

1 HB328  
2 165414-2  
3 By Representatives Henry, Hammon, Moore (B) and Harbison  
4 RFD: Public Safety and Homeland Security  
5 First Read: 19-MAR-15

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8 SYNOPSIS: Under existing law, a retail dealer in  
9 pistols, local law enforcement, and the Secretary  
10 of State are subject to record-keeping and  
11 administrative requirements regarding the sale of  
12 pistols and a local registration system is required  
13 for all pistols sold by a licensed firearms dealer.

14 This bill would eliminate certain  
15 record-keeping and administrative requirements and  
16 make technical nonsubstantive changes.

17 Existing law also prohibits a person from  
18 delivering a pistol to a person under the age of 18  
19 years or to a person who has been convicted of a  
20 crime of violence or is a drug addict, a habitual  
21 drunkard, or of unsound mind.

22 This bill would allow a person under the age  
23 of 18 to receive or possess a pistol if he or she  
24 has the consent of a parent, guardian, or spouse  
25 who is 18 years of age or older and satisfies  
26 additional criteria.  
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1 A BILL  
2 TO BE ENTITLED  
3 AN ACT  
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5 Relating to firearms; to amend Sections 13A-11-76,  
6 13A-11-79, 13A-11-84, and 40-12-143 of the Code of Alabama  
7 1975, relating to the licensing and regulation of retail  
8 dealers in pistols and regulating the sale of pistols; to  
9 allow a person under the age of 18 to receive or possess a  
10 pistol under certain conditions; and to eliminate certain  
11 record-keeping and administrative requirements.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 13A-11-76, 13A-11-79, 13A-11-84,  
14 and 40-12-143 of the Code of Alabama 1975, are amended to read  
15 as follows:

16 "§13A-11-76.

17 "(a) No person shall deliver a pistol to any person  
18 under the age of 18 or to one who he or she has reasonable  
19 cause to believe has been convicted of a crime of violence or  
20 is a drug addict, an habitual drunkard, or of unsound mind.

21 "(b) Subsection (a) does not apply if the minor has  
22 the consent of his or her parent, guardian, or spouse who is  
23 18 years of age or older to possess a pistol and any of the  
24 following conditions are satisfied:

25 "(1) The minor is in the presence of his or her  
26 parent, guardian, or spouse who is 18 years of age or older,

1 or in the presence of another person who is 18 years of age or  
2 older.

3 "(2) The minor is on the premises owned or leased by  
4 the minor's parent or other immediate family member, guardian,  
5 or on the premises with the consent of the lawful owner or  
6 possessor of the premises.

7 "(3) The minor is in the presence of a licensed or  
8 accredited gun safety instructor.

9 "(4) The pistol is being used for hunting, trapping,  
10 target shooting, competing in a firearm competition, or  
11 firearm or hunting training or instruction.

12 "§13A-11-79.

13 "The duly constituted licensing authorities of any  
14 city, town, or political subdivision of this state may grant  
15 licenses in forms prescribed by the secretary of state,  
16 effective for not more than one year from date of issue,  
17 permitting the licensee to sell pistols at retail within this  
18 state subject to the following conditions, ~~in addition to~~  
19 ~~those specified in Section 13A-11-77,~~ for breach of any of  
20 which the license shall be forfeited and the licensee subject  
21 to punishment as provided in this division. The business shall  
22 be carried on only in the building designated in the license.  
23 The license or a copy thereof, certified by the issuing  
24 authority, shall be displayed on the premises where it can  
25 easily be read. ~~No pistol shall be sold in violation of any~~  
26 ~~provisions of this division, nor shall a pistol be sold under~~  
27 ~~any circumstances unless the purchaser is personally known to~~

