

By: Representatives Gipson, Arnold, Baker, Barnett, Beckett, Bomgar, Bounds, Boyd, Byrd, Carpenter, Chism, Criswell, Currie, Gibbs (36th), Guice, Hale, Hopkins, Mangold, Massengill, McLeod, Mettetal, Oliver, Roberson, Rogers (14th), Rogers (61st), Scoggin, Staples, Steverson, Tullos, Wilson, Ford, Horne, Mims, Shirley, Patterson, Crawford, Morgan, Brown, Weathersby, Henley

To: Judiciary B

COMMITTEE SUBSTITUTE
 FOR
 HOUSE BILL NO. 1083

1 AN ACT TO AMEND SECTION 97-37-7, MISSISSIPPI CODE OF 1972, TO
 2 AUTHORIZE ANY PERSON WHO HAS AN ENHANCED FIREARMS LICENSE TO CARRY
 3 SUCH FIREARM ON PUBLIC PROPERTY; TO AMEND SECTION 45-9-101,
 4 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING AMENDMENT;
 5 TO BRING FORWARD SECTIONS 45-9-171, 97-37-9 AND 97-3-15,
 6 MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; AND FOR
 7 RELATED PURPOSES.

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

9 **SECTION 1.** Section 97-37-7, Mississippi Code of 1972, is
 10 amended as follows:

11 97-37-7. (1) (a) It shall not be a violation of Section
 12 97-37-1 or any other statute for pistols, firearms or other
 13 suitable and appropriate weapons to be carried by duly constituted
 14 bank guards, company guards, watchmen, railroad special agents or
 15 duly authorized representatives who are not sworn law enforcement
 16 officers, agents or employees of a patrol service, guard service,
 17 or a company engaged in the business of transporting money,
 18 securities or other valuables, while actually engaged in the
 19 performance of their duties as such, provided that such persons
 20 have made a written application and paid a nonrefundable permit



21 fee of One Hundred Dollars (\$100.00) to the Department of Public
22 Safety.

23 (b) No permit shall be issued to any person who has
24 ever been convicted of a felony under the laws of this or any
25 other state or of the United States. To determine an applicant's
26 eligibility for a permit, the person shall be fingerprinted. If
27 no disqualifying record is identified at the state level, the
28 fingerprints shall be forwarded by the Department of Public Safety
29 to the Federal Bureau of Investigation for a national criminal
30 history record check. The department shall charge a fee which
31 includes the amounts required by the Federal Bureau of
32 Investigation and the department for the national and state
33 criminal history record checks and any necessary costs incurred by
34 the department for the handling and administration of the criminal
35 history background checks. In the event a legible set of
36 fingerprints, as determined by the Department of Public Safety and
37 the Federal Bureau of Investigation, cannot be obtained after a
38 minimum of three (3) attempts, the Department of Public Safety
39 shall determine eligibility based upon a name check by the
40 Mississippi Highway Safety Patrol and a Federal Bureau of
41 Investigation name check conducted by the Mississippi Highway
42 Safety Patrol at the request of the Department of Public Safety.

43 (c) A person may obtain a duplicate of a lost or
44 destroyed permit upon payment of a Fifteen Dollar (\$15.00)
45 replacement fee to the Department of Public Safety, if he



46 furnishes a notarized statement to the department that the permit
47 has been lost or destroyed.

48 (d) (i) No less than ninety (90) days prior to the
49 expiration date of a permit, the Department of Public Safety shall
50 mail to the permit holder written notice of expiration together
51 with the renewal form prescribed by the department. The permit
52 holder shall renew the permit on or before the expiration date by
53 filing with the department the renewal form, a notarized affidavit
54 stating that the permit holder remains qualified, and the renewal
55 fee of Fifty Dollars (\$50.00); honorably retired law enforcement
56 officers shall be exempt from payment of the renewal fee. A
57 permit holder who fails to file a renewal application on or before
58 its expiration date shall pay a late fee of Fifteen Dollars
59 (\$15.00).

60 (ii) Renewal of the permit shall be required every
61 four (4) years. The permit of a qualified renewal applicant shall
62 be renewed upon receipt of the completed renewal application and
63 appropriate payment of fees.

