

Mississippi Code

Current through the 2016 Regular and 1st and 2nd Extraordinary Sessions of the Legislature

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Table of Contents

TITLE 45, Chapter 9. Weapons

Restrictions upon Local Regulation of Firearms or Ammunition

- § 45-9-51. Prohibition against adoption of certain ordinances
- § 45-9-53. Exceptions; procedure for challenging ordinances; county or municipal programs to purchase weapons from citizens
- § 45-9-55. Employer not permitted to prohibit transportation or storage of firearms on employer property; exceptions; certain immunity for employer
- § 45-9-57. Regulation by county of discharge of any firearm within platted subdivision

License to Carry Concealed Pistol or Revolver

- § 45-9-101. License to carry stun gun, concealed pistol or revolver; license fees; exemptions; no license required to carry pistol or revolver in purse, briefcase, fully enclosed case, etc.
- § 45-9-103. Federal firearm reporting

Purchase of Sidearms by Retiring Law Enforcement Personnel

- § 45-9-131. Purchase of sidearm by retiring law enforcement officer or spouse of law enforcement officer killed in line of duty
- § 45-9-133. Retention of sidearm by retiring law enforcement officer of Mississippi Department of Transportation.

Docket of deadly weapons seized

- § 45-9-151. Docket of deadly weapons seized

TITLE 75, Chapter 67, Article 7. Mississippi Pawnshop Act

- § 75-67-305. Information required to be recorded on pawn ticket; detailed recording of transactions required

TITLE 97, Chapter 37. Weapons and Explosives, General Provisions

- § 97-37-1. Deadly weapons; carrying while concealed; use or attempt to use; penalties; "concealed" defined
- § 97-37-3. Deadly weapons; forfeiture of weapon; return upon dismissal or acquittal; confiscated firearms may be sold at auction; proceeds of sale used to purchase bulletproof vests for seizing law enforcement agency
- § 97-37-5. Unlawful for convicted felon to possess any firearms, or other weapons or devices; penalties; exceptions
- § 97-37-7. Deadly weapons; persons permitted to carry weapons; bond; permit to carry weapon; grounds for denying application for permit; required weapons training course; reciprocal agreements
- § 97-37-9. Deadly weapons; defenses against indictment for carrying deadly weapon
- § 97-37-13. Deadly weapons; weapons and cartridges not to be given to minor or intoxicated person
- § 97-37-14. Possession of handgun by minor; act of delinquency; exceptions
- § 97-37-15. Parent or guardian not to permit minor son to have or carry weapon; penalty
- § 97-37-17. Possession of weapons by students; aiding or encouraging
- § 97-37-19. Deadly weapons; exhibiting in threatening manner
- § 97-37-29. Shooting into dwelling house
- § 97-37-30. Willful discharge of a firearm toward the dwelling of another causing damage to property or domesticated animal or livestock
- § 97-37-31. Silencers on firearms; manufacture, sale, possession or use unlawful
- § 97-37-33. Toy pistols; sale of pistol or cartridges prohibited; cap pistols excepted
- § 97-37-35. Stolen firearms; possession, receipt, acquisition or disposal; offense; punishment
- § 97-37-37. Enhanced penalty for use of firearm during commission of felony

Honesty in Purchasing Firearms Act

- § 97-37-101. Short title
- § 97-37-103. Definition
- § 97-37-105. Crime of soliciting, persuading, encouraging or enticing illegal sale of firearms or ammunition; crime of providing false information to licensed dealer or private seller of firearms or ammunition.

Chapter 44. Mississippi Streetgang Act

- § 97-44-17. Forfeiture of firearms, ammunition, and dangerous weapons used by criminal street gangs; disposition of property seized; procedure.

TITLE 45. Public Safety and Good Order
Chapter 9. Weapons
Restrictions upon Local Regulation of Firearms or Ammunition

§ 45-9-51. Prohibition against adoption of certain ordinances

(1) Subject to the provisions of § 45-9-53, no county or municipality may adopt any ordinance that restricts the possession, carrying, transportation, sale, transfer or ownership of firearms or ammunition or their components.

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

§ 45-9-53. Exceptions; procedure for challenging ordinances; county or municipal programs to purchase weapons from citizens

(1) This section and § 45-9-51 do not affect the authority that a county or municipality may have under another law:

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

(b) To regulate the discharge of firearms within the limits of the county or municipality. A county or municipality may not apply a regulation relating to the discharge of firearms or other weapons in the extraterritorial jurisdiction of the county or municipality or in an area annexed by the county or municipality after September 1, 1981, if the firearm or other weapon is:

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

1. On a tract of land of 10 acres or more and more than 150 feet from a residence or occupied building located on another property; and

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

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

1. On a tract of land of 50 acres or more and more than 300 feet from a residence or occupied building located on another property; and

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

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

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

(f) To regulate the carrying of a firearm at: (i) a public park or at a public meeting of a county, municipality or other governmental body; (ii) a political rally, parade or official political meeting; or (iii) a nonfirearm-related school, college or professional athletic event; or

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

(4) No county or a municipality may use the written notice provisions of § 45-9-101(13) to prohibit concealed firearms on property under their control except:

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

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

(5) (a) A citizen of this state, or a person licensed to carry a concealed pistol or revolver under § 45-9-101, or a person licensed to carry a concealed pistol or revolver with the endorsement under § 97-37-7, who is adversely affected by an ordinance or posted written notice adopted by a county or municipality in violation of this section may file suit for declarative and injunctive relief against a county or municipality in the circuit court which shall have jurisdiction over the county or municipality where the violation of this section occurs.

