

By: Representative Franks

To: Judiciary B

HOUSE BILL NO. 1505

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,  
2 TO REMOVE THE AUTHORITY OF A PERSON OR ENTITY THAT EXERCISES  
3 CONTROL OVER A PHYSICAL LOCATION TO PROHIBIT THE CARRYING OF A  
4 CONCEALED PISTOL OR REVOLVER ON THE PREMISES OF SUCH LOCATION; AND  
5 FOR RELATED PURPOSES.

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

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

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

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

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

25 (a) Is a resident of the state and has been a resident  
26 for twelve (12) months or longer immediately preceding the filing  
27 of the application. However, this residency requirement may be  
28 waived, provided the applicant possesses a valid permit from

29 another state, is active military personnel stationed in  
30 Mississippi or is a retired law enforcement officer establishing  
31 residency in the state.

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

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

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

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

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

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

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

66           (i) Has not been voluntarily or involuntarily committed  
67 to a mental institution or mental health treatment facility unless  
68 he possesses a certificate from a psychiatrist licensed in this  
69 state that he has not suffered from disability for a period of  
70 five (5) years;

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

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

76           (l) Is not disqualified to possess or own a weapon  
77 based on federal law.

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

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

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

99 (b) The driver's license number or Social Security  
100 number of applicant;

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

103 (d) A statement that the applicant is in compliance  
104 with criteria contained within subsections (2) and (3) of this  
105 section;

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

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

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

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

116 (a) A completed application as described in subsection  
117 (4) of this section;

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

119 (c) A nonrefundable license fee of One Hundred Dollars  
120 (\$100.00). Costs for processing the set of fingerprints as  
121 required in paragraph (c) of this subsection shall be borne by the  
122 applicant. Honorably retired law enforcement officers shall be  
123 exempt from the payment of the license fee;

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

126           (e) A waiver authorizing the Department of Public  
127 Safety access to any records concerning commitments of the  
128 applicant to any of the treatment facilities or institutions  
129 referred to in subsection (2) and permitting access to all the  
130 applicant's criminal records.

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

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

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

152                   (i) Issue the license; or

153                   (ii) Deny the application based solely on the  
154 ground that the applicant fails to qualify under the criteria  
155 listed in subsections (2) and (3) of this section. If the  
156 Department of Public Safety denies the application, it shall  
157 notify the applicant in writing, stating the ground for denial,

158 and the denial shall be subject to the appeal process set forth in  
159 subsection (7).

160 (d) In the event a legible set of fingerprints, as  
161 determined by the Department of Public Safety and the Federal  
162 Bureau of Investigation, cannot be obtained after a minimum of two  
163 (2) attempts, the Department of Public Safety shall determine  
164 eligibility based upon a name check by the Mississippi Highway  
165 Safety Patrol and a Federal Bureau of Investigation name check  
166 conducted by the Mississippi Highway Safety Patrol at the request  
167 of the Department of Public Safety.

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

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

191           (8) The Department of Public Safety shall maintain an  
192 automated listing of license holders and such information shall be  
193 available on-line, upon request, at all times, to all law  
194 enforcement agencies through the Mississippi Crime Information  
195 Center. However, the records of the department relating to  
196 applications for licenses to carry concealed pistols or revolvers  
197 and records relating to license holders shall be exempt from the  
198 provisions of the Mississippi Public Records Act of 1983 for a  
199 period of forty-five (45) days from the date of the issuance of  
200 the license or the final denial of an application.

201           (9) Within thirty (30) days after the changing of a  
202 permanent address, or within thirty (30) days after having a  
203 license lost or destroyed, the licensee shall notify the  
204 Department of Public Safety in writing of such change or loss.  
205 Failure to notify the Department of Public Safety pursuant to the  
206 provisions of this subsection shall constitute a noncriminal  
207 violation with a penalty of Twenty-five Dollars (\$25.00) and shall  
208 be enforceable by a summons.

209           (10) In the event that a concealed pistol or revolver  
210 license is lost or destroyed, the person to whom the license was  
211 issued shall comply with the provisions of subsection (9) of this  
212 section and may obtain a duplicate, or substitute thereof, upon  
213 payment of Fifteen Dollars (\$15.00) to the Department of Public  
214 Safety, and furnishing a notarized statement to the department  
215 that such license has been lost or destroyed.

