

1 SB22
2 170815-1
3 By Senators Allen, Glover and Shelnuttt
4 RFD: Finance and Taxation General Fund
5 First Read: 08-SEP-15

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8 SYNOPSIS: This bill would provide that lawfully
9 carrying a firearm under certain conditions does
10 not, in and of itself, constitute the crime of
11 disorderly conduct.

12 This bill would authorize a person to carry
13 a pistol without a license on property under his or
14 her control, in his or her vehicle, in his or her
15 place of abode, in his or her fixed place of
16 business, and on the property of another or a
17 vehicle owned by another, with consent.

18 The bill would prohibit a person under 18
19 years of age from possessing a pistol on his or her
20 person or in any vehicle, except on land under his
21 or her control, in his or her abode, or in his or
22 her place of business.

23 Amendment 621 of the Constitution of Alabama
24 of 1901, now appearing as Section 111.05 of the
25 Official Recompilation of the Constitution of
26 Alabama of 1901, as amended, prohibits a general
27 law whose purpose or effect would be to require a

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

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

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 To amend Sections 13A-11-7, 13A-11-73, 13A-11-74,
22 and 13A-11-75, Code of Alabama 1975, to provide that lawfully
23 carrying a firearm does not, in and of itself, constitute
24 disorderly conduct; to authorize certain persons to carry a
25 pistol in his or her vehicle or on certain property without a
26 concealed pistol permit; and in connection therewith would
27 have as its purpose or effect the requirement of a new or

1 increased expenditure of local funds within the meaning of
2 Amendment 621 of the Constitution of Alabama of 1901, now
3 appearing as Section 111.05 of the Official Recompilation of
4 the Constitution of Alabama of 1901, as amended.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 13A-11-7, 13A-11-73, 13A-11-74,
7 and 13A-11-75, Code of Alabama 1975, are amended to read as
8 follows:

9 "§13A-11-7.

10 "(a) A person commits the crime of disorderly
11 conduct if, with intent to cause public inconvenience,
12 annoyance or alarm, or recklessly creating a risk thereof, he
13 or she does any of the following:

14 "(1) Engages in fighting or in violent tumultuous or
15 threatening behavior.

16 "(2) Makes unreasonable noise.

17 "(3) In a public place uses abusive or obscene
18 language or makes an obscene gesture.

19 "(4) Without lawful authority, disturbs any lawful
20 assembly or meeting of persons.

21 "(5) Obstructs vehicular or pedestrian traffic, or a
22 transportation facility.

23 "(6) Congregates with other person in a public place
24 and refuses to comply with a lawful order of law enforcement
25 to disperse.

26 "(b) Disorderly conduct is a Class C misdemeanor.

1 "~~It shall be a rebuttable presumption that the~~
2 ~~mere carrying of a visible pistol, holstered or secured, in a~~
3 ~~public place, in and of itself, is not a violation of this~~
4 ~~section~~ The mere lawful carrying of a visible, holstered, or
5 secured firearm in a public place, in and of itself, shall not
6 be a violation of this section.

7 "(d) Nothing in Act 2013-283 shall be construed to
8 prohibit law enforcement personnel who have reasonable
9 suspicion from acting to prevent a breach of the peace or from
10 taking action to preserve public safety.

11 "§13A-11-73.

12 "~~(a) Except on land under his or her control or in~~
13 ~~his or her own abode or his or her own fixed place of~~
14 ~~business, no~~ Except as prohibited pursuant to Alabama Code
15 Section 13A-11-90, no person shall carry a pistol in any
16 ~~vehicle or concealed on or about his or her person without a~~
17 ~~permit issued under Section 13A-11-75(a)(1) or recognized~~
18 ~~under Section 13A-11-85~~ without a license as provided in this
19 chapter, except on real property under his or her own control,
20 including his or her own vehicle, in his or her own abode, in
21 his or her own fixed place of business, on the real property
22 of another with consent, or in a vehicle of another with
23 consent.