(b) Before instituting suit under this subsection, the party adversely impacted by the ordinance or posted written notice shall notify the Attorney General in writing of the violation and include evidence of the violation. The Attorney General shall, within 30 days, investigate whether the county or municipality adopted an ordinance or posted written notice in violation of this section and provide the chief administrative officer of the county or municipality notice of his findings, including, if applicable, a description of the violation and specific language of the ordinance or posted written notice found to be in violation. The county or municipality shall have 30 days from receipt of that notice to cure the violation. If the county or municipality fails to cure the violation within that 30-day time period, a suit under paragraph (a) of this subsection may proceed.

(c) If the circuit court finds that a county or municipality adopted an ordinance or posted written notice in violation of this section and failed to cure that violation in accordance with paragraph (b) of this subsection, the circuit court shall issue a permanent injunction against a county or municipality prohibiting it from enforcing the ordinance or posted written notice. Any elected county or municipal official under whose jurisdiction the violation occurred may be civilly liable in a sum not to exceed \$1,000, plus all reasonable attorney's fees and costs incurred by the party bringing the suit. Public funds may not be used to defend or reimburse officials who are found by the court to have violated this section.

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

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

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

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

(6) No county or municipality or their officers or employees may participate in any program in which individuals are given a thing of value provided by another individual or other entity in exchange for surrendering a firearm to the county, municipality or other governmental body unless:

(a) The county or municipality has adopted an ordinance authorizing the participation of the county or municipality, or participation by an officer or employee of the county or municipality in such a program; and

(b) Any ordinance enacted pursuant to this section must require that any firearm received shall be offered for sale at auction as provided by §§ 19-3-85 and 21-39-21 to federally licensed firearms dealers, with the proceeds from such sale at auction reverting to the general operating fund of the county, municipality or other governmental body. Any firearm remaining in possession of the county, municipality or other governmental body after attempts to sell at auction may be disposed of in a manner that the body deems appropriate.

§ 45-9-55. Employer not permitted to prohibit transportation or storage of firearms on employer property; exceptions; certain immunity for employer

(1) Except as otherwise provided in subsection (2) of this section, a public or private employer may not establish, maintain, or enforce any policy or rule that has the effect of prohibiting a person from transporting or storing a firearm in a locked vehicle in any parking lot, parking garage, or other designated parking area.

(2) A private employer may prohibit an employee from transporting or storing a firearm in a vehicle in a parking lot, parking garage, or other parking area the employer provides for employees to which access is restricted or limited through the use of a gate, security station or other means of restricting or limiting general public access onto the property.

(3) This section shall not apply to vehicles owned or leased by an employer and used by the employee in the course of his business.

(4) This section does not authorize a person to transport or store a firearm on any premises where the possession of a firearm is prohibited by state or federal law.

(5) A public or private employer shall not be liable in a civil action for damages resulting from or arising out of an occurrence involving the transportation, storage, possession or use of a firearm covered by this section.

§ 45-9-57. Regulation by county of discharge of any firearm within platted subdivision. A county may regulate the discharge of any firearm or weapon, other than a BB gun, within any platted subdivision. However, no county may prohibit the discharge of any firearm or weapon on land, if such firearm or weapon is discharged in a manner not reasonably expected to cause a projectile from such firearm or weapon to travel across any property line without permission of the property owner.

License to Carry Concealed Pistol or Revolver

§ 45-9-101. License to carry stun gun, concealed pistol or revolver; license fees; exemptions; no license required to carry pistol or revolver in purse, briefcase, fully enclosed case, etc.

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

(b) The licensee must carry the license, together with valid identification, at all times in which the licensee is carrying a stun gun, concealed pistol or revolver and must display both the license and proper identification upon demand by a law enforcement officer. A violation of the provisions of this paragraph (b) shall constitute a noncriminal violation with a penalty of \$25 and shall be enforceable by summons.

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

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

(b) (i) Is 21 years of age or older; or

(ii) Is at least 18 years of age but not yet 21 years of age and the applicant:

1. Is a member or veteran of the United States Armed Forces, including National Guard or Reserve; and
2. Holds a valid Mississippi driver's license or identification card issued by the Department of Public Safety;

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

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

(e) Does not chronically or habitually abuse controlled substances to the extent that his normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses controlled substances to the extent that his faculties are impaired if the applicant has been voluntarily or involuntarily committed to a treatment facility for the abuse of a controlled substance or been found guilty of a crime under the provisions of the Uniform Controlled Substances Law or similar laws of any other state or the United States relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;

(f) Does not chronically and habitually use alcoholic beverages to the extent that his normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages to the extent that his normal faculties are impaired if the applicant has been voluntarily or involuntarily committed as an alcoholic to a treatment facility or has been convicted of 2 or more offenses related to the use of alcohol under the laws of this state or similar laws of any other state or the United States within the 3-year period immediately preceding the date on which the application is submitted;

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

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

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

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

(k) Is not a fugitive from justice; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) A nonrefundable license fee of \$80. Costs for processing the set of fingerprints as required in paragraph (d) of this subsection shall be borne by the applicant. Honorably retired law enforcement officers, disabled veterans and active duty members of the Armed Forces of the United States shall be exempt from the payment of the license fee;

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

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

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

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

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

(i) Issue the license;

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

(iii) Notify the applicant that the department is unable to make a determination regarding the issuance or denial of a license within the 45-day period prescribed by this subsection, and provide an estimate of the amount of time the department will need to make the determination.

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

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

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

(8) The Department of Public Safety shall maintain an automated listing of license holders and such information shall be available online, upon request, at all times, to all law enforcement agencies through the Mississippi Crime Information Center. However, the records of the department relating to applications for licenses to carry stun guns, concealed pistols or revolvers and records relating to license holders shall be exempt from the provisions of the Mississippi Public Records Act of 1983, and shall be released only upon order of a court having proper jurisdiction over a petition for release of the record or records.

