

By: Senator(s) Davis

To: Judiciary, Division B

SENATE BILL NO. 2085

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT PERSONS AGED 65 AND OLDER FROM PAYMENT OF LICENSE AND
3 RENEWAL FEES WHEN OBTAINING A PERMIT TO CARRY A CONCEALED WEAPON,
4 BUT NOT FROM THE PAYMENT OF ANY FINGERPRINT PROCESSING FEES; 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 online, 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 and any
231 Mississippi resident aged sixty-five (65) years of age or older
232 shall be exempt from the renewal fee. The Department of Public
233 Safety shall forward the full set of fingerprints of the applicant
234 to the appropriate agencies for state and federal processing. The
235 license shall be renewed upon receipt of the completed renewal
236 application and appropriate payment of fees. Additionally, a
237 licensee who fails to file a renewal application on or before its
238 expiration date must renew his license by paying a late fee of
239 Fifteen Dollars (\$15.00). No license shall be renewed six (6)
240 months or more after its expiration date, and such license shall
241 be deemed to be permanently expired. A person whose license has
242 been permanently expired may reapply for licensure; however, an
243 application for licensure and fees pursuant to subsection (5) of
244 this section must be submitted, and a background investigation
245 shall be conducted pursuant to the provisions of this section.

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

257 firearms-related activity; any school, college or professional
258 athletic event not related to firearms; any portion of an
259 establishment, licensed to dispense alcoholic beverages for
260 consumption on the premises, that is primarily devoted to
261 dispensing alcoholic beverages; any portion of an establishment in
262 which beer or light wine is consumed on the premises, that is
263 primarily devoted to such purpose; any elementary or secondary
264 school facility; any junior college, community college, college or
265 university facility unless for the purpose of participating in any
266 authorized firearms-related activity; inside the passenger
267 terminal of any airport, except that no person shall be prohibited
268 from carrying any legal firearm into the terminal if the firearm
269 is encased for shipment, for purposes of checking such firearm as
270 baggage to be lawfully transported on any aircraft; any church or
271 other place of worship; or any place where the carrying of
272 firearms is prohibited by federal law. In addition to the places
273 enumerated in this subsection, the carrying of a concealed pistol
274 or revolver may be disallowed in any place in the discretion of
275 the person or entity exercising control over the physical location
276 of such place by the placing of a written notice clearly readable
277 at a distance of not less than ten (10) feet that the "carrying of
278 a pistol or revolver is prohibited." No license issued pursuant
279 to this section shall authorize the participants in a parade or
280 demonstration for which a permit is required to carry a concealed
281 pistol or revolver.

282 (14) A law enforcement officer as defined in Section 45-6-3,
283 chiefs of police, sheriffs and persons licensed as professional
284 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of
285 1972, shall be exempt from the licensing requirements of this
286 section.

287 (15) Any person who knowingly submits a false answer to any
288 question on an application for a license issued pursuant to this
289 section, or who knowingly submits a false document when applying

290 for a license issued pursuant to this section, shall, upon
291 conviction, be guilty of a misdemeanor and shall be punished as
292 provided in Section 99-19-31, Mississippi Code of 1972.

293 (16) All fees collected by the Department of Public Safety
294 pursuant to this section shall be deposited into a special fund
295 hereby created in the State Treasury and shall be used for
296 implementation and administration of this section. After the
297 close of each fiscal year, the balance in this fund shall be
298 certified to the Legislature and then may be used by the
299 Department of Public Safety as directed by the Legislature.

300 (17) All funds received by a sheriff or police chief
301 pursuant to the provisions of this section shall be deposited into
302 the general fund of the county or municipality, as appropriate,
303 and shall be budgeted to the sheriff's office or police department
304 as appropriate.

305 (18) Nothing in this section shall be construed to require
306 or allow the registration, documentation or providing of serial
307 numbers with regard to any firearm. Further, nothing in this
308 section shall be construed to allow the open and unconcealed
309 carrying of any deadly weapon as described in Section 97-37-1,
310 Mississippi Code of 1972.

311 (19) Any person holding a valid unrevoked and unexpired
312 license to carry concealed pistols or revolvers issued in another
313 state shall have such license recognized by this state to carry
314 concealed pistols or revolvers, provided that the issuing state
315 authorizes license holders from this state to carry concealed
316 pistols or revolvers in such issuing state and the appropriate
317 authority has communicated that fact to the Department of Public
318 Safety.

319 (20) The provisions of this section shall be under the
320 supervision of the Commissioner of Public Safety. The
321 commissioner is authorized to promulgate reasonable rules and
322 regulations to carry out the provisions of this section.

323 **SECTION 2.** This act shall take effect and be in force from
324 and after July 1, 2007.