

By: Representatives Hood, Morgan, Patterson, To: Judiciary B
Mettetal, Beckett, Rogers (61st), Tullos,
Oliver, Baker, Kinkade, Hale, Rushing,
Formby, Chism, Byrd, Mims, Criswell, Willis,
Currie, Boyd, Henley, Bomgar, Hopkins,
Weathersby, Moore, Shirley, Staples, Crawford, Dixon, Horne, Brown

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 758

1 AN ACT TO AMEND SECTIONS 45-9-51 AND 45-9-53, MISSISSIPPI
2 CODE OF 1972, TO CLARIFY THAT NO CITY, COUNTY, STATE AGENCY, BOARD
3 OR COMMISSION MAY REQUIRE A SPECIAL TAXATION ON THE CARRYING OF
4 FIREARMS; TO ALSO PROHIBIT SUCH FROM CREATING RESTRICTIONS
5 REGARDING FIREARMS; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 45-9-51, Mississippi Code of 1972, is
8 amended as follows:

9 45-9-51. (1) Subject to the provisions of Section 45-9-53,
10 no county * * *, municipality, state agency, commission or board
11 may adopt any ordinance or regulation that restricts or requires
12 special taxation on the possession, carrying, transportation,
13 sale, transfer or ownership of firearms or ammunition or their
14 components.

15 (2) No public housing authority operating in this state may
16 adopt any rule or regulation restricting a lessee or tenant of a
17 dwelling owned and operated by such public housing authority from
18 lawfully possessing firearms or ammunition or their components
19 within individual dwelling units or the transportation of such



20 firearms or ammunition or their components to and from such
21 dwelling.

22 **SECTION 2.** Section 45-9-53, Mississippi Code of 1972, is
23 amended as follows:

24 45-9-53. (1) This section and Section 45-9-51 do not affect
25 the authority that a county * * *, municipality, state agency,
26 commission or board may have under another law:

27 (a) To require citizens or public employees to be armed
28 for personal or national defense, law enforcement, or another
29 lawful purpose;

30 (b) To regulate the discharge of firearms within the
31 limits of the county * * *, municipality, or on property owned,
32 controlled or regulated by a state agency, commission or board. A
33 county or municipality may not apply a regulation relating to the
34 discharge of firearms or other weapons in the extraterritorial
35 jurisdiction of the county or municipality or in an area annexed
36 by the county or municipality after September 1, 1981, if the
37 firearm or other weapon is:

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

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

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



45 (ii) A center fire or rimfire rifle or pistol or a
46 muzzle-loading rifle or pistol of any caliber discharged:

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

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

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

57 (d) To regulate the use of firearms in cases of
58 insurrection, riots and natural disasters in which the city finds
59 such regulation necessary to protect the health and safety of the
60 public. However, the provisions of this section shall not apply
61 to the lawful possession of firearms, ammunition or components of
62 firearms or ammunition;

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

68 (f) To regulate the carrying of a firearm at: (i) a
69 public park or at a public meeting of a county,



70 municipality * * *, other governmental body state agency,
71 commission or board; (ii) a political rally, parade or official
72 political meeting; or (iii) a nonfirearm-related school, college
73 or professional athletic event; or

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

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

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

83 (4) No county * * *, municipality, state agency, commission
84 or board may use the written notice provisions of Section
85 45-9-101(13) to prohibit concealed firearms on property under
86 their control except:

87 (a) At a location listed in Section 45-9-101(13)
88 indicating that a license issued under Section 45-9-101 does not
89 authorize the holder to carry a firearm into that location, as
90 long as the sign also indicates that carrying a firearm is
91 unauthorized only for license holders without a training
92 endorsement or that it is a location included in Section
93 97-37-7(2) where carrying a firearm is unauthorized for all
94 license holders; and



95 (b) At any location under the control of the county or
96 municipality aside from a location listed in subsection (1)(f) of
97 this section or Section 45-9-101(13) indicating that the
98 possession of a firearm is prohibited on the premises, as long as
99 the sign also indicates that it does not apply to a person
100 properly licensed under Section 45-9-101 or Section 97-37-7(2) to
101 carry a concealed firearm or to a person lawfully carrying a
102 firearm that is not concealed.