(9) Within 30 days after the changing of a permanent address, or within 30 days after having a license lost or destroyed, the licensee shall notify the Department of Public Safety in writing of such change or loss. Failure to notify the Department of Public Safety pursuant to the provisions of this subsection shall constitute a noncriminal violation with a penalty of \$25 and shall be enforceable by a summons.

(10) In the event that a stun gun, concealed pistol or revolver license is lost or destroyed, the person to whom the license was issued shall comply with the provisions of subsection (9) of this section and may obtain a duplicate, or substitute thereof, upon payment of \$15 to the Department of Public Safety, and furnishing a notarized statement to the department that such license has been lost or destroyed.

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

(12) (a) No less than 90 days prior to the expiration date of the license, the Department of Public Safety shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the department. The licensee must renew his license on or before the expiration date by filing with the department the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and a full set of fingerprints administered by the Department of Public Safety or the sheriff of the county of residence of the licensee. The first renewal may be processed by mail and the subsequent renewal must be made in person. Thereafter every other renewal may be processed by mail to assure that the applicant must appear in person every 10 years for the purpose of obtaining a new photograph.

(i) Except as provided in this subsection, a renewal fee of \$40 shall also be submitted along with costs for processing the fingerprints;

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

(iii) The renewal fee for a Mississippi resident aged 65 years of age or older shall be \$20.

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

(c) A licensee who fails to file a renewal application on or before its expiration date must renew his license by paying a late fee of \$15. No license shall be renewed 6 months or more after its expiration date, and such license shall be deemed to be permanently expired. A person whose license has been permanently expired may reapply for licensure; however, an application for licensure and fees pursuant to subsection (5) of this section must be submitted, and a background investigation shall be conducted pursuant to the provisions of this section.

(13) No license issued pursuant to this section shall authorize any person to carry a stun gun, concealed pistol or revolver into any place of nuisance as defined in § 95-3-1, Mississippi Code of 1972; any police, sheriff or highway patrol station; any detention facility, prison or jail; any courthouse; any courtroom, except that nothing in this section shall preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his courtroom; any polling place; any meeting place of the governing body of any governmental entity; any meeting of the Legislature or a committee thereof; any school, college or professional athletic event not related to firearms; any portion of an establishment, licensed to dispense alcoholic beverages for consumption on the premises, that is primarily devoted to dispensing alcoholic beverages; any portion of an establishment in which beer or light wine is consumed on the premises, that is primarily devoted to such purpose; any elementary or secondary school facility; any junior college, community college, college or university facility unless for the purpose of participating in any authorized firearms-related activity; inside the passenger terminal of any airport, except that no person shall be prohibited from carrying any legal firearm into the terminal if the firearm is encased for shipment, for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; any church or other place of worship, except as provided in § 45-9-171; or any place where the carrying of firearms is prohibited by federal law. In addition to the places enumerated in this subsection, the carrying of a stun gun, concealed pistol or revolver may be disallowed in any place in the discretion of the person or entity exercising control over the physical location of such place by the placing of a written notice clearly readable at a distance of not less than 10 feet that the "carrying of a pistol or revolver is prohibited." No license issued pursuant to this section shall authorize the participants in a parade or demonstration for which a permit is required to carry a stun gun, concealed pistol or revolver.

(14) A law enforcement officer as defined in § 45-6-3, chiefs of police, sheriffs and persons licensed as professional bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of 1972, shall be exempt from the licensing requirements of this section. The licensing requirements of this section do not apply to the carrying by any person of a stun gun, pistol or revolver, knife, or other deadly weapon that is not concealed as defined in § 97-37-1.

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

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

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

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

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

(22) (a) From and after January 1, 2016, the Commissioner of Public Safety shall promulgate rules and regulations which provide that licenses authorized by this section for honorably retired law enforcement officers and honorably retired correctional officers from the Mississippi Department of Corrections shall **(i)** include the words "retired law enforcement officer" on the front of the license, and **(ii)** that the license itself have a red background to distinguish it from other licenses issued under this section.

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

(23) A disabled veteran who seeks to qualify for an exemption under this section shall be required to provide, as proof of service-connected disability, verification from the United States Department of Veterans Affairs.

(24) A license under this section is not required for a loaded or unloaded pistol or revolver to be carried upon the person in a sheath, belt holster or shoulder holster or in a purse, handbag, satchel, other similar bag or briefcase or fully enclosed case if the person is not engaged in criminal activity other than a misdemeanor traffic offense, is not otherwise prohibited

from possessing a pistol or revolver under state or federal law, and is not in a location prohibited under subsection (13) of this section.

§ 45-9-103. Federal firearm reporting

(1) In this section, "federal prohibited-person information" means information that identifies an individual as:

(a) A person who has been judicially determined by a court as a person with mental illness or person with an intellectual disability under Title 41, Chapter 21, Mississippi Code of 1972, whether ordered for inpatient treatment, outpatient treatment, day treatment, night treatment or home health services treatment;

(b) A person acquitted in a criminal case by reason of insanity or on a ground of intellectual disability, without regard to whether the person is ordered by a court to receive inpatient treatment or residential care under § 99-13-7;

(c) An adult individual for whom a court has appointed a guardian or conservator under Title 93, Chapter 13, based on the determination that the person is incapable of managing his own estate due to mental weakness; or

(d) A person determined to be incompetent to stand trial by a court pursuant to Rule 9.06 of the Mississippi Rules of Circuit and County Court Practice.

(2) The Department of Public Safety by rule shall establish a procedure to provide federal prohibited-person information to the Federal Bureau of Investigation for use with the National Instant Criminal Background Check System. Except as otherwise provided by state law, the department may disseminate federal prohibited-person information under this subsection only to the extent necessary to allow the Federal Bureau of Investigation to collect and maintain a list of persons who are prohibited under federal law from engaging in certain activities with respect to a firearm.

