

1 HB108
2 181343-1
3 By Representative Scott
4 RFD: Public Safety and Homeland Security
5 First Read: 09-JAN-18

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8 SYNOPSIS: Under existing law, there is no requirement
9 for a concealed pistol permit to contain a color,
10 laminated identification photograph of the
11 permittee.

12 This bill would require all future concealed
13 pistol permits issued to contain a color, laminated
14 identification photograph of the permittee.

15 This bill would allow the sheriff to
16 reasonably adjust fees associated with the
17 production of concealed pistol permits under this
18 section.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT

23
24 Relating to concealed pistol permits; to amend
25 Section 13A-11-75 of the Code of Alabama 1975, to require that
26 all concealed pistol permits issued contain a color, laminated
27 photograph of the permittee to whom it is issued.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 13A-11-75, Code of Alabama 1975,
3 is amended to read as follows:

4 "§13A-11-75.

5 "(a) (1)a. The sheriff of a county, upon the
6 application of any person residing in that county, within 30
7 days from receipt of a complete application and accompanying
8 fee, shall issue or renew a permit for such person to carry a
9 pistol in a vehicle or concealed on or about his or her person
10 within this state for one- to five-year increments, as
11 requested by the person seeking the permit, from date of
12 issue, unless the sheriff determines that the person is
13 prohibited from the possession of a pistol or firearm pursuant
14 to state or federal law, or has a reasonable suspicion that
15 the person may use a weapon unlawfully or in such other manner
16 that would endanger the person's self or others. In making
17 such determination, the sheriff may consider whether the
18 applicant:

19 "1. Was found guilty but mentally ill in a criminal
20 case.

21 "2. Was found not guilty in a criminal case by
22 reason of insanity or mental disease or defect.

23 "3. Was declared incompetent to stand trial in a
24 criminal case.

25 "4. Asserted a defense in a criminal case of not
26 guilty by reason of insanity or mental disease or defect.

1 "5. Was found not guilty only by reason of lack of
2 mental responsibility under the Uniform Code of Military
3 Justice.

4 "6. Required involuntary inpatient treatment in a
5 psychiatric hospital or similar treatment facility.

6 "7. Required involuntary outpatient treatment in a
7 psychiatric hospital or similar treatment facility based on a
8 finding that the person is an imminent danger to himself or
9 herself or to others.

10 "8. Required involuntary commitment to a psychiatric
11 hospital or similar treatment facility for any reason,
12 including drug use.

13 "9. Is or was the subject of a prosecution or of a
14 commitment or incompetency proceeding that could lead to a
15 prohibition on the receipt or possession of a firearm under
16 the laws of Alabama or the United States.

17 "10. Falsified any portion of the permit
18 application.

19 "11. Caused justifiable concern for public safety.

20 "b. The sheriff shall take into account how recent
21 any consideration under paragraph a. is in relation to the
22 date of the application. The sheriff shall provide a written
23 statement of the reasons for a denial of a permit and the
24 evidence upon which it is based must be disclosed to the
25 applicant, unless disclosure would interfere with a criminal
26 investigation.

1 "c. Except as otherwise provided by the laws of this
2 state, a permit issued under this subdivision is valid
3 throughout the state, and a sheriff may not place conditions
4 or requirements on the issuance of the permit or limit its
5 scope or applicability.

6 "(2)a. The sheriff may revoke a permit issued under
7 subdivision (1) for any reason that could lead to a denial of
8 a permit under that subdivision.

9 "b. The sheriff shall provide a written statement of
10 the reasons for the revocation and the evidence upon which it
11 is based must be disclosed to the applicant, unless disclosure
12 would interfere with a criminal investigation.

13 "(3) A person who is denied a permit under
14 subdivision (1), or a person whose permit is revoked under
15 subdivision (2), within 30 days of notification of the denial
16 or revocation, may appeal the denial or revocation to the
17 district court of the county where the denial or revocation
18 was issued. Upon a review of a denial under this subdivision,
19 the sheriff shall have the burden of proving by clear and
20 convincing evidence that the person is prohibited from
21 possession of a pistol or other firearm pursuant to state or
22 federal law or, based on any of the considerations enumerated
23 in subsection (a) (1) that the person may use a weapon
24 unlawfully or in such other manner as would endanger the
25 person's self or others if granted a permit to carry a
26 concealed weapon under this section.

1 "(4) Within 30 days of receipt of the appeal, the
2 district court shall review the appeal and issue a
3 determination providing the reasons for the determination.

