

1 HB47
2 168479-3
3 By Representative England
4 RFD: Public Safety and Homeland Security
5 First Read: 03-MAR-15
6 PFD: 02/23/2015

1 of applicable firearm prohibitions; to eliminate certain
2 record-keeping and administrative requirements relating to
3 firearm sales; to require that certain firearm sales records
4 be permanently removed and destroyed within a certain
5 timeframe; to provide an exception; to prohibit a person from
6 carrying a loaded firearm under certain conditions; to provide
7 criminal penalties; and in connection therewith would have as
8 its purpose or effect the requirement of a new or increased
9 expenditure of local funds within the meaning of Amendment 621
10 of the Constitution of Alabama of 1901, now appearing as
11 Section 111.05 of the Official Recompilation of the
12 Constitution of Alabama of 1901, as amended.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 13A-6-23, 13A-6-24, 13A-11-57,
15 13A-11-59, 13A-11-61.2, 13A-11-72, 13A-11-76, 13A-11-79,
16 13A-11-84, 22-52-10.8, and 40-12-143, are amended to read as
17 follows:

18 "§13A-6-23.

19 "(a) A person commits the crime of menacing if, by
20 physical action, he or she intentionally places or attempts to
21 place another person in fear of imminent serious physical
22 injury.

23 "(b) Duress, as set out in Section 13A-3-30, is an
24 available defense to a charge of menacing under this section.

25 "~~(b)~~ (c) Menacing is a Class B misdemeanor.

26 "§13A-6-24.

1 "(a) A person commits the crime of reckless
2 endangerment if he or she recklessly engages in conduct which
3 creates a substantial risk of serious physical injury to
4 another person.

5 "(b) Duress as set out in Section 13A-3-30, is an
6 available defense to a charge of reckless endangerment under
7 this section.

8 "~~(b)~~ (c) Reckless endangerment is a Class A
9 misdemeanor.

10 "§13A-11-57.

11 "(a) Any person who sells, gives or lends to any
12 minor any pistol ~~or,~~ except under the circumstances provided
13 in Section 13A-11-72, bowie knife, or other knife of like kind
14 or description, shall, on conviction, be fined not less than
15 ~~\$50.00~~ fifty dollars (\$50) nor more than ~~\$500.00~~ five hundred
16 dollars (\$500).

17 "(b) This section does not apply to a transfer by
18 inheritance of title to, but not possession of, a pistol,
19 bowie knife, or other knife of like kind or description to a
20 minor.

21 "§13A-11-59.

22 "(a) For the purposes of this section, the following
23 words and phrases shall have the meanings respectively
24 ascribed to them in this subsection, except in those instances
25 where the context clearly indicates a different meaning:

26 "(1) DEMONSTRATION. Demonstrating, picketing,
27 speechmaking, ~~or~~ marching, and the holding of vigils ~~and all~~

1 ~~other like forms of conduct~~ which involve the communication or
2 expression of views or grievances engaged in by one or more
3 persons, the conduct of which has the effect, intent, or
4 propensity to draw a crowd or onlookers. Such term shall not
5 include casual use of property by visitors or tourists which
6 does not have an intent or propensity to attract a crowd or
7 onlookers.

8 "(2) FIREARM. Any pistol, rifle, shotgun, or firearm
9 of any kind, whether loaded or not.

10 "(3) LAW ENFORCEMENT OFFICER. Any duly appointed and
11 acting federal, state, county, or municipal law enforcement
12 officer, peace officer, or investigating officer, or any
13 military or militia personnel called out or directed by
14 constituted authority to keep the law and order, and any park
15 ranger while acting as such on the grounds of a public park
16 and who is on regular duty and present to actively police and
17 control the demonstration, and who is assigned this duty by
18 his or her department or agency. Such term does not include a
19 peace officer on strike or a peace officer not on duty.

20 "(4) PUBLIC PLACE. Any place to which the general
21 public has access and a right to resort for business,
22 entertainment, or other lawful purpose, but does not
23 necessarily mean a place devoted solely to the uses of the
24 public. Such term shall include the front or immediate area or
25 parking lot of any store, shop, restaurant, tavern, shopping
26 center, or other place of business. Such term shall also
27 include any public building, the grounds of any public

1 building, or within the curtilage of any public building, or
2 in any public parking lot, public street, right-of-way,
3 sidewalk right-of-way, or ~~within~~ any public park or other
4 public grounds.