(3) The department shall grant access to a person's own federal prohibited-person information to the person who is the subject of the information.

(4) Federal prohibited-person information maintained by the department is confidential information for the use of the department and, except as otherwise provided by this section and other state law, is not a public record and may not be disseminated by the department.

(5) The department by rule shall establish a procedure to correct department records and transmit those corrected records to the Federal Bureau of Investigation when a person provides:

(a) A copy of a judicial order or finding under § 93-13-151 that a person has been restored to reason;

(b) Proof that the person has obtained notice of relief from disabilities under 18 USC, § 925; or

(c) A copy of a judicial order of relief from a firearms disability under § 97-37-5(4).

Purchase of Sidearms by Retiring Law Enforcement Personnel

§ 45-9-131. Purchase of sidearm by retiring law enforcement officer or spouse of law enforcement officer killed in line of duty. Upon approval of the governing authority of the municipality or county, a member of any municipal or county law enforcement agency who retires under any state retirement system or the spouse of a law enforcement officer who is killed in the line of duty may be allowed to purchase as his or her personal property 1 sidearm which was issued to the law enforcement officer by the law enforcement agency from which he or she retired or by whom he or she was employed at the time of death. The governing authority of the municipality or county shall determine the amount to be paid for the firearm by the retiring member of the law enforcement agency or the spouse of the law enforcement officer.

§ 45-9-133. Retention of sidearm by retiring law enforcement officer of Mississippi Department of Transportation Each person employed as a law enforcement officer by the Mississippi Department of Transportation who retires for superannuation or for reason of disability under the Public Employees' Retirement System shall be allowed to retain as his personal property, 1 sidearm which was issued to such law enforcement officer.

Docket of Deadly Weapons Seized

§ 45-9-151. Docket of deadly weapons seized

(1) Every law enforcement agency of the state or of any political subdivision thereof shall maintain a docket which shall contain a record of all deadly weapons that are seized by employees of such law enforcement agency. Such docket shall include the name of the arresting officer, the date of the arrest, the charge upon which the seizure was based, the name of the person from whom such deadly weapon was seized, the physical description of the deadly weapon, the serial number, if any, of the deadly weapon, and the chain of custody of the deadly weapon.

TITLE 75. Regulation of Trade, Commerce and Investments

Chapter 67. Loans

Article 7. Mississippi Pawnshop Act

§ 75-67-305. Information required to be recorded on pawn ticket; detailed recording of transactions required

(1) At the time of making the pawn or purchase transaction, the pawnbroker shall enter upon the pawn ticket a record of the following information which shall be typed or written in ink and in the English language:

(a) A clear and accurate description of the property, including the following:

(i) Brand name;

(ii) Model number;

- (iii) Serial number;
 - (iv) Size;
 - (v) Color, as apparent to the untrained eye;
 - (vi) Precious metal type, weight and content, if known;
 - (vii) Gemstone description, including the number of stones;
 - (viii) In the case of firearms, the type of action, caliber or gauge, number of barrels, barrel length and finish; and
 - (ix) Any other unique identifying marks, numbers, names or letters;
- (b) The name, residence address and date of birth of pledgor or seller;
 - (c) Date of pawn or purchase transaction;
 - (d) Driver's license number or social security number or Mississippi identification card number, as defined in § 45-35-1, Mississippi Code of 1972, of the pledgor or seller or identification information verified by at least 2 forms of identification, 1 of which shall be a photographic identification;
 - (e) Description of the pledgor including approximate height, sex and race;
 - (f) Amount of cash advanced;
 - (g) The maturity date of the pawn transaction and the amount due; and
 - (h) The monthly rate and pawn charge. Such rates and charges shall be disclosed using the requirements prescribed in Regulation Z (Truth in Lending) of the rules and regulations of the Board of Governors of the Federal Reserve.
- (2) Each pawn or purchase transaction document shall be consecutively numbered and entered in a corresponding log or record book. Separate logs or record books for pawn and purchase transactions shall be kept.
- (3) Records may be in the form of traditional hard copies, computer printouts or magnetic media if readily accessible for viewing on a screen with the capability of being promptly printed upon request.
- (4) Every licensee shall maintain a record which indicates the total number of accounts and the total dollar value of all pawn transactions outstanding as of December 31 of each year.

TITLE 97. Crimes
Chapter 37. Weapons and Explosives
General Provisions

§ 97-37-1. Deadly weapons; carrying while concealed; use or attempt to use; penalties; "concealed" defined

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

- (a) By a fine of not less than \$100 nor more than \$500, or by imprisonment in the county jail for not more than 6 months, or both, in the discretion of the court, for the first conviction under this section.
- (b) By a fine of not less than \$100 nor more than \$500, and imprisonment in the county jail for not less than 30 days nor more than 6 months, for the second conviction under this section.
- (c) By confinement in the custody of the Department of Corrections for not less than 1 year nor more than 5 years, for the third or subsequent conviction under this section.
- (d) By confinement in the custody of the Department of Corrections for not less than 1 year nor more than 10 years for any person previously convicted of any felony who is convicted under this section.

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

(3) It shall not be a violation of this section for any person to carry a firearm or deadly weapon concealed if the possessor of the weapon is then engaged in a legitimate weapon-related sports activity or is going to or returning from such activity. For purposes of this subsection, "legitimate weapon-related sports activity" means hunting, fishing, target shooting or any other legal activity which normally involves the use of a firearm or other weapon.

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

§ 97-37-3. Deadly weapons; forfeiture of weapon; return upon dismissal or acquittal; confiscated firearms may be sold at auction; proceeds of sale used to purchase bulletproof vests for seizing law enforcement agency

(1) Any weapon used in violation of § 97-37-1, or used in the commission of any other crime, shall be seized by the arresting officer, may be introduced in evidence, and in the event of a conviction, shall be ordered to be forfeited, and shall be disposed of as ordered by the court having jurisdiction of such offense. In the event of dismissal or acquittal of charges, such weapon shall be returned to the accused from whom it was seized.