4 "(5) If the district court issues a determination in
5 favor of a person whose permit was denied or revoked, the
6 person shall be issued a permit or the permit must be
7 reinstated.

8 "(6) Nothing in this section shall be construed to
9 permit a sheriff to disregard any federal law or regulation
10 pertaining to the purchase or possession of a firearm.

11 "(b) Each hardcopy permit shall be in written or
12 typewritten form with a laminated, color identification
13 photograph of the permittee affixed. The permit shall be
14 generated in an electronic or digital form to be prescribed by
15 the Secretary of State in consultation with the Alabama
16 Sheriff's Association, and shall bear the color identification
17 photograph, name, address, description, and signature of the
18 permittee. The original hardcopy of the permit shall be
19 delivered to the permittee, and a duplicate version shall,
20 within seven days, be sent by registered or certified mail to
21 the Director of the Alabama State Law Enforcement Agency. The
22 application and a copy shall be preserved for six years by the
23 authority issuing the same. The sheriff may charge a fee as
24 provided by local law for the issuance of the permit under
25 subdivision (1) of subsection (a). The sheriff may reasonably
26 adjust fees commensurate with the production costs of
27 concealed pistol permits under this section. The amount of the

1 fee for a period of one year up to five years shall be the
2 amount of the fee as prescribed by local law multiplied by the
3 number of years of the permit requested by the applicant. The
4 fee shall be paid into the county treasury unless otherwise
5 provided by local law. Prior to issuance or renewal of a
6 permit, the sheriff shall contact available local, state, and
7 federal criminal history data banks, including the National
8 Instant Criminal Background Check System, to determine whether
9 possession of a firearm by an applicant would be a violation
10 of state or federal law.

11 "(c) For the convenience of the applicant, the
12 sheriff may provide for application or renewal of a permit
13 under subdivision (1) of subsection (a) through electronic
14 means. The sheriff may also accept payment for a permit by
15 debit or credit card or other consumer electronic payment
16 method. Any transaction or banking fee charged for the
17 electronic payment method shall be paid by the applicant.

18 "(d) If a person who is not a United States citizen
19 applies for a permit under this section, the sheriff shall
20 conduct an Immigration Alien Query through U.S. Immigration
21 and Customs Enforcement, or any successor agency, and the
22 application form shall require information relating to the
23 applicant's country of citizenship, place of birth, and any
24 alien or admission number issued by U.S. Immigration and
25 Customs Enforcement, or any successor agency. The sheriff
26 shall review the results of these inquiries before making a
27 determination of whether to issue a permit or renewal permit.

1 A person who is unlawfully present in this state may not be
2 issued a permit under this section.

3 "(e) The name, address, signature, photograph, and
4 any other personally identifying information collected from an
5 applicant or permittee under this section shall be kept
6 confidential, shall be exempt from disclosure under Section
7 36-12-40, and may only be used for law enforcement purposes
8 except when a current permittee is charged in any state with a
9 felony involving the use of a pistol. All other information on
10 permits under this section, including information concerning
11 the annual number of applicants, number of permits issued,
12 number of permits denied or revoked, revenue from issuance of
13 permits, and any other fiscal or statistical data otherwise,
14 shall remain public writings subject to public disclosure.
15 Except as provided above, the sheriff of a county shall redact
16 the name, address, signature, photograph, and any other
17 personally identifying information of a permit holder before
18 releasing a copy of a permit for a non-law enforcement
19 purpose. The sheriff may charge one dollar (\$1) per copy of
20 any redacted permit record requested other than when requested
21 for law enforcement purposes. To knowingly publish or release
22 to the public in any form any information or records related
23 to the licensing process, or the current validity of any
24 permit, except as authorized in this subsection or in response
25 to a court order or subpoena, is a Class A misdemeanor.

26 "(f) A concealed pistol permit issued under this
27 section shall be valid for the carrying of a pistol in a motor

1 vehicle or concealed on the permittee's person throughout the
2 state, unless prohibited by this section.

3 "(g) This section shall not be construed to limit or
4 place any conditions upon a person's right to carry a pistol
5 that is not in a motor vehicle or not concealed.

6 "(h) If a person issued a pistol permit in this
7 state establishes residence in another state, the pistol
8 permit shall expire upon the establishment of residence in the
9 other state.

10 "(i) Any person holding a valid concealed pistol
11 permit on the effective date of this amendatory act shall be
12 required to obtain a permit containing a laminated,
13 identification photograph pursuant to this section upon the
14 expiration of his or her currently held permit."

15 Section 2. This act shall become effective on the
16 first day of the third month following its passage and
17 approval by the Governor, or its otherwise becoming law.