

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2013

By: Representatives Gipson, Formby, Staples, Monsour, Byrd, Bain, Brown (20th), DeBar, Mims, Hood, Steverson, Arnold, Upshaw, Horne, Dixon, Lane, Shirley, Ladner, Kinkade To: Judiciary B

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2

1 AN ACT TO AMEND SECTIONS 97-37-1, 97-37-15, 97-37-19 AND 2 45-9-101, MISSISSIPPI CODE OF 1972, TO CLARIFY THE CARRYING OF 3 CONCEALED WEAPONS; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 97-37-1, Mississippi Code of 1972, is 6 amended as follows:

7 97-37-1. (1) Except as otherwise provided in Section 8 45-9-101, any person who carries, concealed * * * on or about 9 one's person, any bowie knife, dirk knife, butcher knife, 10 switchblade knife, metallic knuckles, blackjack, slingshot, 11 pistol, revolver, or any rifle with a barrel of less than sixteen 12 (16) inches in length, or any shotgun with a barrel of less than 13 eighteen (18) inches in length, machine gun or any fully automatic 14 firearm or deadly weapon, or any muffler or silencer for any 15 firearm, whether or not it is accompanied by a firearm, or uses or 16 attempts to use against another person any imitation firearm, 17 shall, upon conviction, be punished as follows:



18 (a) By a fine of not less than One Hundred Dollars
19 (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by
20 imprisonment in the county jail for not more than six (6) months,
21 or both, in the discretion of the court, for the first conviction
22 under this section.

23 (b) By a fine of not less than One Hundred Dollars
24 (\$100.00) nor more than Five Hundred Dollars (\$500.00), and
25 imprisonment in the county jail for not less than thirty (30) days
26 nor more than six (6) months, for the second conviction under this
27 section.

28 (c) By confinement in the custody of the Department of
29 Corrections for not less than one (1) year nor more than five (5)
30 years, for the third or subsequent conviction under this section.

31 (d) By confinement in the custody of the Department of
32 Corrections for not less than one (1) year nor more than ten (10)
33 years for any person previously convicted of any felony who is
34 convicted under this section.

35 (2) It shall not be a violation of this section for any
36 person over the age of eighteen (18) years to carry a firearm or
37 deadly weapon concealed * * * within the confines of his own home
38 or his place of business, or any real property associated with his
39 home or business or within any motor vehicle.

40 (3) It shall not be a violation of this section for any
41 person to carry a firearm or deadly weapon concealed * * * if the
42 possessor of the weapon is then engaged in a legitimate



43 weapon-related sports activity or is going to or returning from
44 such activity. For purposes of this subsection, "legitimate
45 weapon-related sports activity" means hunting, fishing, target
46 shooting or any other legal * * * activity which normally involves
47 the use of a firearm or other weapon.

48 (4) For the purposes of this section, "concealed" means
49 hidden or obscured from common observation and shall not include
50 any weapon listed in subsection (1) of this section, including,
51 but not limited to, a loaded or unloaded pistol carried upon the
52 person in a sheath, belt holster or shoulder holster that is
53 wholly or partially visible, or carried upon the person in a
54 scabbard or case for carrying the weapon that is wholly or
55 partially visible.

56 **SECTION 2.** Section 97-37-15, Mississippi Code of 1972, is
57 amended as follows:

58 97-37-15. Any parent, guardian or custodian who shall
59 knowingly suffer or permit any child under the age of eighteen
60 (18) years to have or to own, or to carry * * *, any weapon the
61 carrying of which concealed is prohibited by Section 97-37-1,
62 shall be guilty of a misdemeanor, and, on conviction, shall be
63 fined not more than One Thousand Dollars (\$1,000.00), and shall be
64 imprisoned not more than six (6) months in the county jail. The
65 provisions of this section shall not apply to a minor who is
66 exempt from the provisions of Section 97-37-14.



67 **SECTION 3.** Section 97-37-19, Mississippi Code of 1972, is
68 amended as follows:

69 97-37-19. If any person, having or carrying any dirk,
70 dirk-knife, sword, sword-cane, or any deadly weapon, or other
71 weapon the carrying of which concealed is prohibited by Section
72 97-37-1, shall, in the presence of * * * another person, brandish
73 or wield the same in a * * * threatening manner, not in necessary
74 self-defense, or shall in any manner unlawfully use the same in
75 any fight or quarrel, the person so offending, upon conviction
76 thereof, shall be fined in a sum not exceeding Five Hundred
77 Dollars (\$500.00) or be imprisoned in the county jail not
78 exceeding three (3) months, or both. In prosecutions under this
79 section it shall not be necessary for the affidavit or indictment
80 to aver, nor for the state to prove on the trial, that any gun,
81 pistol, or other firearm was charged, loaded, or in condition to
82 be discharged.