24 "~~(b) Except as otherwise prohibited by law, a person~~
25 ~~legally permitted to possess a pistol, but who does not~~
26 ~~possess a valid concealed weapon permit, may possess an~~
27 ~~unloaded pistol in his or her motor vehicle if the pistol is~~

1 ~~locked in a compartment or container that is in or affixed~~
2 ~~securely to the vehicle and out of reach of the driver and any~~
3 ~~passenger in the vehicle. No person under 18 years of age may~~
4 ~~intentionally or knowingly possess a pistol on his or her~~
5 ~~person or in any vehicle, except on real property under his or~~
6 ~~her control, in his or her own abode, or in his or her own~~
7 ~~place of business.~~

8 "§13A-11-74.

9 "The provisions of Section 13A-11-73 shall not apply
10 to marshals, sheriffs, prison and jail wardens and their
11 regularly employed deputies, policemen and other law
12 enforcement officers of any state or political subdivision
13 thereof, or to the members of the army, navy or marine corps
14 of the United States or of the national guard, or to the
15 members of the national guard organized reserves or state
16 guard organizations when on duty or going to or from duty, or
17 to the regularly enrolled members of any organization duly
18 authorized to purchase or receive such weapons from the United
19 States or from this state; provided, that such members are at
20 or are going to or from their places of assembly or target
21 practices, or to officers or employees of the United States
22 duly authorized to carry a pistol, or to any person engaged in
23 manufacturing, repairing or dealing in pistols, or the agent
24 or representative of such person possessing, using, or
25 carrying a pistol in the usual or ordinary course of such
26 business, ~~or to any common carrier, except taxicabs, licensed~~
27 ~~as a common carrier, or to any person permitted by law to~~

1 ~~possess a pistol while carrying it unloaded in a secure~~
2 ~~wrapper, from the place of purchase to his home or place of~~
3 ~~business, or to or from a place of repair or in moving from~~
4 ~~one place of abode or business to another.~~

5 "§13A-11-75.

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

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

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

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

26 "4. Asserted a defense in a criminal case of not
27 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 the 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 permit shall be written or in an
12 electronic or digital form to be prescribed by the Secretary
13 of State in consultation with the Alabama Sheriff's
14 Association, and shall bear the name, address, description,
15 and signature of the permittee. The original hardcopy of the
16 permit shall be delivered to the permittee, and a duplicate
17 shall, within seven days, be sent by registered or certified
18 mail to the Director of Public Safety. The application and a
19 copy shall be preserved for six years by the authority issuing
20 the same. The sheriff may charge a fee as provided by local
21 law for the issuance of the permit under subdivision (1) of
22 subsection (a). The amount of the fee for a period of one year
23 up to five years shall be the amount of the fee as prescribed
24 by local law multiplied by the number of years of the permit
25 requested by the applicant. The fee shall be paid into the
26 county treasury unless otherwise provided by local law. Prior
27 to issuance or renewal of a permit, the sheriff shall contact

1 available local, state, and federal criminal history data
2 banks, including the National Instant Criminal Background
3 Check System, to determine whether possession of a firearm by
4 an applicant would be a violation of state or federal law.

5 "(c) For the convenience of the applicant, the
6 sheriff may provide for application or renewal of a permit
7 under subdivision (1) of subsection (a) through electronic
8 means. The sheriff may also accept payment for a permit by
9 debit or credit card or other consumer electronic payment
10 method. Any transaction or banking fee charged for the
11 electronic payment method shall be paid by the applicant.

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

24 "(e) The name, address, signature, photograph, and
25 any other personally identifying information collected from an
26 applicant or permittee under this section shall be kept
27 confidential, shall be exempt from disclosure under Section

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

20 "(f) A concealed pistol permit issued under this
21 section shall be valid for the carrying of a pistol ~~in a motor~~
22 ~~vehicle or~~ concealed on the permittee's person throughout the
23 state, unless prohibited by this section or other state law.

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

1 "(h) If a person issued a pistol permit in this
2 state establishes residence in another state, the pistol
3 permit shall expire upon the establishment of residence in the
4 other state."

5 Section 2. Nothing in this act shall serve to repeal
6 existing revenues or license fees upon which any governmental
7 or law enforcement entity currently relies.

8 Section 3. Although this bill would have as its
9 purpose or effect the requirement of a new or increased
10 expenditure of local funds, the bill is excluded from further
11 requirements and application under Amendment 621, now
12 appearing as Section 111.05 of the Official Recompilation of
13 the Constitution of Alabama of 1901, as amended, because the
14 bill defines a new crime or amends the definition of an
15 existing crime.

16 Section 4. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.