

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT RETIRED LAW ENFORCEMENT OFFICERS FROM CONCEALED WEAPON
3 LICENSING REQUIREMENTS; AND FOR RELATED PURPOSES.

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

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

7 45-9-101. (1) (a) The Department of Public Safety is
8 authorized to issue licenses to carry concealed pistols or
9 revolvers to persons qualified as provided in this section. Such
10 licenses shall be valid throughout the state for a period of four
11 (4) years from the date of issuance. Any person possessing a
12 valid license issued pursuant to this section may carry a
13 concealed pistol or concealed revolver.

14 (b) The licensee must carry the license, together with
15 valid identification, at all times in which the licensee is
16 carrying a concealed pistol or revolver and must display both the
17 license and proper identification upon demand by a law enforcement
18 officer. A violation of the provisions of this paragraph (b)
19 shall constitute a noncriminal violation with a penalty of
20 Twenty-five Dollars (\$25.00) and shall be enforceable by summons.

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

23 (a) Is a resident of the state and has been a resident
24 for twelve (12) months or longer immediately preceding the filing
25 of the application;

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



27 (c) Does not suffer from a physical infirmity which
28 prevents the safe handling of a pistol or revolver;

29 (d) Is not ineligible to possess a firearm by virtue of
30 having been convicted of a felony in a court of this state, of any
31 other state, or of the United States without having been pardoned
32 for same;

33 (e) Does not chronically or habitually abuse controlled
34 substances to the extent that his normal faculties are impaired.
35 It shall be presumed that an applicant chronically and habitually
36 uses controlled substances to the extent that his faculties are
37 impaired if the applicant has been voluntarily or involuntarily
38 committed to a treatment facility for the abuse of a controlled
39 substance or been found guilty of a crime under the provisions of
40 the Uniform Controlled Substances Law or similar laws of any other
41 state or the United States relating to controlled substances
42 within a three-year period immediately preceding the date on which
43 the application is submitted;

44 (f) Does not chronically and habitually use alcoholic
45 beverages to the extent that his normal faculties are impaired.
46 It shall be presumed that an applicant chronically and habitually
47 uses alcoholic beverages to the extent that his normal faculties
48 are impaired if the applicant has been voluntarily or
49 involuntarily committed as an alcoholic to a treatment facility or
50 has been convicted of two (2) or more offenses related to the use
51 of alcohol under the laws of this state or similar laws of any
52 other state or the United States within the three-year period
53 immediately preceding the date on which the application is
54 submitted;

55 (g) Desires a legal means to carry a concealed pistol
56 or revolver to defend himself;

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



60 (i) Has not been voluntarily or involuntarily committed
61 to a mental institution or mental health treatment facility unless
62 he possesses a certificate from a psychiatrist licensed in this
63 state that he has not suffered from disability for a period of
64 five (5) years;

65 (j) Has not had adjudication of guilt withheld or
66 imposition of sentence suspended on any felony unless three (3)
67 years have elapsed since probation or any other conditions set by
68 the court have been fulfilled; and

69 (k) Is not a fugitive from justice.

70 (3) The Department of Public Safety may deny a license if
71 the applicant has been found guilty of one or more crimes of
72 violence constituting a misdemeanor unless three (3) years have
73 elapsed since probation or any other conditions set by the court
74 have been fulfilled or expunction has occurred prior to the date
75 on which the application is submitted, or may revoke a license if
76 the licensee has been found guilty of one or more crimes of
77 violence within the preceding three (3) years. The department
78 shall, upon notification by a law enforcement agency or a court
79 and subsequent written verification, suspend a license or the
80 processing of an application for a license if the licensee or
81 applicant is arrested or formally charged with a crime which would
82 disqualify such person from having a license under this section,
83 until final disposition of the case. The provisions of subsection
84 (7) of this section shall apply to any suspension or revocation of
85 a license pursuant to the provisions of this section.

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

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

91 (b) The driver's license number or social security
92 number of applicant;



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

95 (d) A statement that the applicant is in compliance
96 with criteria contained within subsections (2) and (3) of this
97 section;

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

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

104 (g) A statement that the applicant desires a legal
105 means to carry a concealed pistol or revolver to defend himself.

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

108 (a) A completed application as described in subsection
109 (4) of this section;

110 (b) A full-face photograph of the applicant;

111 (c) A nonrefundable license fee of One Hundred Dollars
112 (\$100.00). Costs for processing the set of fingerprints as
113 required in paragraph (c) of this subsection shall be borne by the
114 applicant. Honorably retired law enforcement officers shall be
115 exempt from the payment of the license fee;

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

118 (e) A waiver authorizing the Department of Public
119 Safety access to any records concerning commitments of the
120 applicant to any of the treatment facilities or institutions
121 referred to in subsection (2) and permitting access to all the
122 applicant's criminal records.