83 **SECTION 4.** Section 45-9-101, Mississippi Code of 1972, is
84 amended as follows:

85 45-9-101. (1) (a) The Department of Public Safety is
86 authorized to issue licenses to carry stun guns, concealed pistols
87 or revolvers to persons qualified as provided in this section.
88 Such licenses shall be valid throughout the state for a period of
89 five (5) years from the date of issuance. Any person possessing a
90 valid license issued pursuant to this section may carry a stun
91 gun, concealed pistol or concealed revolver.



92 (b) The licensee must carry the license, together with
93 valid identification, at all times in which the licensee is
94 carrying a stun gun, concealed pistol or revolver and must display
95 both the license and proper identification upon demand by a law
96 enforcement officer. A violation of the provisions of this
97 paragraph (b) shall constitute a noncriminal violation with a
98 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable
99 by summons.

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

102 (a) Is a resident of the state and has been a resident
103 for twelve (12) months or longer immediately preceding the filing
104 of the application. However, this residency requirement may be
105 waived, provided the applicant possesses a valid permit from
106 another state, is active military personnel stationed in
107 Mississippi, or is a retired law enforcement officer establishing
108 residency in the state;

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

112 1. Is a member or veteran of the United
113 States Armed Forces; and

114 2. Holds a valid Mississippi driver's license
115 or identification card with the "Veteran" designation issued by
116 the Department of Public Safety.



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

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

123 (e) Does not chronically or habitually abuse controlled
124 substances to the extent that his normal faculties are impaired.
125 It shall be presumed that an applicant chronically and habitually
126 uses controlled substances to the extent that his faculties are
127 impaired if the applicant has been voluntarily or involuntarily
128 committed to a treatment facility for the abuse of a controlled
129 substance or been found guilty of a crime under the provisions of
130 the Uniform Controlled Substances Law or similar laws of any other
131 state or the United States relating to controlled substances
132 within a three-year period immediately preceding the date on which
133 the application is submitted;

134 (f) Does not chronically and habitually use alcoholic
135 beverages to the extent that his normal faculties are impaired.
136 It shall be presumed that an applicant chronically and habitually
137 uses alcoholic beverages to the extent that his normal faculties
138 are impaired if the applicant has been voluntarily or
139 involuntarily committed as an alcoholic to a treatment facility or
140 has been convicted of two (2) or more offenses related to the use
141 of alcohol under the laws of this state or similar laws of any



142 other state or the United States within the three-year period
143 immediately preceding the date on which the application is
144 submitted;

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

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

150 (i) Has not been voluntarily or involuntarily committed
151 to a mental institution or mental health treatment facility unless
152 he possesses a certificate from a psychiatrist licensed in this
153 state that he has not suffered from disability for a period of
154 five (5) years;

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

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

160 (l) Is not disqualified to possess * * * a weapon based
161 on federal law.

162 (3) The Department of Public Safety may deny a license if
163 the applicant has been found guilty of one or more crimes of
164 violence constituting a misdemeanor unless three (3) years have
165 elapsed since probation or any other conditions set by the court
166 have been fulfilled or expunction has occurred prior to the date



167 on which the application is submitted, or may revoke a license if
168 the licensee has been found guilty of one or more crimes of
169 violence within the preceding three (3) years. The department
170 shall, upon notification by a law enforcement agency or a court
171 and subsequent written verification, suspend a license or the
172 processing of an application for a license if the licensee or
173 applicant is arrested or formally charged with a crime which would
174 disqualify such person from having a license under this section,
175 until final disposition of the case. The provisions of subsection
176 (7) of this section shall apply to any suspension or revocation of
177 a license pursuant to the provisions of this section.

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

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

183 (b) The driver's license number or social security
184 number of applicant;

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

187 (d) A statement that the applicant is in compliance
188 with criteria contained within subsections (2) and (3) of this
189 section;

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



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

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

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

201 (a) A completed application as described in subsection
202 (4) of this section;

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

208 (c) A nonrefundable license fee of One Hundred Dollars
209 (\$100.00). Costs for processing the set of fingerprints as
210 required in paragraph (d) of this subsection shall be borne by the
211 applicant. Honorably retired law enforcement officers shall be
212 exempt from the payment of the license fee;

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

215 (e) A waiver authorizing the Department of Public
216 Safety access to any records concerning commitments of the



217 applicant to any of the treatment facilities or institutions
218 referred to in subsection (2) and permitting access to all the
219 applicant's criminal records.