(2) (a) If the weapon to be forfeited is merchantable, the court may order the weapon forfeited to the seizing law enforcement agency.

(b) A weapon so forfeited to a law enforcement agency may be sold at auction as provided by §§ 19-3-85 and 21-39-21 to a federally-licensed firearms dealer, with the proceeds from such sale at auction to be used to buy bulletproof vests for the seizing law enforcement agency.

§ 97-37-5. Unlawful for convicted felon to possess any firearms, or other weapons or devices; penalties; exceptions

(1) It shall be unlawful for any person who has been convicted of a felony under the laws of this state, any other state, or of the United States to possess any firearm or any bowie knife, dirk knife, butcher knife, switchblade knife, metallic knuckles, blackjack, or any muffler or silencer for any firearm unless such person has received a pardon for such felony, has received a relief from disability pursuant to § 925(c) of Title 18 of the United States Code, or has received a certificate of rehabilitation pursuant to subsection (3) of this section.

(2) Any person violating this section shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000, or committed to the custody of the State Department of Corrections for not less than 1 year nor more than 10 years, or both.

(3) A person who has been convicted of a felony under the laws of this state may apply to the court in which he was convicted for a certificate of rehabilitation. The court may grant such certificate in its discretion upon a showing to the satisfaction of the court that the applicant has been rehabilitated and has led a useful, productive and law-abiding life since the completion of his sentence and upon the finding of the court that he will not be likely to act in a manner dangerous to public safety.

(4) (a) A person who is discharged from court-ordered mental health treatment may petition the court which entered the commitment order for an order stating that the person qualifies for relief from a firearms disability.

(b) In determining whether to grant relief, the court must hear and consider evidence about:

(i) The circumstances that led to imposition of the firearms disability under 18 USC, § 922(d)(4);

(ii) The person's mental history;

(iii) The person's criminal history; and

(iv) The person's reputation.

(c) A court may not grant relief unless it makes and enters in the record the following affirmative findings:

(i) That the person is no longer likely to act in a manner dangerous to public safety; and

(ii) Removing the person's disability to purchase a firearm is not against the public interest.

§ 97-37-7. Deadly weapons; persons permitted to carry weapons; bond; permit to carry weapon; grounds for denying application for permit; required weapons training course; reciprocal agreements

(1) (a) It shall not be a violation of § 97-37-1 or any other statute for pistols, firearms or other suitable and appropriate weapons to be carried by duly constituted bank guards, company guards, watchmen, railroad special agents or duly authorized representatives who are not sworn law enforcement officers, agents or employees of a patrol service, guard service, or a company engaged in the business of transporting money, securities or other valuables, while actually engaged in the performance of their duties as such, provided that such persons have made a written application and paid a nonrefundable permit fee of \$100 to the Department of Public Safety.

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

(c) A person may obtain a duplicate of a lost or destroyed permit upon payment of a \$15 replacement fee to the Department of Public Safety, if he furnishes a notarized statement to the department that the permit has been lost or destroyed.

(d) (i) No less than 90 days prior to the expiration date of a permit, the Department of Public Safety shall mail to the permit holder written notice of expiration together with the renewal form prescribed by the department. The permit holder shall renew the permit on or before the expiration date by filing with the department the renewal form, a notarized affidavit stating that the permit holder remains qualified, and the renewal fee of \$50; honorably retired law enforcement officers shall be exempt from payment of the renewal fee. A permit holder who fails to file a renewal application on or before its expiration date shall pay a late fee of \$15.

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

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

(2) It shall not be a violation of this or any other statute for pistols, firearms or other suitable and appropriate weapons to

be carried by Department of Wildlife, Fisheries and Parks law enforcement officers, railroad special agents who are sworn law enforcement officers, investigators employed by the Attorney General, criminal investigators employed by the district attorneys, all prosecutors, public defenders, investigators or probation officers employed by the Department of Corrections, employees of the State Auditor who are authorized by the State Auditor to perform investigative functions, or any deputy fire marshal or investigator employed by the State Fire Marshal, while engaged in the performance of their duties as such, or by fraud investigators with the Department of Human Services, or by judges of the Mississippi Supreme Court, Court of Appeals, circuit, chancery, county, justice and municipal courts, or by coroners. Before any person shall be authorized under this subsection to carry a weapon, he shall complete a weapons training course approved by the Board of Law Enforcement Officer Standards and Training. Before any criminal investigator employed by a district attorney shall be authorized under this section to carry a pistol, firearm or other weapon, he shall have complied with § 45-6-11 or any training program required for employment as an agent of the Federal Bureau of Investigation. A law enforcement officer, as defined in § 45-6-3, shall be authorized to carry weapons in courthouses in performance of his official duties. A person licensed under § 45-9-101 to carry a concealed pistol, who (a) has voluntarily completed an instructional course in the safe handling and use of firearms offered by an instructor certified by a nationally recognized organization that customarily offers firearms training, or by any other organization approved by the Department of Public Safety, (b) is a member or veteran of any active or reserve component branch of the United States of America Armed Forces having completed law enforcement or combat training with pistols or other handguns as recognized by such branch after submitting an affidavit attesting to have read, understand and agree to comply with all provisions of the enhanced carry law, or (c) is an honorably retired law enforcement officer or honorably retired member or veteran of any active or reserve component branch of the United States of America Armed Forces having completed law enforcement or combat training with pistols or other handguns, after submitting an affidavit attesting to have read, understand and agree to comply with all provisions of Mississippi enhanced carry law shall also be authorized to carry weapons in courthouses except in courtrooms during a judicial proceeding, and any location listed in subsection (13) of § 45-9-101, except any place of nuisance as defined in § 95-3-1, any police, sheriff or highway patrol station or any detention facility, prison or jail. For the purposes of this subsection (2), component branch of the United States Armed Forces includes the Army, Navy, Air Force, Coast Guard or Marine Corps, or the Army National Guard, the Army National Guard of the United States, the Air National Guard or the Air National Guard of the United States, as those terms are defined in § 101, Title 10, United States Code, and any other reserve component of the United States Armed Forces enumerated in § 10101, Title 10, United States Code. The department shall promulgate rules and regulations allowing concealed pistol permit holders to obtain an endorsement on their permit indicating that they have completed the aforementioned course and have the authority to carry in these locations. This section shall in no way interfere with the right of a trial judge to restrict the carrying of firearms in the courtroom.