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

219           (12) No less than ninety (90) days prior to the expiration  
220 date of the license, the Department of Public Safety shall mail to  
221 each licensee a written notice of the expiration and a renewal  
222 form prescribed by the department. The licensee must renew his  
223 license on or before the expiration date by filing with the

224 department the renewal form, a notarized affidavit stating that  
225 the licensee remains qualified pursuant to the criteria specified  
226 in subsections (2) and (3) of this section, and a full set of  
227 fingerprints administered by the Department of Public Safety. A  
228 renewal fee of Fifty Dollars (\$50.00) shall also be submitted  
229 along with costs for processing the fingerprints; provided,  
230 however, that honorably retired law enforcement officers shall be  
231 exempt from this renewal fee. The Department of Public Safety  
232 shall forward the full set of fingerprints of the applicant to the  
233 appropriate agencies for state and federal processing. The  
234 license shall be renewed upon receipt of the completed renewal  
235 application and appropriate payment of fees. Additionally, a  
236 licensee who fails to file a renewal application on or before its  
237 expiration date must renew his license by paying a late fee of  
238 Fifteen Dollars (\$15.00). No license shall be renewed six (6)  
239 months or more after its expiration date, and such license shall  
240 be deemed to be permanently expired. A person whose license has  
241 been permanently expired may reapply for licensure; however, an  
242 application for licensure and fees pursuant to subsection (5) of  
243 this section must be submitted, and a background investigation  
244 shall be conducted pursuant to the provisions of this section.

245 (13) No license issued pursuant to this section shall  
246 authorize any person to carry a concealed pistol or revolver into  
247 any place of nuisance as defined in Section 95-3-1, Mississippi  
248 Code of 1972; any police, sheriff or highway patrol station; any  
249 detention facility, prison or jail; any courthouse; any courtroom,  
250 except that nothing in this section shall preclude a judge from  
251 carrying a concealed weapon or determining who will carry a  
252 concealed weapon in his courtroom; any polling place; any meeting  
253 place of the governing body of any governmental entity; any  
254 meeting of the Legislature or a committee thereof; any public park  
255 unless for the purpose of participating in any authorized  
256 firearms-related activity; any school, college or professional



257 athletic event not related to firearms; any portion of an  
258 establishment, licensed to dispense alcoholic beverages for  
259 consumption on the premises, that is primarily devoted to  
260 dispensing alcoholic beverages; any portion of an establishment in  
261 which beer or light wine is consumed on the premises, that is  
262 primarily devoted to such purpose; any elementary or secondary  
263 school facility; any junior college, community college, college or  
264 university facility unless for the purpose of participating in any  
265 authorized firearms-related activity; inside the passenger  
266 terminal of any airport, except that no person shall be prohibited  
267 from carrying any legal firearm into the terminal if the firearm  
268 is encased for shipment, for purposes of checking such firearm as  
269 baggage to be lawfully transported on any aircraft; any church or  
270 other place of worship; or any place where the carrying of  
271 firearms is prohibited by federal law. \* \* \* No license issued  
272 pursuant to this section shall authorize the participants in a  
273 parade or demonstration for which a permit is required to carry a  
274 concealed pistol or revolver.

275 (14) A law enforcement officer as defined in Section 45-6-3,  
276 chiefs of police, sheriffs and persons licensed as professional  
277 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of  
278 1972, shall be exempt from the licensing requirements of this  
279 section.

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

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

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

293 (17) All funds received by a sheriff or police chief  
294 pursuant to the provisions of this section shall be deposited into  
295 the general fund of the county or municipality, as appropriate,  
296 and shall be budgeted to the sheriff's office or police department  
297 as appropriate.

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

304 (19) Any person holding a valid unrevoked and unexpired  
305 license to carry concealed pistols or revolvers issued in another  
306 state shall have such license recognized by this state to carry  
307 concealed pistols or revolvers, provided that the issuing state  
308 authorizes license holders from this state to carry concealed  
309 pistols or revolvers in such issuing state and the appropriate  
310 authority has communicated that fact to the Department of Public  
311 Safety.

312 (20) The provisions of this section shall be under the  
313 supervision of the Commissioner of Public Safety. The  
314 commissioner is authorized to promulgate reasonable rules and  
315 regulations to carry out the provisions of this section.

316 **SECTION 2.** This act shall take effect and be in force from  
317 and after July 1, 2005.