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

224 (b) The Department of Public Safety shall forward a
225 copy of the applicant's application to the sheriff of the
226 applicant's county of residence and, if applicable, the police
227 chief of the applicant's municipality of residence. The sheriff
228 of the applicant's county of residence and, if applicable, the
229 police chief of the applicant's municipality of residence may, at
230 his discretion, participate in the process by submitting a
231 voluntary report to the Department of Public Safety containing any
232 readily discoverable prior information that he feels may be
233 pertinent to the licensing of any applicant. The reporting shall
234 be made within thirty (30) days after the date he receives the
235 copy of the application. Upon receipt of a response from a
236 sheriff or police chief, such sheriff or police chief shall be
237 reimbursed at a rate set by the department.

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

241 (i) Issue the license;



242 (ii) Deny the application based solely on the
243 ground that the applicant fails to qualify under the criteria
244 listed in subsections (2) and (3) of this section. If the
245 Department of Public Safety denies the application, it shall
246 notify the applicant in writing, stating the ground for denial,
247 and the denial shall be subject to the appeal process set forth in
248 subsection (7); or

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

254 (d) In the event a legible set of fingerprints, as
255 determined by the Department of Public Safety and the Federal
256 Bureau of Investigation, cannot be obtained after a minimum of two
257 (2) attempts, the Department of Public Safety shall determine
258 eligibility based upon a name check by the Mississippi Highway
259 Safety Patrol and a Federal Bureau of Investigation name check
260 conducted by the Mississippi Highway Safety Patrol at the request
261 of the Department of Public Safety.

262 (7) (a) If the Department of Public Safety denies the
263 issuance of a license, or suspends or revokes a license, the party
264 aggrieved may appeal such denial, suspension or revocation to the
265 Commissioner of Public Safety, or his authorized agent, within
266 thirty (30) days after the aggrieved party receives written notice



267 of such denial, suspension or revocation. The Commissioner of
268 Public Safety, or his duly authorized agent, shall rule upon such
269 appeal within thirty (30) days after the appeal is filed and
270 failure to rule within this thirty-day period shall constitute
271 sustaining such denial, suspension or revocation. Such review
272 shall be conducted pursuant to such reasonable rules and
273 regulations as the Commissioner of Public Safety may adopt.

274 (b) If the revocation, suspension or denial of issuance
275 is sustained by the Commissioner of Public Safety, or his duly
276 authorized agent pursuant to paragraph (a) of this subsection, the
277 aggrieved party may file within ten (10) days after the rendition
278 of such decision a petition in the circuit or county court of his
279 residence for review of such decision. A hearing for review shall
280 be held and shall proceed before the court without a jury upon the
281 record made at the hearing before the Commissioner of Public
282 Safety or his duly authorized agent. No such party shall be
283 allowed to carry a stun gun, concealed pistol or revolver pursuant
284 to the provisions of this section while any such appeal is
285 pending.

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



292 revolvers and records relating to license holders shall be exempt
293 from the provisions of the Mississippi Public Records Act of 1983
294 for a period of forty-five (45) days from the date of the issuance
295 of the license or the final denial of an application.

296 (9) Within thirty (30) days after the changing of a
297 permanent address, or within thirty (30) days after having a
298 license lost or destroyed, the licensee shall notify the
299 Department of Public Safety in writing of such change or loss.
300 Failure to notify the Department of Public Safety pursuant to the
301 provisions of this subsection shall constitute a noncriminal
302 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
303 be enforceable by a summons.

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

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

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



317 a renewal form prescribed by the department. The licensee must
318 renew his license on or before the expiration date by filing with
319 the department the renewal form, a notarized affidavit stating
320 that the licensee remains qualified pursuant to the criteria
321 specified in subsections (2) and (3) of this section, and a full
322 set of fingerprints administered by the Department of Public
323 Safety or the sheriff of the county of residence of the licensee.
324 The first renewal may be processed by mail and the subsequent
325 renewal must be made in person. Thereafter every other renewal
326 may be processed by mail to assure that the applicant must appear
327 in person every ten (10) years for the purpose of obtaining a new
328 photograph.

329 (i) Except as provided in this subsection, a
330 renewal fee of Fifty Dollars (\$50.00) shall also be submitted
331 along with costs for processing the fingerprints;

332 (ii) Honorably retired law enforcement officers
333 shall be exempt from the renewal fee; and

334 (iii) The renewal fee for a Mississippi resident
335 aged sixty-five (65) years of age or older shall be Twenty-five
336 Dollars (\$25.00).

