

1 SB399
2 212703-1
3 By Senators Singleton, Hatcher, Coleman-Madison, Beasley and
4 Smitherman
5 RFD: Judiciary
6 First Read: 20-APR-21

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8 SYNOPSIS: This bill would require a licensed firearms
9 importer, licensed firearms manufacturer, or
10 licensed firearms dealer to perform a background
11 check on a purchaser of a firearm before
12 transferring the firearm to the purchaser, with
13 exceptions.

14 This bill would prohibit a person who is not
15 a licensed firearms importer, licensed firearms
16 manufacturer, or licensed firearms dealer from
17 directly transferring a firearm to another
18 unlicensed person and would instead require the
19 transferor to first transfer the firearm to a
20 licensee prior to ultimate transfer to the
21 transferee.

22 This bill would also provide criminal
23 penalties for a violation.

24 Amendment 621 of the Constitution of Alabama
25 of 1901, as amended by Amendment 890, now appearing
26 as Section 111.05 of the Official ReCompilation of
27 the Constitution of Alabama of 1901, as amended,

1 prohibits a general law whose purpose or effect
2 would be to require a new or increased expenditure
3 of local funds from becoming effective with regard
4 to a local governmental entity without enactment by
5 a 2/3 vote unless: it comes within one of a number
6 of specified exceptions; it is approved by the
7 affected entity; or the Legislature appropriates
8 funds, or provides a local source of revenue, to
9 the entity for the purpose.

10 The purpose or effect of this bill would be
11 to require a new or increased expenditure of local
12 funds within the meaning of the amendment. However,
13 the bill does not require approval of a local
14 governmental entity or enactment by a 2/3 vote to
15 become effective because it comes within one of the
16 specified exceptions contained in the amendment.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 Relating to firearms; to provide for the performance
23 of background checks on certain transfers of firearms; and to
24 provide criminal penalties for a violation; and in connection
25 therewith would have as its purpose or effect the requirement
26 of a new or increased expenditure of local funds within the
27 meaning of Amendment 621, as amended by Amendment 890, of the

1 Constitution of Alabama of 1901, now appearing as Section
2 111.05 of the Official ReCompilation of the Constitution of
3 Alabama of 1901, as amended.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. (a) (1) A licensed firearms importer,
6 licensed firearms manufacturer, or licensed firearms dealer
7 may not transfer a firearm to any other person who is not
8 licensed under Chapter 44 of Title 18 of the United States
9 Code, unless any of the following apply:

10 a. Before the completion of the transfer, the
11 licensee contacts the national instant criminal background
12 check system.

13 b. The licensee has verified the identity of the
14 transferee by examining a valid identification document, as
15 defined in 18 U.S.C. § 1028(d), of the transferee containing a
16 photograph of the transferee.

17 (2) Subsection (a) does not apply to a firearm
18 transfer between a licensee and another person if the other
19 transferee has presented to the licensee a permit that does
20 all of the following:

21 a. Allows the transferee to possess or acquire a
22 firearm.

23 b. Was issued not more than five years earlier by
24 this state.

25 c. The issuance of the permit was contingent upon
26 the performance of a background check on the transferee.

1 (b) If the licensee knowingly transfers a firearm to
2 the transferee and knowingly fails to comply with subsection
3 (a) with respect to the transfer and, at the time the
4 transferee most recently proposed the transfer, the national
5 instant criminal background check system was operating and
6 information was available to the system demonstrating that
7 receipt of a firearm by the transferee would violate state or
8 federal law, the licensee shall be guilty of a Class A
9 misdemeanor.

10 (c) (1) A person who is not a licensed importer,
11 licensed manufacturer, or licensed dealer may not transfer a
12 firearm to any other person who is not so licensed, unless a
13 licensed importer, licensed manufacturer, or licensed dealer
14 has first taken possession of the firearm for the purpose of
15 complying with subsection (a).

16 (2) If a transfer of a firearm described in
17 subdivision (1) will not be completed for any reason after a
18 licensee takes possession of the firearm, including because
19 the transfer of the firearm to, or receipt of the firearm by,
20 the transferee would violate state or federal law, the return
21 of the firearm to the transferor by the licensee shall not
22 constitute the transfer of a firearm for purposes of this
23 section.

24 (3) A violation of this subsection is a Class C
25 misdemeanor.

26 (d) Subsection (c) does not apply to any of the
27 following:

1 (1) A law enforcement agency or any law enforcement
2 officer, armed private security professional, or member of the
3 armed forces, to the extent the officer, professional, or
4 member is acting within the course and scope of employment and
5 official duties.

6 (2) A transfer or exchange that is a loan or bona
7 fide gift between spouses, between domestic partners, between
8 parents and their children, including step-parents and their
9 step-children, between siblings, between aunts or uncles and
10 their nieces or nephews, or between grandparents and their
11 grandchildren, if the transferor has no reason to believe that
12 the transferee will use or intends to use the firearm in a
13 crime or is prohibited from possessing firearms under state or
14 federal law. For purposes of this subdivision, a transfer or
15 exchange means an in-kind transfer of a firearm of the same
16 type or value.

17 (3) A transfer to an executor, administrator,
18 trustee, or personal representative of an estate or a trust
19 that occurs by operation of law upon the death of another
20 person.

21 (4) A temporary transfer that is necessary to
22 prevent imminent death or great bodily harm, including harm to
23 self, family, household members, or others, if the possession
24 by the transferee lasts only as long as immediately necessary
25 to prevent the imminent death or great bodily harm, including
26 harm to self, and the harm of domestic violence, dating

1 partner violence, sexual assault, stalking, and domestic
2 abuse.

3 (5) A temporary transfer if the transferor has no
4 reason to believe that the transferee will use or intends to
5 use the firearm in a crime or is prohibited from possessing
6 firearms under state or federal law, and the transfer takes
7 place and the transferee's possession of the firearm is
8 exclusively under any of the following conditions:

9 a. At a shooting range or in a shooting gallery or
10 other area designated for the purpose of target shooting.

11 b. While reasonably necessary for the purposes of
12 hunting, trapping, pest control on a farm or ranch, or
13 fishing, if the transferor has no reason to believe that the
14 transferee intends to use the firearm in a place where it is
15 illegal; and has reason to believe that the transferee will
16 comply with all licensing and permit requirements for the
17 hunting, trapping, pest control on a farm or ranch, or
18 fishing.

19 c. While in the presence of the transferor.

20 Section 2. Although this bill would have as its
21 purpose or effect the requirement of a new or increased
22 expenditure of local funds, the bill is excluded from further
23 requirements and application under Amendment 621, as amended
24 by Amendment 890, now appearing as Section 111.05 of the
25 Official Recompilation of the Constitution of Alabama of 1901,
26 as amended, because the bill defines a new crime or amends the
27 definition of an existing crime.

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.