5 "(b) It shall be unlawful for any person, other than
6 a law enforcement officer, to have in his or her possession or
7 on his or her person or in any vehicle any firearm while
8 participating in or attending any demonstration being held at
9 a public place.

10 "(c) It shall be unlawful for any person, other than
11 a law enforcement officer as defined in subsection (a) of this
12 section, to have in his or her possession or about his or her
13 person or in any vehicle at a point within ~~1,000~~ 300 feet of a
14 demonstration at a public place, any firearm after having
15 first been advised by a law enforcement officer that a
16 demonstration was taking place at a public place and after
17 having been ordered by such officer to remove himself or
18 herself from the prescribed area until such time as he or she
19 no longer was in possession of any firearm. This subsection
20 shall not apply to any person in possession of or having on
21 his or her person any firearm within a private dwelling or
22 other private building or structure.

23 "(d) Notwithstanding the distance requirement in
24 subsection (c), it shall be unlawful for any person to have in
25 his or her possession or about his or her person or in any
26 vehicle a firearm visible to participants in, or observers of,
27 any demonstration, regardless of whether the person is within

1 300 feet or more of the demonstration, if the person points,
2 waves about, or displays the firearm with the intent to induce
3 fear, harass, alarm, intimidate, or in any way prohibit or
4 stifle the expression of views of the participants or
5 observers of the demonstration.

6 ~~"(d)(e)~~ Any person violating any of the provisions
7 of this section shall be guilty of a ~~misdemeanor and shall be~~
8 ~~punished as provided by law~~ Class C misdemeanor.

9 "§13A-11-61.2.

10 "(a) In addition to any other place limited or
11 prohibited by state or federal law, a person, including a
12 person with a permit issued under Section 13A-11-75(a) (1) or
13 recognized under Section 13A-11-85, may not knowingly possess
14 or carry a firearm in any of the following places without the
15 express permission of a person or entity with authority over
16 the premises:

17 "(1) Inside the building of a police, sheriff, or
18 highway patrol station.

19 "(2) Inside or on the premises of a prison, jail,
20 halfway house, community corrections facility, or other
21 detention facility for those who have been charged with or
22 convicted of a criminal or juvenile offense.

23 "(3) Inside ~~or on the premises of~~ a facility which
24 provides inpatient or custodial care of those with
25 psychiatric, mental, or emotional disorders.

26 "(4) Inside a courthouse, courthouse annex, a
27 building in which a District Attorney's office is located, or

1 a building in which a county commission or city council is
2 currently having a regularly scheduled or specially called
3 meeting.

4 "(5) Inside any facility hosting an athletic event
5 not related to or involving firearms which is sponsored by a
6 private or public elementary or secondary school or any
7 private or public institution of postsecondary education,
8 unless the person has a permit issued under Section
9 13A-11-75(a) (1) or recognized under Section 13A-11-85.

10 "(6) Inside any facility hosting a professional
11 athletic event not related to or involving firearms, unless
12 the person has a permit issued under Section 13A-11-75(a) (1)
13 or recognized under Section 13A-11-85.

14 "(b) Notwithstanding the provisions of subsection
15 (a), a person, including a person with a permit issued under
16 Section 13A-11-75(a) (1) or recognized under Section 13A-11-85,
17 may not, without the express permission of a person or entity
18 with authority over the premises, knowingly possess or carry a
19 firearm inside any building or facility to which access of
20 unauthorized persons and prohibited articles is limited during
21 normal hours of operation by the continuous posting of guards
22 and the use of other security features, including, but not
23 limited to, magnetometers, key cards, biometric screening
24 devices, or turnstiles or other physical barriers. Nothing in
25 this subsection otherwise restricts the possession,
26 transportation, or storage of a lawfully possessed firearm or
27 ammunition in an employee's privately-owned motor vehicle

1 while parked or operated in a public or private parking area
2 provided the employee complies with the requirements of
3 Section 13A-11-90.

4 "(c) The person or entity with authority over the
5 premises set forth in subsections (a)(1)-(6) and subsection
6 (b) shall place a notice at the public entrances of such
7 premises or buildings alerting those entering that firearms
8 are prohibited.

9 "(d) Except as provided in subsections (a)(5) and
10 (a)(6), any firearm on the premises of any facility set forth
11 in subsection (a)(1), or subsections (a)(4)-(6), or subsection
12 (b) must be kept from ordinary observation and locked within a
13 compartment or in the interior of the person's motor vehicle
14 or in a compartment or container securely affixed to the motor
15 vehicle.