337 (b) The Department of Public Safety shall forward the
338 full set of fingerprints of the applicant to the appropriate
339 agencies for state and federal processing. The license shall be
340 renewed upon receipt of the completed renewal application and
341 appropriate payment of fees.



342 (c) A licensee who fails to file a renewal application
343 on or before its expiration date must renew his license by paying
344 a late fee of Fifteen Dollars (\$15.00). No license shall be
345 renewed six (6) months or more after its expiration date, and such
346 license shall be deemed to be permanently expired. A person whose
347 license has been permanently expired may reapply for licensure;
348 however, an application for licensure and fees pursuant to
349 subsection (5) of this section must be submitted, and a background
350 investigation shall be conducted pursuant to the provisions of
351 this section.

352 (13) No license issued pursuant to this section shall
353 authorize any person to carry a stun gun, concealed pistol or
354 revolver into any place of nuisance as defined in Section 95-3-1,
355 Mississippi Code of 1972; any police, sheriff or highway patrol
356 station; any detention facility, prison or jail; any courthouse;
357 any courtroom, except that nothing in this section shall preclude
358 a judge from carrying a concealed weapon or determining who will
359 carry a concealed weapon in his courtroom; any polling place; any
360 meeting place of the governing body of any governmental entity;
361 any meeting of the Legislature or a committee thereof; any school,
362 college or professional athletic event not related to firearms;
363 any portion of an establishment, licensed to dispense alcoholic
364 beverages for consumption on the premises, that is primarily
365 devoted to dispensing alcoholic beverages; any portion of an
366 establishment in which beer or light wine is consumed on the



367 premises, that is primarily devoted to such purpose; any
368 elementary or secondary school facility; any junior college,
369 community college, college or university facility unless for the
370 purpose of participating in any authorized firearms-related
371 activity; inside the passenger terminal of any airport, except
372 that no person shall be prohibited from carrying any legal firearm
373 into the terminal if the firearm is encased for shipment, for
374 purposes of checking such firearm as baggage to be lawfully
375 transported on any aircraft; any church or other place of worship;
376 or any place where the carrying of firearms is prohibited by
377 federal law. In addition to the places enumerated in this
378 subsection, the carrying of a stun gun, concealed pistol or
379 revolver may be disallowed in any place in the discretion of the
380 person or entity exercising control over the physical location of
381 such place by the placing of a written notice clearly readable at
382 a distance of not less than ten (10) feet that the "carrying of a
383 pistol or revolver is prohibited." No license issued pursuant to
384 this section shall authorize the participants in a parade or
385 demonstration for which a permit is required to carry a stun gun,
386 concealed pistol or revolver.

387 (14) A law enforcement officer as defined in Section 45-6-3,
388 chiefs of police, sheriffs and persons licensed as professional
389 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of
390 1972, shall be exempt from the licensing requirements of this
391 section. The licensing requirements of this section do not apply



392 to the carrying by any person of a stun gun, pistol or revolver,
393 knife, or other deadly weapon that is not concealed as defined in
394 Section 97-37-1.

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

401 (16) All fees collected by the Department of Public Safety
402 pursuant to this section shall be deposited into a special fund
403 hereby created in the State Treasury and shall be used for
404 implementation and administration of this section. After the
405 close of each fiscal year, the balance in this fund shall be
406 certified to the Legislature and then may be used by the
407 Department of Public Safety as directed by the Legislature.

408 (17) All funds received by a sheriff or police chief
409 pursuant to the provisions of this section shall be deposited into
410 the general fund of the county or municipality, as appropriate,
411 and shall be budgeted to the sheriff's office or police department
412 as appropriate.

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



416 (19) Any person holding a valid unrevoked and unexpired
417 license to carry stun guns, concealed pistols or revolvers issued
418 in another state shall have such license recognized by this state
419 to carry stun guns, concealed pistols or revolvers. The
420 Department of Public Safety is authorized to enter into a
421 reciprocal agreement with another state if that state requires a
422 written agreement in order to recognize licenses to carry stun
423 guns, concealed pistols or revolvers issued by this state.

424 (20) The provisions of this section shall be under the
425 supervision of the Commissioner of Public Safety. The
426 commissioner is authorized to promulgate reasonable rules and
427 regulations to carry out the provisions of this section.

428 (21) For the purposes of this section, the term "stun gun"
429 means a portable device or weapon from which an electric current,
430 impulse, wave or beam may be directed, which current, impulse,
431 wave or beam is designed to incapacitate temporarily, injure,
432 momentarily stun, knock out, cause mental disorientation or
433 paralyze.

434 **SECTION 5.** This act shall take effect and be in force from
435 and after July 1, 2013.

