

1 SB354
2 158166-4
3 By Senators Beason, Allen, Glover, Whatley, Fielding, Smith,
4 Bedford, Sanford, Scofield, Marsh, Holtzclaw, Pittman,
5 Williams, Blackwell, Reed, Hightower, Bussman and Holley
6 RFD: Judiciary
7 First Read: 13-FEB-14

2
3
4
5
6
7
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 in his or her vehicle and on certain
14 property without a concealed pistol permit.

15 Amendment 621 of the Constitution of Alabama
16 of 1901, now appearing as Section 111.05 of the
17 Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, prohibits a general
19 law whose purpose or effect would be to require a
20 new or increased expenditure of local funds from
21 becoming effective with regard to a local
22 governmental entity without enactment by a 2/3 vote
23 unless: it comes within one of a number of
24 specified exceptions; it is approved by the
25 affected entity; or the Legislature appropriates
26 funds, or provides a local source of revenue, to
27 the entity for the purpose.

1 The purpose or effect of this bill would be
2 to require a new or increased expenditure of local
3 funds within the meaning of the amendment. However,
4 the bill does not require approval of a local
5 governmental entity or enactment by a 2/3 vote to
6 become effective because it comes within one of the
7 specified exceptions contained in the amendment.

8
9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 To amend Sections 13A-11-7, as amended by Act
14 2013-283, 2013 Regular Session, 13A-11-73, as amended by Act
15 2013-283, 2013 Regular Session, 13A-11-74, and 13A-11-75, as
16 amended by Act 2013-283, 2013 Regular Session, Code of Alabama
17 1975, to provide that lawfully carrying a firearm does not, in
18 and of itself, constitute disorderly conduct; to authorize a
19 person to carry a pistol in his or her vehicle or on certain
20 property without a concealed pistol permit; and to revise
21 certain procedures related to the licensing process; and in
22 connection therewith would have as its purpose or effect the
23 requirement of a new or increased expenditure of local funds
24 within the meaning of Amendment 621 of the Constitution of
25 Alabama of 1901, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of Alabama of 1901,
27 as amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 13A-11-7, as amended by Act
3 2013-283, 2013 Regular Session, 13A-11-73, as amended by Act
4 2013-283, 2013 Regular Session, 13A-11-74, and 13A-11-75, as
5 amended by Act 2013-283, 2013 Regular Session, Code of Alabama
6 1975, are amended to read as follows:

7 "§13A-11-7.

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

12 "(1) Engages in fighting or in violent tumultuous or
13 threatening behavior.

14 "(2) Makes unreasonable noise.

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

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

19 "(5) Obstructs vehicular or pedestrian traffic, or a
20 transportation facility.

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

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

25 ~~"(c) It shall be a rebuttable presumption that the~~
26 ~~mere carrying of a visible pistol, holstered or secured, in a~~
27 ~~public place, in and of itself, is not a violation of this~~

1 ~~section~~ The mere lawful carrying of a visible, holstered or
2 secured firearm in a public place, in and of itself, shall not
3 be a violation of this section.

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

8 "§13A-11-73.

9 ~~"(a) Except on land under his or her control or in~~
10 ~~his or her own abode or his or her own fixed place of~~
11 ~~business, no~~ No person shall carry a pistol in any vehicle or
12 concealed on or about his or her person without a permit
13 issued under ~~Section 13A-11-75(a)(1) or recognized under~~
14 ~~Section 13A-11-85~~ without a license as provided in this
15 chapter, except on his or her land, in his or her vehicle, in
16 his or her own abode or fixed place of business, on the
17 property of another with permission, or in a motor vehicle of
18 another with permission.

19 ~~"(b) Except as otherwise prohibited by law, a person~~
20 ~~legally permitted to possess a pistol, but who does not~~
21 ~~possess a valid concealed weapon permit, may possess an~~
22 ~~unloaded pistol in his or her motor vehicle if the pistol is~~
23 ~~locked in a compartment or container that is in or affixed~~
24 ~~securely to the vehicle and out of reach of the driver and any~~
25 ~~passenger in the vehicle.~~

26 "§13A-11-74.

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

24 "§13A-11-75.

25 "(a) (1)a. The sheriff of a county, upon the
26 application of any person residing in that county, within ~~30~~
27 days two weeks from receipt of a complete application and

1 accompanying fee, shall issue or renew a permit for such
2 person to carry a pistol in a vehicle or concealed on or about
3 his or her person within this state for one to five year
4 increments, as requested by the person seeking the permit,
5 from date of issue, unless the sheriff determines that the
6 person is prohibited from the possession of a pistol or
7 firearm pursuant to state or federal law, or has a reasonable
8 suspicion that the person may use a weapon unlawfully or in
9 such other manner that would endanger the person's self or
10 others. In making such determination, the sheriff may consider
11 whether the applicant:

12 "1. Was found guilty but mentally ill in a criminal
13 case.