16 "(e) A violation of subsections (a), (b), or (d) is
17 a Class C misdemeanor.

18 "(f) This section shall not prohibit any person from
19 possessing a firearm within the person's residence or during
20 ingress or egress thereto.

21 "(g) Prohibitions regarding the carrying of a
22 firearm under this section shall not apply to law enforcement
23 officers engaged in the lawful execution of their official
24 duties.

25 "(h) Nothing in this section shall be construed to
26 authorize the carrying or possession of a firearm where
27 prohibited by federal law.

1 "§13A-11-72.

2 "(a) No person who has been convicted in this state
3 or elsewhere of committing or attempting to commit a crime of
4 violence, misdemeanor offense of domestic violence, violent
5 offense as listed in Section 12-25-32(14), anyone who is
6 subject to a valid protection order for domestic abuse, or
7 anyone of unsound mind shall own a ~~pistol~~ firearm or have one
8 in his or her possession or under his or her control.

9 "(b) No person who is a minor, except under the
10 circumstances provided in this section, a drug addict, or an
11 habitual drunkard shall own a pistol or have one in his or her
12 possession or under his or her control.

13 "(c) Subject to the exceptions provided by Section
14 13A-11-74, no person shall knowingly with intent to do bodily
15 harm carry or possess a deadly weapon on the premises of a
16 public school.

17 "(d) Possession of a deadly weapon with the intent
18 to do bodily harm on the premises of a public school in
19 violation of subsection (c) of this section is a Class C
20 felony.

21 "(e) School security personnel and school resource
22 officers qualified under subsection (a) of Section 16-1-44.1,
23 employed by a local board of education, and authorized by the
24 employing local board of education to carry a deadly weapon
25 while on duty are exempt from subsection (c) of this section.
26 Law enforcement officers are exempt from this section, and

1 persons with pistol permits issued pursuant to Section
2 13A-11-75, are exempt from subsection (c) of this section.

3 " (f) A person shall not be in violation of Section
4 13A-11-57 or 13A-11-76 and a minor shall not be in violation
5 of this section if the minor has permission to possess a
6 pistol from a parent or legal guardian who is not prohibited
7 from possessing a firearm under state or federal law, and any
8 of the following are satisfied:

9 "(1) The minor is attending a hunter education
10 course or a firearms safety course under the supervision of an
11 adult who is not prohibited from possessing a firearm under
12 state or federal law.

13 "(2) The minor is engaging in practice in the use of
14 a firearm or target shooting at an established range under the
15 supervision of an adult who is not prohibited from possessing
16 a firearm under state or federal law.

17 "(3) The minor is engaging in an organized
18 competition involving the use of a firearm or participating in
19 or practicing for a performance by an organized group under 26
20 U.S.C. § 501(c) (3) which uses firearms as part of the
21 performance.

22 "(4) The minor is hunting or fishing pursuant to a
23 valid license, if required, and the person has the license in
24 his or her possession; has written permission of the owner or
25 legal possessor of the land on which the activities are being
26 conducted; and the pistol, when loaded, is carried only in a
27 manner discernible by ordinary observation.

1 "(5) The minor is on real property under the control
2 of the minor's parent, legal guardian, or grandparent.

3 "(6) The minor is a member of the armed services or
4 National Guard and the minor is acting in the line of duty.

5 "(7) The minor is traveling by motor vehicle to any
6 of the locations or activities listed in subdivisions (1)
7 through (6), has written permission to possess the pistol by
8 his or her parent or legal guardian, and the pistol is
9 unloaded, locked in a compartment or container that is in or
10 affixed securely to the motor vehicle and is out of reach of
11 the driver and any passenger in the motor vehicle.

12 "(g) This section does not apply to a minor who uses
13 a pistol while acting in self-defense of himself or herself or
14 other persons against an intruder into the residence of the
15 minor or a residence in which the minor is an invited guest.

16 ~~"(f)~~ (h) The term "school resource officer" as used
17 in this section means an Alabama Peace Officers' Standards and
18 Training Commissioner-certified law enforcement officer
19 employed by a law enforcement agency who is specifically
20 selected and specially trained for the school setting.

21 ~~"(g)~~ (i) The term "public school" as used in this
22 section applies only to a school composed of grades K-12 and
23 shall include a school bus used for grades K-12.