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

68 (2) It shall not be a violation of this or any other statute
69 for pistols, firearms or other suitable and appropriate weapons to
70 be carried by Department of Wildlife, Fisheries and Parks law



71 enforcement officers, railroad special agents who are sworn law
72 enforcement officers, investigators employed by the Attorney
73 General, criminal investigators employed by the district
74 attorneys, all prosecutors, public defenders, investigators or
75 probation officers employed by the Department of Corrections,
76 employees of the State Auditor who are authorized by the State
77 Auditor to perform investigative functions, or any deputy fire
78 marshal or investigator employed by the State Fire Marshal, while
79 engaged in the performance of their duties as such, or by fraud
80 investigators with the Department of Human Services, or by judges
81 of the Mississippi Supreme Court, Court of Appeals, circuit,
82 chancery, county, justice and municipal courts, or by coroners.
83 Before any person shall be authorized under this subsection to
84 carry a weapon, he shall complete a weapons training course
85 approved by the Board of Law Enforcement Officer Standards and
86 Training. Before any criminal investigator employed by a district
87 attorney shall be authorized under this section to carry a pistol,
88 firearm or other weapon, he shall have complied with Section
89 45-6-11 or any training program required for employment as an
90 agent of the Federal Bureau of Investigation. A law enforcement
91 officer, as defined in Section 45-6-3, shall be authorized to
92 carry weapons in courthouses in performance of his official
93 duties. A person licensed under Section 45-9-101 to carry a
94 concealed pistol, who (a) has voluntarily completed an
95 instructional course in the safe handling and use of firearms



96 offered by an instructor certified by a nationally recognized
97 organization that customarily offers firearms training, or by any
98 other organization approved by the Department of Public Safety,
99 (b) is a member or veteran of any active or reserve component
100 branch of the United States of America Armed Forces having
101 completed law enforcement or combat training with pistols or other
102 handguns as recognized by such branch after submitting an
103 affidavit attesting to have read, understand and agree to comply
104 with all provisions of the enhanced carry law, or (c) is an
105 honorably retired law enforcement officer or honorably retired
106 member or veteran of any active or reserve component branch of the
107 United States of America Armed Forces having completed law
108 enforcement or combat training with pistols or other handguns,
109 after submitting an affidavit attesting to have read, understand
110 and agree to comply with all provisions of Mississippi enhanced
111 carry law shall also be authorized to carry weapons in courthouses
112 except in courtrooms during a judicial proceeding, * * * any
113 location listed in subsection (13) of Section 45-9-101, and any
114 other public property, or portion of public property, except any
115 place of nuisance as defined in Section 95-3-1, any police,
116 sheriff or highway patrol station or any detention facility,
117 prison or jail. Any rule, regulation, or other policy that has
118 the effect of limiting the locations on public property, or a
119 portion of public property where a person may carry a concealed
120 pistol pursuant to the Mississippi enhanced carry law beyond the



121 locations described in this subsection shall have no force or
122 effect. For the purposes of this subsection (2), component branch
123 of the United States Armed Forces includes the Army, Navy, Air
124 Force, Coast Guard or Marine Corps, or the Army National Guard,
125 the Army National Guard of the United States, the Air National
126 Guard or the Air National Guard of the United States, as those
127 terms are defined in Section 101, Title 10, United States Code,
128 and any other reserve component of the United States Armed Forces
129 enumerated in Section 10101, Title 10, United States Code. The
130 department shall promulgate rules and regulations allowing
131 concealed pistol permit holders to obtain an endorsement on their
132 permit indicating that they have completed the aforementioned
133 course and have the authority to carry in these locations. This
134 section shall in no way interfere with the right of a trial judge
135 to restrict the carrying of firearms in the courtroom.

136 (3) It shall not be a violation of this or any other statute
137 for pistols, firearms or other suitable and appropriate weapons,
138 to be carried by any out-of-state, full-time commissioned law
139 enforcement officer who holds a valid commission card from the
140 appropriate out-of-state law enforcement agency and a photo
141 identification. The provisions of this subsection shall only
142 apply if the state where the out-of-state officer is employed has
143 entered into a reciprocity agreement with the state that allows
144 full-time commissioned law enforcement officers in Mississippi to
145 lawfully carry or possess a weapon in such other states. The



146 Commissioner of Public Safety is authorized to enter into
147 reciprocal agreements with other states to carry out the
148 provisions of this subsection.