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

§ 97-37-9. Deadly weapons; defenses against indictment for carrying deadly weapon. Any person indicted or charged for a violation of § 97-37-1 may show as a defense:

- (a)** That he was threatened, and had good and sufficient reason to apprehend a serious attack from any enemy, and that he did so apprehend; or
- (b)** That he was traveling and was not a tramp, or was setting out on a journey and was not a tramp; or
- (c)** That he was a law enforcement or peace officer in the discharge of his duties; or
- (d)** That he was at the time in the discharge of his duties as a mail carrier; or
- (e)** That he was at the time engaged in transporting valuables for an express company or bank; or
- (f)** That he was a member of the Armed Forces of the United States, National Guard, State Militia, Emergency Management Corps, guard or patrolman in a state or municipal institution while in the performance of his official duties; or
- (g)** That he was in lawful pursuit of a felon; or
- (h)** That he was lawfully engaged in legitimate sports;
- (i)** That at the time he was a company guard, bank guard, watchman, or other person enumerated in § 97-37-7, and was then actually engaged in the performance of his duties as such, and then held a valid permit from the sheriff, the commissioner of public safety, or a valid permit issued by the Secretary of State prior to May 1, 1974, to carry the weapon; and the burden of proving either of said defenses shall be on the accused; or
- (j)** That at the time he or she was a member of a church or place of worship security program, and was then actually engaged in the performance of his or her duties as such and met the requirements of § 45-9-171.

§ 97-37-13. Deadly weapons; weapons and cartridges not to be given to minor or intoxicated person. It shall not be lawful for any person to sell, give or lend to any minor under 18 years of age or person intoxicated, knowing him to be a minor under 18 years of age or in a state of intoxication, any deadly weapon, or other weapon the carrying of which

concealed is prohibited, or pistol cartridge; and, on conviction thereof, he shall be punished by a fine not more than \$1,000, or imprisoned in the county jail not exceeding 1 year, or both.

§ 97-37-14. Possession of handgun by minor; act of delinquency; exceptions

(1) Except as otherwise provided in this section, it is an act of delinquency for any person who has not attained the age of 18 years knowingly to have any handgun in such person's possession.

(2) This section shall not apply to:

(a) Any person who is:

(i) In attendance at a hunter's safety course or a firearms safety course; or

(ii) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located or any other area where the discharge of a firearm is not prohibited; or

(iii) Engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by an organized group under 501(c)(3) as determined by the federal internal revenue service which uses firearms as a part of such performance; or

(iv) Hunting or trapping pursuant to a valid license issued to such person by the Department of Wildlife, Fisheries and Parks or as otherwise allowed by law; or

(v) Traveling with any handgun in such person's possession being unloaded to or from any activity described in subparagraph (i), (ii), (iii) or (iv) of this paragraph (a) and paragraph (b).

(b) Any person under the age of 18 years who is on real property under the control of an adult and who has the permission of such adult to possess a handgun.

(3) This section shall not apply to any person who uses a handgun or other firearm to lawfully defend himself from imminent danger at his home or place of domicile and any such person shall not be held criminally liable for such use of a handgun or other firearm.

(4) For the purposes of this section, "handgun" means a pistol, revolver or other firearm of any description, loaded or unloaded, from which any shot, bullet or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable or magazine breech, is less than 16 inches.

§ 97-37-15. Parent or guardian not to permit minor son to have or carry weapon; penalty. Any parent, guardian or custodian who shall knowingly suffer or permit any child under the age of 18 years to have or to own, or to carry, any weapon the carrying of which concealed is prohibited by § 97-37-1, shall be guilty of a misdemeanor, and, on conviction, shall be fined not more than \$1,000, and shall be imprisoned not more than 6 months in the county jail. The provisions of this section shall not apply to a minor who is exempt from the provisions of § 97-37-14.

§ 97-37-17. Possession of weapons by students; aiding or encouraging

(1) The following definitions apply to this section:

(a) "Educational property" shall mean any public or private school building or bus, public or private school campus, grounds, recreational area, athletic field, or other property owned, used or operated by any local school board, school, college or university board of trustees, or directors for the administration of any public or private educational institution or during a school-related activity, and shall include the facility and property of the Oakley Youth Development Center, operated by the Department of Human Services; provided, however, that the term "educational property" shall not include any sixteenth section school land or lieu land on which is not located a school building, school campus, recreational area or athletic field.

(b) "Student" shall mean a person enrolled in a public or private school, college or university, or a person who has been suspended or expelled within the last 5 years from a public or private school, college or university, or a person in the custody of the Oakley Youth Development Center, operated by the Department of Human Services, whether the person is an adult or a minor.

(d) "Weapon" shall mean any device enumerated in subsection (2) or (4) of this section.

(2) It shall be a felony for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine or powerful explosive on educational property. However, this subsection does not apply to a BB gun, air rifle or air pistol. Any person violating this subsection shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000, or committed to the custody of the State Department of Corrections for not more than 3 years, or both.