24 ~~"(h)~~ (j) The term "deadly weapon" as used in this
25 section means a firearm or anything manifestly designed, made,
26 or adapted for the purposes of inflicting death or serious
27 physical injury, and such term includes, but is not limited

1 to, a bazooka, hand grenade, missile, or explosive or
2 incendiary device; a pistol, rifle, or shotgun; or a
3 switch-blade knife, gravity knife, stiletto, sword, or dagger;
4 or any club, baton, billy, black-jack, bludgeon, or metal
5 knuckles.

6 "(k) (1) The term "convicted" as used in this section
7 means the person was represented by counsel in the case, or
8 knowingly and intelligently waived the right to counsel in the
9 case, and either the case was tried before a judge, tried by a
10 jury, or the person knowingly and intelligently waived the
11 right to have the case tried by a jury, by guilty plea or
12 otherwise.

13 "(2) A person may not be considered to have been
14 convicted for the purposes of this section if the person is
15 not considered to have been convicted in the jurisdiction in
16 which the proceedings were held or the conviction has been
17 expunged, set aside, or is of an offense for which the person
18 has been pardoned or has had civil rights restored, unless the
19 pardon, expungement, or restoration of civil rights expressly
20 provides that the person may not ship, transport, possess, or
21 receive firearms.

22 "(l) The term "misdemeanor offense of domestic
23 violence" as used in this section means a misdemeanor offense
24 that has, as its elements, the use or attempted use of
25 physical force or the threatened use of a dangerous instrument
26 or deadly weapon, and the victim is a current or former

1 spouse, parent, child, person with whom the defendant has a
2 child in common, or a present or former household member.

3 "(m) The term "valid protection order" as used in
4 this section means an order issued after a hearing of which
5 the person received actual notice, and at which the person had
6 an opportunity to participate, that does any of the following:

7 "(1) Restrains the person from harassing, stalking,
8 or threatening a qualified individual or child of the
9 qualified individual or person or engaging in other conduct
10 that would place a qualified individual in reasonable fear of
11 bodily injury to the individual or child and that includes a
12 finding that the person represents a credible threat to the
13 physical safety of the qualified individual or child.

14 "(2) By its terms, explicitly prohibits the use,
15 attempted use, or threatened use of physical force against the
16 qualified individual or child that would reasonably be
17 expected to cause bodily injury.

18 "(n) The term "qualified individual" as used in
19 subsection (k), means a spouse or former spouse of the person,
20 an individual who is a parent of a child of the person, or an
21 individual who cohabitates or has cohabited with the person.

22 "(o) The term "unsound mind" as used in this section
23 includes any person who is subject to any of the findings
24 listed below, and who has not had his or her rights to possess
25 a firearm reinstated by operation of law or legal process:

26 "(1) Found by a court, board, commission, or other
27 lawful authority that, as a result of marked subnormal

1 intelligence, mental illness, incompetency, condition, or
2 disease, is a danger to himself or herself or others or lacks
3 the mental capacity to contract or manage his or her own
4 affairs.

5 "(2) Found to be insane, not guilty by reason of
6 mental disease or defect, found mentally incompetent to stand
7 trial, or found not guilty by a reason of lack of mental
8 responsibility by a court in a criminal case, to include
9 state, federal and military courts.

10 "(3) Involuntarily committed for a final commitment
11 for inpatient treatment to the Department of Mental Health or
12 a Veterans' Administration hospital by a court after a
13 hearing.

14 "§13A-11-76.

15 "(a) ~~No~~ Except as provided in subsection (b), no
16 person shall deliver a pistol to any person ~~under the age of~~
17 ~~18 or to one~~ who he or she has reasonable cause to believe ~~has~~
18 ~~been convicted of a crime of violence or is a minor, except~~
19 ~~under the circumstances provided in Section 13A-11-72,~~ a drug
20 ~~addict, an habitual drunkard, or a person~~ of unsound mind, has
21 ~~been convicted in this state or elsewhere of committing or~~
22 ~~attempting to commit a crime of violence, misdemeanor offense~~
23 ~~of domestic violence, a violent offense as listed in Section~~
24 ~~12-25-32(14), or anyone who is subject to a valid protection~~
25 ~~order for domestic abuse, or anyone of unsound mind.~~

26 "(b) A person may deliver a pistol to a person
27 otherwise prohibited from receiving a pistol under subsection

1 (a), if the person has had his or her firearm rights restored
2 by operation of law or legal process.