149 (4) (a) A person licensed to carry a concealed pistol or
150 revolver with the endorsement under Section 97-37-7, who is
151 adversely affected by a rule, regulation, policy, or posted
152 written notice adopted by an agency, entity, or person in
153 violation of this section may file suit for declarative and
154 injunctive relief against the agency, entity, or person in the
155 circuit court which shall have jurisdiction over the location
156 where the violation of this section occurs.

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



171 under paragraph (a) of this subsection may proceed. The findings
172 of the Attorney General shall constitute a "Public Record" as
173 defined by the Mississippi Public Records Act of 1983, Section
174 25-61-1 et seq.

175 (c) If the circuit court finds that an agency, entity,
176 or person adopted a rule, regulation, policy, or posted written
177 notice in violation of this section and failed to cure that
178 violation in accordance with paragraph (b) of this subsection, the
179 circuit court shall issue a permanent injunction against an
180 agency, entity, or person prohibiting the enforcement of the rule,
181 regulation, policy, or posted written notice.

182 **SECTION 2.** Section 45-9-101, Mississippi Code of 1972, is
183 amended as follows:

184 45-9-101. (1) (a) Except as otherwise provided, the
185 Department of Public Safety is authorized to issue licenses to
186 carry stun guns, concealed pistols or revolvers to persons
187 qualified as provided in this section. Such licenses shall be
188 valid throughout the state for a period of five (5) years from the
189 date of issuance. Any person possessing a valid license issued
190 pursuant to this section may carry a stun gun, concealed pistol or
191 concealed revolver.

192 (b) The licensee must carry the license, together with
193 valid identification, at all times in which the licensee is
194 carrying a stun gun, concealed pistol or revolver and must display
195 both the license and proper identification upon demand by a law



196 enforcement officer. A violation of the provisions of this
197 paragraph (b) shall constitute a noncriminal violation with a
198 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable
199 by summons.

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

202 (a) Is a resident of the state. However, this
203 residency requirement may be waived if the applicant possesses a
204 valid permit from another state, is active military personnel
205 stationed in Mississippi, or is a retired law enforcement officer
206 establishing residency in the state;

207 (b) (i) Is twenty-one (21) years of age or older; or
208 (ii) Is at least eighteen (18) years of age but
209 not yet twenty-one (21) years of age and the applicant:

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

212 2. Holds a valid Mississippi driver's license
213 or identification card issued by the Department of Public Safety;

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

216 (d) Is not ineligible to possess a firearm by virtue of
217 having been convicted of a felony in a court of this state, of any
218 other state, or of the United States without having been pardoned
219 for same, unless that pardon expressly provides that the person
220 may not ship, transport, possess or receive firearms. A



221 conviction which has been expunged pursuant to state law shall not
222 be considered a conviction for purposes of this subsection;

223 (e) Does not chronically or habitually abuse controlled
224 substances to the extent that his normal faculties are impaired.
225 It shall be presumed that an applicant chronically and habitually
226 uses controlled substances to the extent that his faculties are
227 impaired if the applicant has been voluntarily or involuntarily
228 committed to a treatment facility for the abuse of a controlled
229 substance or been found guilty of a crime under the provisions of
230 the Uniform Controlled Substances Law or similar laws of any other
231 state or the United States relating to controlled substances
232 within a three-year period immediately preceding the date on which
233 the application is submitted;

234 (f) Does not chronically and habitually use alcoholic
235 beverages to the extent that his normal faculties are impaired.
236 It shall be presumed that an applicant chronically and habitually
237 uses alcoholic beverages to the extent that his normal faculties
238 are impaired if the applicant has been voluntarily or
239 involuntarily committed as an alcoholic to a treatment facility or
240 has been convicted of two (2) or more offenses related to the use
241 of alcohol under the laws of this state or similar laws of any
242 other state or the United States within the three-year period
243 immediately preceding the date on which the application is
244 submitted;



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

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

250 (i) Has not been voluntarily or involuntarily committed
251 to a mental institution or mental health treatment facility unless
252 he possesses a certificate from a psychiatrist licensed in this
253 state that he has not suffered from disability for a period of
254 five (5) years;

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

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

260 (l) Is not disqualified to possess a weapon based on
261 federal law.