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

16 "3. Was declared incompetent to stand trial in a
17 criminal case.

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

20 "5. Was found not guilty only by reason of lack of
21 mental responsibility under the Uniform Code of Military
22 Justice.

23 "6. Required involuntary inpatient treatment in a
24 psychiatric hospital or similar treatment facility.

25 "7. Required involuntary outpatient treatment in a
26 psychiatric hospital or similar treatment facility based on a

1 finding that the person is an imminent danger to himself or
2 herself or to others.

3 "8. Required involuntary commitment to a psychiatric
4 hospital or similar treatment facility for any reason,
5 including drug use.

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

10 "10. Falsified any portion of the permit
11 application.

12 "11. Caused justifiable concern for public safety.

13 "b. The sheriff shall take into account how recent
14 any consideration under paragraph a. is in relation to the
15 date of the application. The sheriff shall provide a written
16 statement of the reasons for a denial of a permit and the
17 evidence upon which it is based must be disclosed to the
18 applicant, unless disclosure would interfere with a criminal
19 investigation.

20 "c. Except as otherwise provided by the laws of this
21 state, a permit issued under this subdivision is valid
22 throughout the state, and a sheriff may not place conditions
23 or requirements on the issuance of the permit or limit its
24 scope or applicability.

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

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

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

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

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

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

4 "(b) Each permit shall be written or in an
5 electronic or digital form to be prescribed by the Secretary
6 of State in consultation with the Alabama Sheriff's
7 Association, and shall bear the name, address, description,
8 and signature of the permittee. The original hardcopy of the
9 permit shall be delivered to the permittee, and a duplicate
10 shall, within seven days, be sent by registered or certified
11 mail to the Director of Public Safety. The application and a
12 copy shall be preserved for six years by the authority issuing
13 the same. The sheriff may charge a fee as provided by local
14 law for the issuance of the permit under subdivision (1) of
15 subsection (a). The amount of the fee for a period of one year
16 up to five years shall be the amount of the fee as prescribed
17 by local law multiplied by the number of years of the permit
18 requested by the applicant. The fee shall be paid into the
19 county treasury unless otherwise provided by local law. Prior
20 to issuance or renewal of a permit, the sheriff shall contact
21 available local, state, and federal criminal history data
22 banks, including the National Instant Criminal Background
23 Check System, to determine whether possession of a firearm by
24 an applicant would be a violation of state or federal law.

25 "(c) For the convenience of the applicant, the
26 sheriff may provide for application or renewal of a permit
27 under subdivision (1) of subsection (a) through electronic

1 means. The sheriff may also accept payment for a permit by
2 debit or credit card or other consumer electronic payment
3 method. Any transaction or banking fee charged for the
4 electronic payment method shall be paid by the applicant.

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

17 "(e) The name, address, signature, photograph, and
18 any other personally identifying information collected from an
19 applicant or permittee under this section shall be kept
20 confidential, shall be exempt from disclosure under Section
21 36-12-40, and may only be used for law enforcement purposes
22 except when a current permittee is charged in any state with a
23 felony involving the use of a pistol. All other information on
24 permits under this section, including information concerning
25 the annual number of applicants, number of permits issued,
26 number of permits denied or revoked, revenue from issuance of
27 permits, and any other fiscal or statistical data otherwise,

1 shall remain public writings subject to public disclosure.
2 Except as provided above, the sheriff of a county shall redact
3 the name, address, signature, photograph, and any other
4 personally identifying information of a permit holder before
5 releasing a copy of a permit for a non-law enforcement
6 purpose. The sheriff may charge one dollar (\$1) per copy of
7 any redacted permit record requested other than when requested
8 for law enforcement purposes. To knowingly publish or release
9 to the public in any form any information or records related
10 to the licensing process, or the current validity of any
11 permit, except as authorized in this subsection or in response
12 to a court order or subpoena, is a Class A misdemeanor.

13 "(f) A concealed pistol permit issued under this
14 section shall be valid for the carrying of a pistol ~~in a motor~~
15 ~~vehicle or~~ concealed on the permittee's person throughout the
16 state, unless prohibited by this section.

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

20 "(h) If a person issued a pistol permit in this
21 state establishes residence in another state, the pistol
22 permit shall expire upon the establishment of residence in the
23 other state."

24 Section 2. Although this bill would have as its
25 purpose or effect the requirement of a new or increased
26 expenditure of local funds, the bill is excluded from further
27 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official ReCompilation of
2 the Constitution of Alabama of 1901, as amended, because the
3 bill defines a new crime or amends the definition of an
4 existing crime.

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