3 "(c) For the purposes of this subsection, the terms
4 "convicted," "misdemeanor offense of domestic violence,"
5 "valid protection order," and "unsound mind" shall have the
6 same meanings as provided in Section 13A-11-72.

7 "§13A-11-79.

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

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

16 "(b) All records of pistol, revolver, or maxim
17 silencer sales that are maintained or in the custody of
18 dealers, the chief of police, the sheriff, or the Secretary of
19 State pursuant to Section 13A-11-79 or Section 40-12-143,
20 including any records or databases compiled as a result of or
21 based on the records or information so maintained or received,
22 shall be permanently removed and destroyed without
23 reproduction of the removed documents no later than 180 days
24 of the effective date of the act adding this subsection. This
25 section does not apply to any record necessary for an active
26 investigation or ongoing prosecution.

27 "§13A-11-84.

1 "(a) Every violation of subsection (a) of Section
2 13A-11-72 or ~~of Sections~~ Section 13A-11-81 or ~~13A-11-82~~ shall
3 be ~~punishable by imprisonment for not more than five years a~~
4 Class C felony. Every violation of subsection (b) of Section
5 13A-11-72 or ~~of Sections~~ 13A-11-73, 13A-11-74, 13A-11-76, and
6 13A-11-77 through 13A-11-80 shall be ~~punishable by~~
7 ~~imprisonment for any term less than one year or by a fine of~~
8 ~~not more than \$500.00, or both~~ a Class A misdemeanor. The
9 punishment for violating Section 13A-11-78 or 13A-11-79 may
10 include revocation of license.

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

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

1 possession of ~~said the~~ pistol or pistols from the arresting
2 officer in the presence of the clerk or register of the court,
3 unless the judge is of the opinion that the nondestruction
4 thereof is necessary or proper in the ends of justice, in
5 which event and upon recommendation of the district attorney,
6 the judge shall award the pistol or pistols to the sheriff of
7 the county or to the chief of police of the municipality to be
8 used exclusively by the sheriff or the chief of police in the
9 enforcement of law, and the sheriff of the county and the
10 chiefs of police of the municipalities shall keep a permanent
11 record of all pistols awarded to them as provided for ~~herein~~
12 in this section, to be accounted for as other public property,
13 and ~~said the~~ order, in the event that no appeal is taken
14 within 15 days from the rendition thereof, shall be carried
15 out and executed before the expiration of 20 days from the
16 date of the judgment. The court, ~~at its discretion, shall~~ may
17 direct in ~~said the~~ judgment that the costs of the proceedings
18 be paid by the person in whose possession ~~said the~~ pistol or
19 pistols were found when seized, or by any party or parties who
20 claim to own ~~said the~~ pistol or pistols, or any interest
21 therein, and who contested the condemnation and forfeiture
22 thereof.

23 "§22-52-10.8.

24 "(a) When the judge of probate of a county enters an
25 order for the involuntary commitment of a person pursuant to
26 Section 22-52-10.1, and the order is for a final commitment
27 for inpatient treatment to the Department of Mental Health or

1 a Veterans' Administration hospital, or as otherwise provided
2 by law, ~~and the order is based on evidence produced in court~~
3 ~~that the committed person has shown a history of the~~
4 ~~inappropriate use of firearms or other dangerous instrument or~~
5 ~~deadly weapons as defined in Section 13A-1-2 or has threatened~~
6 ~~to use firearms or other dangerous weapons or poses a threat~~
7 ~~to use firearms or other dangerous weapons inappropriately,~~
8 the judge shall immediately forward the order to the ~~Criminal~~
9 ~~Justice Information Center~~ Alabama Law Enforcement Agency and
10 the order shall be entered in its information systems. The
11 order shall be forwarded to the ~~Criminal Justice Information~~
12 ~~Center~~ Alabama Law Enforcement Agency in the manner as the
13 Criminal Justice Information Center Commission shall provide.
14 The ~~Criminal Justice Information Center~~ Alabama Law
15 Enforcement Agency shall as soon as possible thereafter enter
16 the order in the National Instant Criminal Background Check
17 System (NICS) and the information shall be entered into the
18 NICS Index Denied Persons File. The records maintained
19 pursuant to this section shall only be used for purposes of
20 determining eligibility to purchase or transfer a firearm.
21 Information furnished shall not include confidential medical
22 or treatment records, confidential tax or financial data,
23 library records, or other personal information.