123 (6) (a) The Department of Public Safety, upon receipt of
124 the items listed in subsection (5) of this section, shall forward



125 the full set of fingerprints of the applicant to the appropriate
126 agencies for state and federal processing.

127 (b) The Department of Public Safety shall forward a
128 copy of the applicant's application to the sheriff of the
129 applicant's county of residence and, if applicable, the police
130 chief of the applicant's municipality of residence. The sheriff
131 of the applicant's county of residence and, if applicable, the
132 police chief of the applicant's municipality of residence may, at
133 his discretion, participate in the process by submitting a
134 voluntary report to the Department of Public Safety containing any
135 readily discoverable prior information that he feels may be
136 pertinent to the licensing of any applicant. The reporting shall
137 be made within thirty (30) days after the date he receives the
138 copy of the application. Upon receipt of a response from a
139 sheriff or police chief, such sheriff or police chief shall be
140 reimbursed at a rate set by the department.

141 (c) The Department of Public Safety shall, within one
142 hundred twenty (120) days after the date of receipt of the items
143 listed in subsection (5) of this section:

144 (i) Issue the license; or

145 (ii) Deny the application based solely on the
146 ground that the applicant fails to qualify under the criteria
147 listed in subsections (2) and (3) of this section. If the
148 Department of Public Safety denies the application, it shall
149 notify the applicant in writing, stating the ground for denial,
150 and the denial shall be subject to the appeal process set forth in
151 subsection (7).

152 (d) In the event a legible set of fingerprints, as
153 determined by the Department of Public Safety and the Federal
154 Bureau of Investigation, cannot be obtained after a minimum of
155 three (3) attempts, the Department of Public Safety shall
156 determine eligibility based upon a name check by the Mississippi
157 Highway Safety Patrol and a Federal Bureau of Investigation name



158 check conducted by the Mississippi Highway Safety Patrol at the
159 request of the Department of Public Safety.

160 (7) (a) If the Department of Public Safety denies the
161 issuance of a license, or suspends or revokes a license, the party
162 aggrieved may appeal such denial, suspension or revocation to the
163 Commissioner of Public Safety, or his authorized agent, within
164 thirty (30) days after the aggrieved party receives written notice
165 of such denial, suspension or revocation. The Commissioner of
166 Public Safety, or his duly authorized agent, shall rule upon such
167 appeal within thirty (30) days after the appeal is filed and
168 failure to rule within this thirty-day period shall constitute
169 sustaining such denial, suspension or revocation. Such review
170 shall be conducted pursuant to such reasonable rules and
171 regulations as the Commissioner of Public Safety may adopt.

172 (b) If the revocation, suspension or denial of issuance
173 is sustained by the Commissioner of Public Safety, or his duly
174 authorized agent pursuant to paragraph (a) of this subsection, the
175 aggrieved party may file within ten (10) days after the rendition
176 of such decision a petition in the circuit or county court of his
177 residence for review of such decision. A hearing for review shall
178 be held and shall proceed before the court without a jury upon the
179 record made at the hearing before the Commissioner of Public
180 Safety or his duly authorized agent. No such party shall be
181 allowed to carry a concealed pistol or revolver pursuant to the
182 provisions of this section while any such appeal is pending.

183 (8) The Department of Public Safety shall maintain an
184 automated listing of license holders and such information shall be
185 available on-line, upon request, at all times, to all law
186 enforcement agencies through the Mississippi Crime Information
187 Center. However, the records of the department relating to
188 applications for licenses to carry concealed pistols or revolvers
189 and records relating to license holders shall be exempt from the
190 provisions of the Mississippi Public Records Act of 1983 for a



191 period of forty-five (45) days from the date of the issuance of
192 the license or the final denial of an application.

193 (9) Within thirty (30) days after the changing of a
194 permanent address, or within thirty (30) days after having a
195 license lost or destroyed, the licensee shall notify the
196 Department of Public Safety in writing of such change or loss.
197 Failure to notify the Department of Public Safety pursuant to the
198 provisions of this subsection shall constitute a noncriminal
199 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
200 be enforceable by a summons.

201 (10) In the event that a concealed pistol or revolver
202 license is lost or destroyed, the person to whom the license was
203 issued shall comply with the provisions of subsection (9) of this
204 section and may obtain a duplicate, or substitute thereof, upon
205 payment of Fifteen Dollars (\$15.00) to the Department of Public
206 Safety, and furnishing a notarized statement to the department
207 that such license has been lost or destroyed.