(3) It shall be a felony for any person to cause, encourage or aid a minor who is less than 18 years old to possess or carry, whether openly or concealed, any gun, rifle, pistol or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine or powerful explosive on educational property. However, this subsection does not apply to a BB gun, air rifle or air pistol. Any person violating this subsection shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000, or committed to the custody of the State Department of Corrections for not more than 3 years, or both.

(4) It shall be a misdemeanor for any person to possess or carry, whether openly or concealed, any BB gun, air rifle, air pistol, ... on educational property. Any person violating this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or be imprisoned not exceeding 6 months, or both.

(5) It shall be a misdemeanor for any person to cause, encourage or aid a minor who is less than 18 years old to possess

or carry, whether openly or concealed, any BB gun, air rifle, air pistol, ... on educational property. Any person violating this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or be imprisoned not exceeding 6 months, or both.

(6) It shall not be a violation of this section for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol or other firearm of any kind on educational property if:

(a) The person is not a student attending school on any educational property;

(b) The firearm is within a motor vehicle; and

(c) The person does not brandish, exhibit or display the firearm in any careless, angry or threatening manner.

(7) This section shall not apply to:

(a) A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school authority;

(b) Armed Forces personnel of the United States, officers and soldiers of the militia and National Guard, law enforcement personnel, any private police employed by an educational institution, State Militia or Emergency Management Corps and any guard or patrolman in a state or municipal institution, and any law enforcement personnel or guard at a state juvenile training school, when acting in the discharge of their official duties;

(c) Home schools as defined in the compulsory school attendance law, § 37-13-91;

(d) Competitors while participating in organized shooting events;

(e) Any person as authorized in § 97-37-7 while in the performance of his official duties;

(f) Any mail carrier while in the performance of his official duties; or

(g) Any weapon not prescribed by § 97-37-1 which is in a motor vehicle under the control of a parent, guardian or custodian, as defined in § 43-21-105, which is used to bring or pick up a student at a school building, school property or school function.

(8) All schools shall post in public view a copy of the provisions of this section.

§ 97-37-19. Deadly weapons; exhibiting in threatening manner. If any person, having or carrying any dirk, dirk-knife, sword, sword-cane, or any deadly weapon, or other weapon the carrying of which concealed is prohibited by § 97-37-1, shall, in the presence of another person, brandish or wield the same in a threatening manner, not in necessary self-defense, or shall in any manner unlawfully use the same in any fight or quarrel, the person so offending, upon conviction thereof, shall be fined in a sum not exceeding \$500 or be imprisoned in the county jail not exceeding 3 months, or both. In prosecutions under this section it shall not be necessary for the affidavit or indictment to aver, nor for the state to prove on the trial, that any gun, pistol, or other firearm was charged, loaded, or in condition to be discharged.

§ 97-37-29. Shooting into dwelling house. If any person shall willfully and unlawfully shoot or discharge any pistol, shotgun, rifle or firearm of any nature or description into any dwelling house or any other building usually occupied by persons, whether actually occupied or not, he shall be guilty of a felony whether or not anybody be injured thereby and, upon conviction thereof, shall be punished by imprisonment in the state penitentiary for a term not to exceed 10 years, or by imprisonment in the county jail for not more than 1 year, or by fine of not more than \$5,000, or by both such imprisonment and fine, within the discretion of the court.

§ 97-37-30. Willful discharge of a firearm toward the dwelling of another causing damage to property or domesticated animal or livestock. A person who willfully discharges his firearm toward the dwelling of another, causing property damage to the dwelling or any domesticated animal or livestock, is guilty of a misdemeanor punishable by a fine of not more than \$1,000 or imprisonment not exceeding 12 months in the county jail, or both.

§ 97-37-31. Silencers on firearms; manufacture, sale, possession or use unlawful. It shall be unlawful for any person, persons, corporation or manufacturing establishment, not duly authorized under federal law, to make, manufacture, sell or possess any instrument or device which, if used on firearms of any kind, will arrest or muffle the report of the firearm when shot or fired. Any person violating this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500, or imprisoned in the county jail not more than 30 days, or both.

§ 97-37-33. Toy pistols; sale of pistol or cartridges prohibited; cap pistols excepted. If any person shall sell, or offer, or expose for sale any toy pistol, or cartridges, or other contrivance by which such pistols are fired or made to cause an explosion, he shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than \$5 nor more than \$25, or by imprisonment in the county jail not less than 3 days nor more than 30 days, or both.

It is expressly provided, however, that nothing herein shall be construed to prohibit the sale, or offering, or exposure for sale of any toy cap pistols, or other devices, in which paper caps manufactured in accordance with United States Interstate Commerce Commission regulations for packing or shipping of toy paper caps are used or exploded, and the sale of such toy cap pistols is hereby declared to be permissible.

§ 97-37-35. Stolen firearms; possession, receipt, acquisition or disposal; offense; punishment

(1) It is unlawful for any person knowingly or intentionally to possess, receive, retain, acquire or obtain possession or dispose of a stolen firearm or attempt to possess, receive, retain, acquire or obtain possession or dispose of a stolen firearm.

(2) It is unlawful for any person knowingly or intentionally to sell, deliver or transfer a stolen firearm or attempt to sell,

deliver or transfer a stolen firearm.

(3) Any person convicted of violating this section shall be guilty of a felony and shall be punished as follows:

(a) For the first conviction, punishment by commitment to the Department of Corrections for 5 years;

(b) For the second and subsequent convictions, the offense shall be considered trafficking in stolen firearms punishable by commitment to the Department of Corrections for not less than 15 years.

(c) For a conviction where the offender possesses 2 or more stolen firearms, the offense shall be considered trafficking in stolen firearms punishable by commitment to the Department of Corrections for not less than 15 years.