24 " (b) Any person who has been adjudicated mentally
25 deficient or committed to a mental institution and who is
26 subject to the firearm disabilities of 18 U.S.C. Section 922
27 (d) (4) and (g) (4), and who is subject to the firearm

1 disabilities of Sections 13A-11-72 and 13A-11-75, because he
2 or she has been determined by law or legal process to be of
3 unsound mind, may petition the district court for a civil
4 review of the person's mental capacity to purchase a firearm.
5 The petitioner may present evidence and witnesses at the
6 hearing on the petition. The district court shall make written
7 findings of fact and conclusions of law on the issues before
8 it and issue a final order. The district court shall grant the
9 relief requested in the petition if the judge finds, based on
10 a preponderance of the evidence presented with respect to the
11 petitioner's reputation, the petitioner's mental health record
12 and, if applicable, certified criminal history record from the
13 Alabama Law Enforcement Agency, the circumstances surrounding
14 the petitioner's firearm disability, and any other evidence in
15 the record, that the petitioner will not be likely to act in a
16 manner that is dangerous to public safety and that granting
17 the relief would not be contrary to the public interest. If
18 the final order grants relief, a copy of the order shall be
19 forwarded to the ~~Criminal Justice Information Center~~ Alabama
20 Law Enforcement Agency directing that the prior order be
21 removed from its information systems. Thereafter, ~~the Criminal~~
22 ~~Justice Information Center~~ Alabama Law Enforcement Agency
23 shall, as soon as possible, redact the prior order from the
24 National Instant Criminal Background Check System (NICS) or
25 shall request that the redaction be done and shall notify the
26 United States Attorney General that the basis for the record
27 being made available no longer applies. The petitioner may

1 appeal a final order denying relief within 42 days of the
2 order to the circuit court for the county in which the
3 commitment or adjudication was entered. The circuit court's
4 review shall be conducted de novo.

5 ~~"(c) For purposes of this section, inappropriate~~
6 ~~means unlawful or with reckless disregard for human life.~~

7 ~~"(d) (c)~~ To the extent allowed by the Alabama
8 Criminal Justice Information Center Commission, ACJIC may
9 provide a judge of probate access to ACJIC information systems
10 for the purpose of involuntary commitment hearings, petitions
11 to change names, and other official functions of the judge of
12 probate.

13 "§40-12-143.

14 "Persons dealing in pistols, revolvers, maxim
15 silencers, bowie knives, dirk knives, brass knucks or knucks
16 of like kind, whether principal stock in trade or not shall
17 pay the following license tax: In cities and towns of 35,000
18 inhabitants and over, \$150; and in all other places, \$100. The
19 required license amounts shall be paid for each place of
20 business from which sales of such items are made. In addition
21 to any other required licenses, a person may organize and
22 conduct a gun and knife show of no more than seven days, by
23 paying the maximum license tax prescribed in this section, as
24 well as the maximum license taxes provided in Sections
25 40-12-158 and 40-12-174(d), for each such show. Participants
26 shall not be required to pay the license taxes provided in
27 this section, nor in Section 40-12-158 or 40-12-174 for

1 participating in such shows, provided the organizer has paid
2 the license taxes prescribed in this section prior to the
3 commencement of the event. It shall be the duty of the
4 organizer of such show to determine if each participant is
5 licensed under the sales tax laws of this state as well as the
6 particular county and municipality in which the show is
7 conducted. The organizer shall be responsible for providing a
8 list of participants to the county and municipality in which
9 the gun show is held and for collecting and remitting all
10 state and local sales taxes for any participant not licensed
11 under state or local sales tax laws. In the event the
12 organizer does not provide the information required herein or
13 pay the license taxes prescribed in this section, prior to the
14 commencement of the event, each participant shall be
15 responsible for his or her applicable licenses. The organizer
16 and all participants shall abide by applicable federal, state,
17 and local laws and regulations. ~~All persons dealing in~~
18 ~~pistols, revolvers, and maxim silencers shall be required to~~
19 ~~keep a permanent record of the sale of every pistol, revolver,~~
20 ~~or maxim silencer, showing the date of sale, serial number, or~~
21 ~~other identification marks, manufacturer's name, caliber and~~
22 ~~type, and also the name and address of the purchaser. The~~
23 ~~records shall always be open for inspection by any peace~~
24 ~~officer of the State of Alabama or any municipality thereof.~~
25 ~~The failure to keep such record shall subject such person to~~
26 ~~having his or her license revoked by the probate judge of the~~