1 the seller or shall present clear evidence of his identity. A  
2 true record in triplicate shall be made of every pistol sold,  
3 in a book kept for the purpose, the form of which may be  
4 prescribed by the Secretary of State and shall be personally  
5 signed by the purchaser and by the person effecting the sale,  
6 the caliber, make, model and manufacturer's number of the  
7 weapon, the name, address, occupation, color and place of  
8 birth of purchaser and a statement signed by the purchaser  
9 that he has never been convicted in this state or elsewhere of  
10 a crime of violence. One copy shall be sent within six hours  
11 by registered or certified mail to the chief of police of the  
12 municipality or the sheriff of the county of which the dealer  
13 is a resident; the dealer shall within seven days send the  
14 duplicate to the Secretary of State; and the dealer shall  
15 retain the triplicate for six years. No pistol or imitation  
16 thereof or placard advertising the sale thereof shall be  
17 displayed in any part of any premises where it can readily be  
18 seen from the outside. The fee for issuing said the license  
19 shall be \$.50, which fee shall be paid into the State  
20 Treasury.

21 "§13A-11-84.

22 "(a) Every violation of subsection (a) of Section  
23 13A-11-72 or of ~~Sections~~ Section 13A-11-81 or ~~13A-11-82~~ shall  
24 be punishable by imprisonment for not more than five years.  
25 Every violation of subsection (b) of Section 13A-11-72 or of  
26 Sections 13A-11-73, 13A-11-74, ~~and 13A-11-77~~ 13A-11-78 through  
27 13A-11-80 shall be punishable by imprisonment for any term

1 less than one year or by a fine of not more than ~~\$500.00~~ five  
2 hundred dollars (\$500), or both. The punishment for violating  
3 Section 13A-11-78 or 13A-11-79 may include revocation of  
4 license.

5 " (b) It shall be the duty of any sheriff, policeman  
6 or other peace officer of the State of Alabama, arresting any  
7 person charged with violating Sections 13A-11-71 through  
8 13A-11-73, or any one or more of ~~said~~ those sections, to seize  
9 the pistol or pistols in the possession or under the control  
10 of the person or persons charged with violating ~~said~~ the  
11 section or sections, and to deliver ~~said~~ the pistol or pistols  
12 to one of the following named persons: if a municipal officer  
13 makes the arrest, to the city clerk or custodian of stolen  
14 property of the municipality employing the arresting officer;  
15 if a county, state or other peace officer makes the arrest, to  
16 the sheriff of the county in which the arrest is made. The  
17 person receiving the pistol or pistols from the arresting  
18 officer shall keep it in a safe place in as good condition as  
19 received until disposed of as hereinafter provided. Within  
20 five days after the final conviction of any person arrested  
21 for violating any of the above-numbered sections, the person  
22 receiving possession of the pistol or pistols, seized as  
23 ~~aforsaid~~ provided in this section, shall report the seizure  
24 and detention of ~~said~~ the pistol or pistols to the district  
25 attorney within the county where the pistol or pistols are  
26 seized, giving a full description thereof, the number, make  
27 and model thereof, the name of the person in whose possession

1 it was found when seized, the person making claim to same or  
2 any interest therein, if the name can be ascertained or is  
3 known, and the date of the seizure. Upon receipt of the report  
4 from the person receiving possession of the pistol or pistols  
5 ~~as aforesaid~~, it shall be the duty of the district attorney  
6 within the county wherein the pistol or pistols were seized to  
7 forthwith file a complaint in the circuit court of the proper  
8 county, praying that ~~such~~ the seized pistol or pistols be  
9 declared contraband, be forfeited to the state, and be  
10 destroyed. Any person, firm, or corporation or association of  
11 persons in whose possession ~~said~~ the pistol or pistols may be  
12 seized or who claim to own the same or any interest therein  
13 shall be made a party defendant to ~~said~~ the complaint, and  
14 thereupon ~~such~~ the matter shall proceed and be determined in  
15 the circuit court of the proper county in the same form and  
16 manner, as near as may be, as in the forfeiture and  
17 destruction of gaming devices, except as ~~herein~~ otherwise  
18 provided. When any judgment of condemnation and forfeiture is  
19 made in any case filed under ~~the provisions of~~ this section,  
20 the judge making ~~such~~ the judgment shall direct ~~therein~~ the  
21 destruction of the pistol or pistols by the person receiving  
22 possession of ~~said~~ the pistol or pistols from the arresting  
23 officer in the presence of the clerk or register of the court,  
24 unless the judge is of the opinion that the nondestruction  
25 thereof is necessary or proper in the ends of justice, in  
26 which event and upon recommendation of the district attorney,  
27 the judge shall award the pistol or pistols to the sheriff of