262 (3) The Department of Public Safety may deny a license if
263 the applicant has been found guilty of one or more crimes of
264 violence constituting a misdemeanor unless three (3) years have
265 elapsed since probation or any other conditions set by the court
266 have been fulfilled or expunction has occurred prior to the date
267 on which the application is submitted, or may revoke a license if
268 the licensee has been found guilty of one or more crimes of
269 violence within the preceding three (3) years. The department



270 shall, upon notification by a law enforcement agency or a court
271 and subsequent written verification, suspend a license or the
272 processing of an application for a license if the licensee or
273 applicant is arrested or formally charged with a crime which would
274 disqualify such person from having a license under this section,
275 until final disposition of the case. The provisions of subsection
276 (7) of this section shall apply to any suspension or revocation of
277 a license pursuant to the provisions of this section.

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

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

283 (b) The driver's license number or social security
284 number of applicant;

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

287 (d) A statement that the applicant is in compliance
288 with criteria contained within subsections (2) and (3) of this
289 section;

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

292 (f) A conspicuous warning that the application is
293 executed under oath and that a knowingly false answer to any



294 question, or the knowing submission of any false document by the
295 applicant, subjects the applicant to criminal prosecution; and

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

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

301 (a) A completed application as described in subsection
302 (4) of this section;

303 (b) A full-face photograph of the applicant taken
304 within the preceding thirty (30) days in which the head, including
305 hair, in a size as determined by the Department of Public Safety,
306 except that an applicant who is younger than twenty-one (21) years
307 of age must submit a photograph in profile of the applicant;

308 (c) A nonrefundable license fee of Eighty Dollars
309 (\$80.00). Costs for processing the set of fingerprints as
310 required in paragraph (d) of this subsection shall be borne by the
311 applicant. Honorably retired law enforcement officers, disabled
312 veterans and active duty members of the Armed Forces of the United
313 States shall be exempt from the payment of the license fee;

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

316 (e) A waiver authorizing the Department of Public
317 Safety access to any records concerning commitments of the
318 applicant to any of the treatment facilities or institutions



319 referred to in subsection (2) and permitting access to all the
320 applicant's criminal records.

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

325 (b) The Department of Public Safety shall forward a
326 copy of the applicant's application to the sheriff of the
327 applicant's county of residence and, if applicable, the police
328 chief of the applicant's municipality of residence. The sheriff
329 of the applicant's county of residence and, if applicable, the
330 police chief of the applicant's municipality of residence may, at
331 his discretion, participate in the process by submitting a
332 voluntary report to the Department of Public Safety containing any
333 readily discoverable prior information that he feels may be
334 pertinent to the licensing of any applicant. The reporting shall
335 be made within thirty (30) days after the date he receives the
336 copy of the application. Upon receipt of a response from a
337 sheriff or police chief, such sheriff or police chief shall be
338 reimbursed at a rate set by the department.

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

342 (i) Issue the license;



343 (ii) Deny the application based solely on the
344 ground that the applicant fails to qualify under the criteria
345 listed in subsections (2) and (3) of this section. If the
346 Department of Public Safety denies the application, it shall
347 notify the applicant in writing, stating the ground for denial,
348 and the denial shall be subject to the appeal process set forth in
349 subsection (7); or

350 (iii) Notify the applicant that the department is
351 unable to make a determination regarding the issuance or denial of
352 a license within the forty-five-day period prescribed by this
353 subsection, and provide an estimate of the amount of time the
354 department will need to make the determination.

355 (d) In the event a legible set of fingerprints, as
356 determined by the Department of Public Safety and the Federal
357 Bureau of Investigation, cannot be obtained after a minimum of two
358 (2) attempts, the Department of Public Safety shall determine
359 eligibility based upon a name check by the Mississippi Highway
360 Safety Patrol and a Federal Bureau of Investigation name check
361 conducted by the Mississippi Highway Safety Patrol at the request
362 of the Department of Public Safety.

363 (7) (a) If the Department of Public Safety denies the
364 issuance of a license, or suspends or revokes a license, the party
365 aggrieved may appeal such denial, suspension or revocation to the
366 Commissioner of Public Safety, or his authorized agent, within
367 thirty (30) days after the aggrieved party receives written notice



368 of such denial, suspension or revocation. The Commissioner of
369 Public Safety, or his duly authorized agent, shall rule upon such
370 appeal within thirty (30) days after the appeal is filed and
371 failure to rule within this thirty-day period shall constitute
372 sustaining such denial, suspension or revocation. Such review
373 shall be conducted pursuant to such reasonable rules and
374 regulations as the Commissioner of Public Safety may adopt.