1 ~~county where such license was issued on motion of any district~~
2 ~~attorney of the State of Alabama".~~

3 Section 2. (a) (1) Upon any finding that a defendant
4 is insane, mentally incompetent, or not guilty by reason of
5 mental disease or defect pursuant to Chapter 16, Title 15,
6 Code of Alabama 1975, or the Alabama Rules of Criminal
7 Procedure, the judge shall immediately forward the order of
8 the finding to the Alabama Law Enforcement Agency and the
9 order shall be entered in its information systems. The order
10 shall be forwarded to the Alabama Law Enforcement Agency in
11 the manner as the Criminal Justice Information Center
12 Commission shall provide.

13 (2) The Alabama Law Enforcement Agency, as soon as
14 possible thereafter, shall enter the order in the National
15 Instant Criminal Background Check System (NICS) and the
16 information shall be entered into the NICS Index Denied
17 Persons File.

18 (3) The records maintained pursuant to this section
19 shall only be used for purposes of determining eligibility to
20 receive, ship, transport, or possess a firearm. Information
21 furnished shall not include confidential medical or treatment
22 records.

23 (b) (1) Any person who is subject to the firearm
24 disabilities of 18 U.S.C. Section 922(d) (4) and (g) (4), and
25 who is subject to the firearm disabilities of Sections
26 13A-11-72 and 13A-11-75, Code of Alabama 1975, because he or
27 she has been determined by law or legal process to be of

1 unsound mind, may petition the district court in the
2 jurisdiction where such a finding was made, for a civil review
3 of the person's mental capacity to receive, ship, transport,
4 or possess a firearm.

5 (2) The district attorney or the Attorney General,
6 whoever prosecuted the underlying case, and victim or victim
7 representative, if applicable, shall be served a copy of the
8 petition by certified mail. The petitioner may present
9 evidence and witnesses at the hearing on the petition. The
10 district attorney or Attorney General shall be allowed to
11 speak and make recommendations to the court. The victim or
12 victim representative, if applicable, shall be allowed to
13 speak to the court. The district court shall make written
14 findings of fact and conclusions of law on the issues before
15 it and issue a final order.

16 (3) The district court shall grant the relief
17 requested in the petition if the judge finds, based on a
18 preponderance of the evidence presented with respect to the
19 petitioner's reputation, the petitioner's mental health record
20 and, if applicable, certified criminal history record obtained
21 from the Alabama Law Enforcement Agency, the circumstances
22 surrounding the petitioner's firearm disability, and any other
23 evidence in the record, that the petitioner will not be likely
24 to act in a manner that is dangerous to public safety and that
25 granting the relief would not be contrary to the public
26 interest.

1 (4) If the final order grants relief, a copy of the
2 order shall be forwarded to the Alabama Law Enforcement Agency
3 directing that the prior order be removed from its information
4 systems. Thereafter, the Alabama Law Enforcement Agency, as
5 soon as possible, shall redact the prior order from the
6 National Instant Criminal Background Check System (NICS) or
7 shall request that the redaction be done and shall notify the
8 United States Attorney General that the basis for the record
9 being made available no longer applies.

10 (5) The petitioner may appeal a final order denying
11 relief within 42 days of the order to the circuit court for
12 the county in which the commitment or adjudication was
13 entered. The circuit court's review shall be conducted de
14 novo.

15 Section 3. (a) A person shall not carry on his or
16 her person a firearm that is loaded and from which a shot may
17 be discharged under any of the following conditions:

18 (1) There is 0.08 percent or more by weight of
19 alcohol in his or her blood.

20 (2) He or she is under the influence of alcohol to
21 such a degree as to render him or her incapable of safely
22 operating a firearm.

23 (3) He or she is under the influence of a controlled
24 substance to such a degree as to render him or her incapable
25 of safely operating a firearm.

1 (4) He or she is under the combined influence of
2 alcohol and a controlled substance to such a degree as to
3 render him or her incapable of safely operating a firearm.

4 (5) He or she is under the influence of any
5 substance which impairs his or her mental or physical
6 faculties to such a degree as to render him or her incapable
7 of safely operating a firearm.

8 (b) The fact that any person charged with violating
9 this section is or has been legally entitled to use alcohol or
10 a controlled substance shall not constitute a defense against
11 any charge of a violation of this section.