103 (5) (a) A citizen of this state, or a person licensed to
104 carry a concealed pistol or revolver under Section 45-9-101, or a
105 person licensed to carry a concealed pistol or revolver with the
106 endorsement under Section 97-37-7, who is adversely affected by an
107 ordinance, regulation, or posted written notice adopted by a
108 county or municipality, or state agency in violation of this
109 section may file suit for declarative and injunctive relief
110 against a county * * *, municipality, state agency, commission or
111 board in the circuit court which shall have jurisdiction over the
112 county * * *, municipality or state agency where the violation of
113 this section occurs.

114 (b) Before instituting suit under this subsection, the
115 party adversely impacted by the ordinance, regulation or posted
116 written notice shall notify the Attorney General in writing of the
117 violation and include evidence of the violation. The Attorney
118 General shall, within thirty (30) days, investigate whether the
119 county * * *, municipality or state agency adopted an ordinance,



120 regulation, or posted written notice in violation of this section
121 and provide the chief administrative officer of the county * * *,
122 municipality or state agency notice of his findings, including, if
123 applicable, a description of the violation and specific language
124 of the ordinance, * * * regulation, or posted written notice found
125 to be in violation. The county * * *, municipality, state agency,
126 commission or board shall have thirty (30) days from receipt of
127 that notice to cure the violation. If the county * * *,
128 municipality or state agency fails to cure the violation within
129 that thirty-day time period, a suit under paragraph (a) of this
130 subsection may proceed. The findings of the Attorney General
131 shall constitute a "Public Record" as defined by the Mississippi
132 Public Records Act of 1983, Section 25-61-1 et seq.

133 (c) If the circuit court finds that a county * * *,
134 municipality, state agency, commission or board adopted an
135 ordinance, regulation, or posted written notice in violation of
136 this section and failed to cure that violation in accordance with
137 paragraph (b) of this subsection, the circuit court shall issue a
138 permanent injunction against a county * * *, municipality or state
139 agency prohibiting it from enforcing the ordinance, regulation or
140 posted written notice. Any * * * official under whose
141 jurisdiction the violation occurred may be civilly liable in a sum
142 not to exceed One Thousand Dollars (\$1,000.00), plus all
143 reasonable attorney's fees and costs incurred by the party
144 bringing the suit. Public funds may not be used to defend or



145 reimburse officials who are found by the court to have violated
146 this section.

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

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

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

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

159 (6) No county * * *, municipality, state agency, commission
160 or board or their officers or employees may participate in any
161 program in which individuals are given a thing of value provided
162 by another individual or other entity in exchange for surrendering
163 a firearm to the county, municipality or other governmental body
164 unless:

165 (a) The * * * ordinance or regulation authorizing the
166 participation * * * in such a program is duly adopted by the
167 appropriate body; and

168 (b) Any ordinance or regulation enacted pursuant to
169 this section must require that any firearm received shall be



170 offered for sale at auction as provided by Sections 19-3-85 and
171 21-39-21 to federally licensed firearms dealers, with the proceeds
172 from such sale at auction reverting to the general operating fund
173 of the county, municipality * * *, other governmental body, state
174 agency, commission or board. Any firearm remaining in possession
175 of the county, municipality or other governmental body after
176 attempts to sell at auction may be disposed of in a manner that
177 the body deems appropriate.

178 (7) This section and Section 45-9-51 do not affect the
179 authority of a state agency to prohibit firearms in a location
180 listed in Section 97-37-7(2).

181 **SECTION 3.** This act shall take effect and be in force from
182 and after July 1, 2016.