375 (b) If the revocation, suspension or denial of issuance
376 is sustained by the Commissioner of Public Safety, or his duly
377 authorized agent pursuant to paragraph (a) of this subsection, the
378 aggrieved party may file within ten (10) days after the rendition
379 of such decision a petition in the circuit or county court of his
380 residence for review of such decision. A hearing for review shall
381 be held and shall proceed before the court without a jury upon the
382 record made at the hearing before the Commissioner of Public
383 Safety or his duly authorized agent. No such party shall be
384 allowed to carry a stun gun, concealed pistol or revolver pursuant
385 to the provisions of this section while any such appeal is
386 pending.

387 (8) The Department of Public Safety shall maintain an
388 automated listing of license holders and such information shall be
389 available online, upon request, at all times, to all law
390 enforcement agencies through the Mississippi Crime Information
391 Center. However, the records of the department relating to
392 applications for licenses to carry stun guns, concealed pistols or



393 revolvers and records relating to license holders shall be exempt
394 from the provisions of the Mississippi Public Records Act of 1983,
395 and shall be released only upon order of a court having proper
396 jurisdiction over a petition for release of the record or records.

397 (9) Within thirty (30) days after the changing of a
398 permanent address, or within thirty (30) days after having a
399 license lost or destroyed, the licensee shall notify the
400 Department of Public Safety in writing of such change or loss.
401 Failure to notify the Department of Public Safety pursuant to the
402 provisions of this subsection shall constitute a noncriminal
403 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
404 be enforceable by a summons.

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

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

415 (12) (a) No less than ninety (90) days prior to the
416 expiration date of the license, the Department of Public Safety
417 shall mail to each licensee a written notice of the expiration and



418 a renewal form prescribed by the department. The licensee must
419 renew his license on or before the expiration date by filing with
420 the department the renewal form, a notarized affidavit stating
421 that the licensee remains qualified pursuant to the criteria
422 specified in subsections (2) and (3) of this section, and a full
423 set of fingerprints administered by the Department of Public
424 Safety or the sheriff of the county of residence of the licensee.
425 The first renewal may be processed by mail and the subsequent
426 renewal must be made in person. Thereafter every other renewal
427 may be processed by mail to assure that the applicant must appear
428 in person every ten (10) years for the purpose of obtaining a new
429 photograph.

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

433 (ii) Honorably retired law enforcement officers,
434 disabled veterans and active duty members of the Armed Forces of
435 the United States shall be exempt from the renewal fee; and

436 (iii) The renewal fee for a Mississippi resident
437 aged sixty-five (65) years of age or older shall be Twenty Dollars
438 (\$20.00).

439 (b) The Department of Public Safety shall forward the
440 full set of fingerprints of the applicant to the appropriate
441 agencies for state and federal processing. The license shall be



442 renewed upon receipt of the completed renewal application and
443 appropriate payment of fees.

444 (c) A licensee who fails to file a renewal application
445 on or before its expiration date must renew his license by paying
446 a late fee of Fifteen Dollars (\$15.00). No license shall be
447 renewed six (6) months or more after its expiration date, and such
448 license shall be deemed to be permanently expired. A person whose
449 license has been permanently expired may reapply for licensure;
450 however, an application for licensure and fees pursuant to
451 subsection (5) of this section must be submitted, and a background
452 investigation shall be conducted pursuant to the provisions of
453 this section.

454 (13) No license issued pursuant to this section shall
455 authorize any person to carry a stun gun, concealed pistol or
456 revolver into any place of nuisance as defined in Section 95-3-1,
457 Mississippi Code of 1972; any police, sheriff or highway patrol
458 station; any detention facility, prison or jail; any courthouse;
459 any courtroom, except that nothing in this section shall preclude
460 a judge from carrying a concealed weapon or determining who will
461 carry a concealed weapon in his courtroom; any polling place; any
462 meeting place of the governing body of any governmental entity;
463 any meeting of the Legislature or a committee thereof; any school,
464 college or professional athletic event not related to firearms;
465 any portion of an establishment, licensed to dispense alcoholic
466 beverages for consumption on the premises, that is primarily