12 (c) (1) Upon first conviction, a person violating
13 subsection (a) shall be guilty of a Class A misdemeanor, and
14 subject to a fine of not less than six hundred dollars (\$600)
15 nor more than two thousand one hundred dollars (\$2,100). Any
16 permit to carry a pistol issued pursuant to Section 13A-11-73,
17 Code of Alabama 1975, and any hunting license issued to the
18 person shall be revoked upon conviction and may not be
19 reissued for six months.

20 (2) Upon a second conviction within a five-year
21 period, a person convicted of violating subsection (a) shall
22 be guilty of a Class A misdemeanor, and subject to a fine of
23 not less than one thousand one hundred dollars (\$1,100) nor
24 more than five thousand one hundred dollars (\$5,100). Any
25 permit to carry a pistol issued pursuant to Section 13A-11-73,
26 Code of Alabama 1975, and any hunting license issued to the

1 person shall be revoked upon conviction and may not be
2 reissued for 12 months.

3 (3) Upon a third conviction, a person convicted of
4 violating subsection (a) shall be guilty of a Class A
5 misdemeanor, and subject to a fine of not less than two
6 thousand one hundred dollars (\$2,100) nor more than ten
7 thousand one hundred dollars (\$10,100). The court shall impose
8 a mandatory sentence of not less than 60 days, which may not
9 be suspended. Any permit to carry a pistol issued pursuant to
10 Section 13A-11-73, Code of Alabama 1975, and any hunting
11 license issued to the person shall be revoked upon conviction
12 and may not be reissued for 18 months.

13 (4) Upon a fourth or subsequent conviction, a person
14 convicted of violating subsection (a) shall be guilty of a
15 Class C felony and subject to a fine of not less than four
16 thousand one hundred dollars (\$4,100) nor more than ten
17 thousand one hundred dollars (\$10,100). Any permit to carry a
18 pistol issued pursuant to Section 13A-11-73, Code of Alabama
19 1975, and any hunting license issued to the person shall be
20 revoked upon conviction and may not be reissued for 24 months.

21 (d) The Alabama habitual felony offender law does
22 not apply to a conviction of a felony under this section, and
23 a conviction of a felony pursuant to this section shall not be
24 a felony conviction for purposes of the enhancement of
25 punishment pursuant to Alabama's habitual felony offender law.
26 However, prior misdemeanor or felony convictions for
27 possessing a loaded firearm under the influence may be

1 considered as part of the sentencing calculations or
2 determinations under the Alabama Sentencing Guidelines or
3 rules promulgated by the Alabama Sentencing Commission.

4 (e) This section does not apply to any of the
5 following:

6 (1) A person who carries a firearm while in such
7 person's own dwelling or fixed place of business or on any
8 premises in which the person has a legal interest.

9 (2) A person who carries a firearm on private
10 property that is not open to public use.

11 (3) The carrying or use of a firearm during an act
12 committed in self-defense or in defense of another person or
13 any other act committed if legally justified or excused,
14 provided such carrying or use lasts no longer than is
15 necessary.

16 (f) For purposes of this section the term "loaded"
17 means the following:

18 (1) For a firearm capable of using fixed ammunition,
19 that live ammunition is present in the chamber or chambers of
20 the firearm, any internal magazine of the firearm, or a
21 detachable magazine inserted in the firearm.

22 (2) For a firearm that is not capable of using fixed
23 ammunition, that the firearm contains a propellant charge and
24 a priming cap or primer cap.

25 Section 4. Although this bill would have as its
26 purpose or effect the requirement of a new or increased
27 expenditure of local funds, the bill is excluded from further

1 requirements and application under Amendment 621, now
2 appearing as Section 111.05 of the Official Recompilation of
3 the Constitution of Alabama of 1901, as amended, because the
4 bill defines a new crime or amends the definition of an
5 existing crime.

6 Section 5. The provisions of this act are severable.
7 If any part of this act is declared invalid or
8 unconstitutional, that declaration shall not affect the part
9 which remains.

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

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House of Representatives

Read for the first time and re-ferred to the House of Representatives committee on Public Safety and Homeland Security..... 03-MAR-15

Read for the second time and placed on the calendar with 1 substitute and..... 30-APR-15

Read for the third time and passed as amended..... 12-MAY-15

Yeas 58, Nays 33, Nays 7

Jeff Woodard
Clerk