1 the county or to the chief of police of the municipality to be  
2 used exclusively by the sheriff or the chief of police in the  
3 enforcement of law, and the sheriff of the county and the  
4 chiefs of police of the municipalities shall keep a permanent  
5 record of all pistols awarded to them as provided for herein,  
6 to be accounted for as other public property, and ~~said the~~  
7 order, in the event that no appeal is taken within 15 days  
8 from the rendition thereof, shall be carried out and executed  
9 before the expiration of 20 days from the date of the  
10 judgment. The court, ~~at its discretion, shall~~ may direct in  
11 ~~said the~~ judgment that the costs of the proceedings be paid by  
12 the person in whose possession ~~said the~~ pistol or pistols were  
13 found when seized, or by any party or parties who claim to own  
14 ~~said the~~ pistol or pistols, or any interest therein, and who  
15 contested the condemnation and forfeiture thereof.

16 "§40-12-143.

17 "Persons dealing in pistols, revolvers, maxim  
18 silencers, bowie knives, dirk knives, brass knucks, or knucks  
19 of like kind, whether principal stock in trade or not shall  
20 pay the following license tax: In cities and towns of 35,000  
21 inhabitants and over, \$150; and in all other places, \$100. The  
22 required license amounts shall be paid for each place of  
23 business from which sales of such items are made. In addition  
24 to any other required licenses, a person may organize and  
25 conduct a gun and knife show of no more than seven days, by  
26 paying the maximum license tax prescribed in this section, as  
27 well as the maximum license taxes provided in Sections

1 40-12-158 and 40-12-174(d), for each such show. Participants  
2 shall not be required to pay the license taxes provided in  
3 this section, nor in Section 40-12-158 or 40-12-174 for  
4 participating in such shows, provided the organizer has paid  
5 the license taxes prescribed in this section prior to the  
6 commencement of the event. It shall be the duty of the  
7 organizer of such show to determine if each participant is  
8 licensed under the sales tax laws of this state as well as the  
9 particular county and municipality in which the show is  
10 conducted. The organizer shall be responsible for providing a  
11 list of participants to the county and municipality in which  
12 the gun show is held and for collecting and remitting all  
13 state and local sales taxes for any participant not licensed  
14 under state or local sales tax laws. In the event the  
15 organizer does not provide the information required herein or  
16 pay the license taxes prescribed in this section, prior to the  
17 commencement of the event, each participant shall be  
18 responsible for his or her applicable licenses. The organizer  
19 and all participants shall abide by applicable federal, state,  
20 and local laws and regulations. ~~All persons dealing in~~  
21 ~~pistols, revolvers, and maxim silencers shall be required to~~  
22 ~~keep a permanent record of the sale of every pistol, revolver,~~  
23 ~~or maxim silencer, showing the date of sale, serial number, or~~  
24 ~~other identification marks, manufacturer's name, caliber and~~  
25 ~~type, and also the name and address of the purchaser. The~~  
26 ~~records shall always be open for inspection by any peace~~  
27 ~~officer of the State of Alabama or any municipality thereof.~~

1     ~~The failure to keep such record shall subject such person to~~  
2     ~~having his or her license revoked by the probate judge of the~~  
3     ~~county where such license was issued on motion of any district~~  
4     ~~attorney of the State of Alabama."~~

5             Section 2. 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.