467 devoted to dispensing alcoholic beverages; any portion of an
468 establishment in which beer or light wine is consumed on the
469 premises, that is primarily devoted to such purpose; any
470 elementary or secondary school facility; any junior college,
471 community college, college or university facility unless for the
472 purpose of participating in any authorized firearms-related
473 activity; inside the passenger terminal of any airport, except
474 that no person shall be prohibited from carrying any legal firearm
475 into the terminal if the firearm is encased for shipment, for
476 purposes of checking such firearm as baggage to be lawfully
477 transported on any aircraft; any church or other place of worship,
478 except as provided in Section 45-9-171; or any place where the
479 carrying of firearms is prohibited by federal law. In addition to
480 the places enumerated in this subsection, the carrying of a stun
481 gun, concealed pistol or revolver may be disallowed in any place
482 in the discretion of the person or entity exercising control over
483 the physical location of such place by the placing of a written
484 notice clearly readable at a distance of not less than ten (10)
485 feet that the "carrying of a pistol or revolver is prohibited."
486 No license issued pursuant to this section shall authorize the
487 participants in a parade or demonstration for which a permit is
488 required to carry a stun gun, concealed pistol or revolver.

489 (14) A law enforcement officer as defined in Section 45-6-3,
490 chiefs of police, sheriffs and persons licensed as professional
491 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of



492 1972, shall be exempt from the licensing requirements of this
493 section. The licensing requirements of this section do not apply
494 to the carrying by any person of a stun gun, pistol or revolver,
495 knife, or other deadly weapon that is not concealed as defined in
496 Section 97-37-1.

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

503 (16) All fees collected by the Department of Public Safety
504 pursuant to this section shall be deposited into a special fund
505 hereby created in the State Treasury and shall be used for
506 implementation and administration of this section. After the
507 close of each fiscal year, the balance in this fund shall be
508 certified to the Legislature and then may be used by the
509 Department of Public Safety as directed by the Legislature.

510 (17) All funds received by a sheriff or police chief
511 pursuant to the provisions of this section shall be deposited into
512 the general fund of the county or municipality, as appropriate,
513 and shall be budgeted to the sheriff's office or police department
514 as appropriate.



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

518 (19) Any person holding a valid unrevoked and unexpired
519 license to carry stun guns, concealed pistols or revolvers issued
520 in another state shall have such license recognized by this state
521 to carry stun guns, concealed pistols or revolvers. The
522 Department of Public Safety is authorized to enter into a
523 reciprocal agreement with another state if that state requires a
524 written agreement in order to recognize licenses to carry stun
525 guns, concealed pistols or revolvers issued by this state.

526 (20) The provisions of this section shall be under the
527 supervision of the Commissioner of Public Safety. The
528 commissioner is authorized to promulgate reasonable rules and
529 regulations to carry out the provisions of this section.

530 (21) For the purposes of this section, the term "stun gun"
531 means a portable device or weapon from which an electric current,
532 impulse, wave or beam may be directed, which current, impulse,
533 wave or beam is designed to incapacitate temporarily, injure,
534 momentarily stun, knock out, cause mental disorientation or
535 paralyze.

536 (22) (a) From and after January 1, 2016, the Commissioner
537 of Public Safety shall promulgate rules and regulations which
538 provide that licenses authorized by this section for honorably
539 retired law enforcement officers and honorably retired



540 correctional officers from the Mississippi Department of
541 Corrections shall (i) include the words "retired law enforcement
542 officer" on the front of the license, and (ii) that the license
543 itself have a red background to distinguish it from other licenses
544 issued under this section.

545 (b) An honorably retired law enforcement officer and
546 honorably retired correctional officer shall provide the following
547 information to receive the license described in this section: (i)
548 a letter, with the official letterhead of the agency or department
549 from which such officer is retiring, which explains that such
550 officer is honorably retired, and (ii) a letter with the official
551 letterhead of the agency or department, which explains that such
552 officer has completed a certified law enforcement training
553 academy.

554 (23) A disabled veteran who seeks to qualify for an
555 exemption under this section shall be required to provide, as
556 proof of service-connected disability, verification from the
557 United States Department of Veterans Affairs. A Veterans Health
558 Identification Card issued by the United States Department of
559 Veterans Affairs indicating a service-connected disability is
560 sufficient proof.

561 (24) A license under this section is not required for a
562 loaded or unloaded pistol or revolver to be carried upon the
563 person in a sheath, belt holster or shoulder holster or in a
564 purse, handbag, satchel, other similar bag or briefcase or fully



565 enclosed case if the person is not engaged in criminal activity
566 other than a misdemeanor traffic offense, is not otherwise
567 prohibited from possessing a pistol or revolver under state or
568 federal law, and is not in a location prohibited under subsection
569 (13) of this section.