(4) Any person who commits or attempts to commit any other crime while in possession of a stolen firearm shall be guilty of a separate felony of possession of a stolen firearm under this section and, upon conviction thereof, shall be punished by commitment to the Department of Corrections for 5 years, such term to run consecutively and not concurrently with any other sentence of incarceration.

§ 97-37-37. Enhanced penalty for use of firearm during commission of felony

(1) Except to the extent that a greater minimum sentence is otherwise provided by any other provision of law, any person who uses or displays a firearm during the commission of any felony shall, in addition to the punishment provided for such felony, be sentenced to an additional term of imprisonment in the custody of the Department of Corrections of 5 years, which sentence shall not be reduced or suspended.

(2) Except to the extent that a greater minimum sentence is otherwise provided by any other provision of law, any convicted felon who uses or displays a firearm during the commission of any felony shall, in addition to the punishment provided for such felony, be sentenced to an additional term of imprisonment in the custody of the Department of Corrections of 10 years, to run consecutively, not concurrently, which sentence shall not be reduced or suspended.

Honesty in Purchasing Firearms Act

§ 97-37-101. Short title. §§ 97-37-101 through 97-37-105 shall be known and may be cited as the "Honesty in Purchasing Firearms Act."

§ 97-37-103. Definition. For purposes of §§ 97-37-101 through 97-37-105:

(a) "Licensed dealer" means a person who is licensed pursuant to 18 USCS, § 923, to engage in the business of dealing in firearms.

(b) "Private seller" means a person who sells or offers for sale any firearm or ammunition.

(c) "Ammunition" means any cartridge, shell or projectile designed for use in a firearm.

(d) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

§ 97-37-105. Crime of soliciting, persuading, encouraging or enticing illegal sale of firearms or ammunition; crime of providing false information to licensed dealer or private seller of firearms or ammunition.

(1) Any person who knowingly solicits, persuades, encourages or entices a licensed dealer or private seller of firearms or ammunition to transfer a firearm or ammunition under circumstances which the person knows would violate the laws of this state or the United States is guilty of a felony.

(2) Any person who provides to a licensed dealer or private seller of firearms or ammunition what the person knows to be materially false information with intent to deceive the dealer or seller about the legality of a transfer of a firearm or ammunition is guilty of a felony.

(3) Any person found guilty of violating the provisions of this section shall be punished by a fine not exceeding \$5,000 or imprisoned in the custody of the Department of Corrections for not more than 3 years, or both.

(4) This section does not apply to a law enforcement officer acting in the officer's official capacity or to a person acting at the direction of a law enforcement officer.

Chapter 44. Mississippi Streetgang Act

§ 97-44-17. Forfeiture of firearms, ammunition, and dangerous weapons used by criminal street gangs; disposition of property seized; procedure

(1) Any firearm, ammunition to be used in a firearm, or dangerous weapon in the possession of a member of a criminal street gang may be seized by any law enforcement agency or peace officer when the law enforcement agency or peace officer has probable cause to believe that the firearm, ammunition to be used in a firearm, or dangerous weapon is or has been used by a gang in the commission of illegal activity.

(2) The district attorney or an attorney for the seizing agency shall initiate, in a civil action, forfeiture proceedings by petition in the circuit courts as to any property seized pursuant to the provisions of this section within 30 days of seizure. The district attorney shall provide notice of the filing of the petition to those members of the gang who become known to law enforcement officials as a result of the seizure and any related arrests, and to any person determined by law enforcement officials to be the owner of any of the property involved. After initial notice of the filing of the petition, the court shall assure that all persons so notified continue to receive notice of all subsequent proceedings related to the property.

(3) Any person who claims an interest in any seized property shall, in order to assert a claim that the property should not be forfeited, file a notice with the court, without necessity of paying costs, of the intent to establish either of the following:

(a) That the persons asserting the claim did not know of, could not have known of, or had no reason to believe in its use by a gang in the commission of illegal activity; or

(b) That the law enforcement officer lacked the requisite reasonable belief that the property was or had been used by a gang in the commission of illegal activity.

(4) An acquittal or dismissal in a criminal proceeding shall not preclude civil proceedings under this section; however, for good cause shown, on motion by the district attorney, the court may stay civil forfeiture proceedings during the criminal trial for related criminal indictment or information alleging a violation of this section. Such a stay shall not be available pending an appeal.

(5) Except as otherwise provided by this section, all proceedings hereunder shall be governed by the provisions of the Mississippi Rules of Civil Procedure.

(6) The issue shall be determined by the court alone, and the hearing on the claim shall be held within 60 days after service of the petition unless continued for good cause. The district attorney shall have the burden of showing by clear and convincing proof that forfeiture of the property is appropriate.

(7) Any person who asserts a successful claim in accordance with subsection (3) of this section shall be awarded the seized property by the court, together with costs of filing such action. All property as to which no claim is filed, or as to which no successful claim is made, may be destroyed, sold at a public sale, retained for use by the seizing agency or transferred without charge to any law enforcement agency of the state for use by it. Property that is sold shall be sold by the circuit court at a public auction for cash to the highest and best bidder after advertising the sale for at least once each week for 3 consecutive weeks, the last notice to appear not more than 10 days nor less than 5 days prior to such sale in a newspaper having a general circulation in the county. Such notice shall contain a description of the property to be sold and a statement of the time and place of sale. It shall not be necessary to the validity of such sale either to have the property present at the place of sale or to have the name of the owner thereof stated in such notice. The proceeds of the sale, less any expenses of concluding the sale, shall be deposited in the seizing agency's general fund to be used only for approved law enforcement activity affecting the agency's efforts to combat gang activities.

(8) Any action under the provisions of this section may be consolidated with any other action or proceedings pursuant to this section relating to the same property on motion of the district attorney.