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

211 (12) No less than ninety (90) days prior to the expiration
212 date of the license, the Department of Public Safety shall mail to
213 each licensee a written notice of the expiration and a renewal
214 form prescribed by the department. The licensee must renew his
215 license on or before the expiration date by filing with the
216 department the renewal form, a notarized affidavit stating that
217 the licensee remains qualified pursuant to the criteria specified
218 in subsections (2) and (3) of this section, and a renewal fee of
219 Fifty Dollars (\$50.00); provided, however, that honorably retired
220 law enforcement officers shall be exempt from this renewal fee.
221 The license shall be renewed upon receipt of the completed renewal
222 application and appropriate payment of fees. Additionally, a
223 licensee who fails to file a renewal application on or before its



224 expiration date must renew his license by paying a late fee of
225 Fifteen Dollars (\$15.00). No license shall be renewed six (6)
226 months or more after its expiration date, and such license shall
227 be deemed to be permanently expired. A person whose license has
228 been permanently expired may reapply for licensure; however, an
229 application for licensure and fees pursuant to subsection (5) of
230 this section must be submitted, and a background investigation
231 shall be conducted pursuant to the provisions of this section.

232 (13) No license issued pursuant to this section shall
233 authorize any person to carry a concealed pistol or revolver into
234 any place of nuisance as defined in Section 95-3-1, Mississippi
235 Code of 1972; any police, sheriff or highway patrol station; any
236 detention facility, prison or jail; any courthouse; any courtroom,
237 except that nothing in this section shall preclude a judge from
238 carrying a concealed weapon or determining who will carry a
239 concealed weapon in his courtroom; any polling place; any meeting
240 place of the governing body of any governmental entity; any
241 meeting of the Legislature or a committee thereof; any public park
242 unless for the purpose of participating in any authorized
243 firearms-related activity; any school, college or professional
244 athletic event not related to firearms; any portion of an
245 establishment, licensed to dispense alcoholic beverages for
246 consumption on the premises, that is primarily devoted to
247 dispensing alcoholic beverages; any portion of an establishment in
248 which beer or light wine is consumed on the premises, that is
249 primarily devoted to such purpose; any elementary or secondary
250 school facility; any junior college, community college, college or
251 university facility unless for the purpose of participating in any
252 authorized firearms-related activity; inside the passenger
253 terminal of any airport, except that no person shall be prohibited
254 from carrying any legal firearm into the terminal if the firearm
255 is encased for shipment, for purposes of checking such firearm as
256 baggage to be lawfully transported on any aircraft; any church or



257 other place of worship; or any place where the carrying of
258 firearms is prohibited by federal law. In addition to the places
259 enumerated in this subsection, the carrying of a concealed pistol
260 or revolver may be disallowed in any place in the discretion of
261 the person or entity exercising control over the physical location
262 of such place by the placing of a written notice clearly readable
263 at a distance of not less than ten (10) feet that the "carrying of
264 a pistol or revolver is prohibited." No license issued pursuant
265 to this section shall authorize the participants in a parade or
266 demonstration for which a permit is required to carry a concealed
267 pistol or revolver.

268 (14) A law enforcement officer as defined in Section 45-6-3,
269 chiefs of police, sheriffs and persons licensed as professional
270 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of
271 1972, shall be exempt from the licensing requirements of this
272 section. Retired law enforcement officers, chiefs of police,
273 sheriffs and bondsmen shall be exempt from the licensing
274 requirements of this section.

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

281 (16) All fees collected by the Department of Public Safety
282 pursuant to this section shall be deposited into a special fund
283 hereby created in the State Treasury and shall be used for
284 implementation and administration of this section. After the
285 close of each fiscal year the balance in this fund shall be
286 certified to the Legislature and then may be used by the
287 Department of Public Safety as directed by the Legislature.

288 (17) All funds received by a sheriff or police chief
289 pursuant to the provisions of this section shall be deposited into



290 the general fund of the county or municipality, as appropriate,
291 and shall be budgeted to the sheriff's office or police department
292 as appropriate.

293 (18) Nothing in this section shall be construed to require
294 or allow the registration, documentation or providing of serial
295 numbers with regard to any firearm. Further, nothing in this
296 section shall be construed to allow the open and unconcealed
297 carrying of any deadly weapon as described in Section 97-37-1,
298 Mississippi Code of 1972.

299 (19) Any person holding a valid unrevoked and unexpired
300 license to carry concealed pistols or revolvers issued in another
301 state having requirements substantially similar to those of this
302 state shall have such license recognized by this state to carry
303 concealed pistols or revolvers, provided that the issuing state
304 authorizes license holders from this state to carry concealed
305 pistols or revolvers in such issuing state and the appropriate
306 authority has communicated that fact to the Department of Public
307 Safety.

308 **SECTION 2.** This act shall take effect and be in force from
309 and after July 1, 2002.