570 **SECTION 3.** Section 45-9-171, Mississippi Code of 1972, is
571 brought forward as follows:

572 45-9-171. (1) This section shall be known and may be cited
573 as the "Mississippi Church Protection Act."

574 (2) (a) The governing body of any church or place of
575 worship may establish a security program by which designated
576 members are authorized to carry firearms for the protection of the
577 congregation of the church or place of worship, including
578 resisting any unlawful attempt to commit a violent felony listed
579 in Section 97-3-2(1) upon a member or other attendee in the church
580 or place of worship or on the immediate premises thereof. A
581 church or place of worship may establish a security program that
582 meets the requirements of subsection (2)(b) of this section, and a
583 member of the security program shall be immune from civil
584 liability for any action taken by a member of the security program
585 if the action in question occurs during the reasonable exercise of
586 and within the course and scope of the member's official duties as
587 a member of the security program for the church or place of
588 worship. For purposes of this section, "church" or "place of



589 worship" means only a bona fide duly constituted religious
590 society, ecclesiastical body, or any congregation thereof.

591 (b) In order to be eligible for the immunity provided
592 in this section:

593 (i) The program at a minimum must require that
594 each participant of the program possesses a firearms permit issued
595 under Section 45-9-101 and has completed an instructional course
596 in the safe handling and use of firearms as described in Section
597 97-37-7. The program may also include one or more persons with
598 law enforcement or military background who may assist the church
599 or place of worship in training of the members of the program;

600 (ii) The names of the members designated by the
601 church or place of worship to serve in the security program must
602 be spread upon the minutes of the body or otherwise noted in
603 writing at the time of the member's designation if the body does
604 not maintain minutes, and this written record must be made
605 available to law enforcement upon request during the course of
606 investigation after an incident in which the member used a firearm
607 while acting as a member of the security program; and

608 (iii) The member of the program who is claiming
609 immunity under the provisions of this section must have met the
610 requirements of this paragraph (b).

611 (3) A person who is indicted or charged with a violation of
612 criminal law while acting as a member of a security program of a
613 church or place of worship may assert as a defense, in addition to



614 any other defense available, that at the time of the action in
615 question, the person was a member of a church body or place of
616 worship security program, was then actually engaged in the
617 performance of the person's duties as a member of the program, and
618 had met the requirements of this section at the time of the action
619 in question.

620 **SECTION 4.** Section 97-37-9, Mississippi Code of 1972, is
621 brought forward as follows:

622 97-37-9. Any person indicted or charged for a violation of
623 Section 97-37-1 may show as a defense:

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

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

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

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

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

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



639 (g) That he was in lawful pursuit of a felon; or
640 (h) That he was lawfully engaged in legitimate sports;
641 (i) That at the time he was a company guard, bank
642 guard, watchman, or other person enumerated in Section 97-37-7,
643 and was then actually engaged in the performance of his duties as
644 such, and then held a valid permit from the sheriff, the
645 commissioner of public safety, or a valid permit issued by the
646 Secretary of State prior to May 1, 1974, to carry the weapon; and
647 the burden of proving either of said defenses shall be on the
648 accused; or

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

653 **SECTION 5.** Section 97-3-15, Mississippi Code of 1972, is
654 brought forward as follows:

655 97-3-15. (1) The killing of a human being by the act,
656 procurement or omission of another shall be justifiable in the
657 following cases:

658 (a) When committed by public officers, or those acting
659 by their aid and assistance, in obedience to any judgment of a
660 competent court;

661 (b) When necessarily committed by public officers, or
662 those acting by their command in their aid and assistance, in



663 overcoming actual resistance to the execution of some legal
664 process, or to the discharge of any other legal duty;

665 (c) When necessarily committed by public officers, or
666 those acting by their command in their aid and assistance, in
667 retaking any felon who has been rescued or has escaped;

668 (d) When necessarily committed by public officers, or
669 those acting by their command in their aid and assistance, in
670 arresting any felon fleeing from justice;

671 (e) When committed by any person in resisting any
672 attempt unlawfully to kill such person or to commit any felony
673 upon him, or upon or in any dwelling, in any occupied vehicle, in
674 any place of business, in any place of employment or in the
675 immediate premises thereof in which such person shall be;

676 (f) When committed in the lawful defense of one's own
677 person or any other human being, where there shall be reasonable
678 ground to apprehend a design to commit a felony or to do some
679 great personal injury, and there shall be imminent danger of such
680 design being accomplished;

681 (g) When necessarily committed in attempting by lawful
682 ways and means to apprehend any person for any felony committed;

683 (h) When necessarily committed in lawfully suppressing
684 any riot or in lawfully keeping and preserving the peace; and

685 (i) When necessarily committed in the performance of
686 duty as a member of a church or place of worship security program
687 as described in Section 45-9-171.



688 (2) (a) As used in subsection (1)(c) and (d) of this
689 section, the term "when necessarily committed" means that a public
690 officer or a person acting by or at the officer's command, aid or
691 assistance is authorized to use such force as necessary in
692 securing and detaining the felon offender, overcoming the
693 offender's resistance, preventing the offender's escape,
694 recapturing the offender if the offender escapes or in protecting
695 himself or others from bodily harm; but such officer or person
696 shall not be authorized to resort to deadly or dangerous means
697 when to do so would be unreasonable under the circumstances. The
698 public officer or person acting by or at the officer's command may
699 act upon a reasonable apprehension of the surrounding
700 circumstances; however, such officer or person shall not use
701 excessive force or force that is greater than reasonably necessary
702 in securing and detaining the offender, overcoming the offender's
703 resistance, preventing the offender's escape, recapturing the
704 offender if the offender escapes or in protecting himself or
705 others from bodily harm.

706 (b) As used in subsection (1)(c) and (d) of this
707 section the term "felon" shall include an offender who has been
708 convicted of a felony and shall also include an offender who is in
709 custody, or whose custody is being sought, on a charge or for an
710 offense which is punishable, upon conviction, by death or
711 confinement in the Penitentiary.



712 (c) As used in subsections (1)(e) and (3) of this
713 section, "dwelling" means a building or conveyance of any kind
714 that has a roof over it, whether the building or conveyance is
715 temporary or permanent, mobile or immobile, including a tent, that
716 is designed to be occupied by people lodging therein at night,
717 including any attached porch.

718 (3) A person who uses defensive force shall be presumed to
719 have reasonably feared imminent death or great bodily harm, or the
720 commission of a felony upon him or another or upon his dwelling,
721 or against a vehicle which he was occupying, or against his
722 business or place of employment or the immediate premises of such
723 business or place of employment, if the person against whom the
724 defensive force was used, was in the process of unlawfully and
725 forcibly entering, or had unlawfully and forcibly entered, a
726 dwelling, occupied vehicle, business, place of employment or the
727 immediate premises thereof or if that person had unlawfully
728 removed or was attempting to unlawfully remove another against the
729 other person's will from that dwelling, occupied vehicle,
730 business, place of employment or the immediate premises thereof
731 and the person who used defensive force knew or had reason to
732 believe that the forcible entry or unlawful and forcible act was
733 occurring or had occurred. This presumption shall not apply if
734 the person against whom defensive force was used has a right to be
735 in or is a lawful resident or owner of the dwelling, vehicle,
736 business, place of employment or the immediate premises thereof or



737 is the lawful resident or owner of the dwelling, vehicle,
738 business, place of employment or the immediate premises thereof or
739 if the person who uses defensive force is engaged in unlawful
740 activity or if the person is a law enforcement officer engaged in
741 the performance of his official duties.

742 (4) A person who is not the initial aggressor and is not
743 engaged in unlawful activity shall have no duty to retreat before
744 using deadly force under subsection (1)(e) or (f) of this section
745 if the person is in a place where the person has a right to be,
746 and no finder of fact shall be permitted to consider the person's
747 failure to retreat as evidence that the person's use of force was
748 unnecessary, excessive or unreasonable.

749 (5) (a) The presumptions contained in subsection (3) of
750 this section shall apply in civil cases in which self-defense or
751 defense of another is claimed as a defense.

752 (b) The court shall award reasonable attorney's fees,
753 court costs, compensation for loss of income, and all expenses
754 incurred by the defendant in defense of any civil action brought
755 by a plaintiff if the court finds that the defendant acted in
756 accordance with subsection (1)(e) or (f) of this section. A
757 defendant who has previously been adjudicated "not guilty" of any
758 crime by reason of subsection (1)(e) or (f) of this section shall
759 be immune from any civil action for damages arising from the same
760 conduct.



761 **SECTION 6.** This act shall take effect and be in force from
762 and after July 1, 2018.

