

1 SB34
2 171820-1
3 By Senator Allen
4 RFD: Finance and Taxation General Fund
5 First Read: 09-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 Amendment 621 of the Constitution of Alabama
19 of 1901, now appearing as Section 111.05 of the
20 Official Recompilation of the Constitution of
21 Alabama of 1901, as amended, prohibits a general
22 law whose purpose or effect would be to require a
23 new or increased expenditure of local funds from
24 becoming effective with regard to a local
25 governmental entity without enactment by a 2/3 vote
26 unless: it comes within one of a number of
27 specified exceptions; it is approved by the

1 affected entity; or the Legislature appropriates
2 funds, or provides a local source of revenue, to
3 the entity for the purpose.

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

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT
15

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

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 "§13A-11-7.

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

9 "(1) Engages in fighting or in violent tumultuous or
10 threatening behavior.

11 "(2) Makes unreasonable noise.

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

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

16 "(5) Obstructs vehicular or pedestrian traffic, or a
17 transportation facility.

18 "(6) Congregates with other person in a public place
19 and refuses to comply with a lawful order of law enforcement
20 to disperse.

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

22 "~~It shall be a rebuttable presumption that the~~
23 ~~mere carrying of a visible pistol, holstered or secured, in a~~
24 ~~public place, in and of itself, is not a violation of this~~
25 The mere lawful carrying of a visible, holstered, or
26 secured firearm in a public place, in and of itself, shall not
27 be a violation of this section.

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

5 "§13A-11-73.

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

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

25 "§13A-11-74.

26 "The provisions of Section 13A-11-73 shall not apply
27 to marshals, sheriffs, prison and jail wardens and their

1 regularly employed deputies, policemen and other law
2 enforcement officers of any state or political subdivision
3 thereof, or to the members of the army, navy or marine corps
4 of the United States or of the national guard, or to the
5 members of the national guard organized reserves or state
6 guard organizations when on duty or going to or from duty, or
7 to the regularly enrolled members of any organization duly
8 authorized to purchase or receive such weapons from the United
9 States or from this state; provided, that such members are at
10 or are going to or from their places of assembly or target
11 practices, or to officers or employees of the United States
12 duly authorized to carry a pistol, or to any person engaged in
13 manufacturing, repairing or dealing in pistols, or the agent
14 or representative of such person possessing, using, or
15 carrying a pistol in the usual or ordinary course of such
16 business, ~~or to any common carrier, except taxicabs, licensed~~
17 ~~as a common carrier, or to any person permitted by law to~~
18 ~~possess a pistol while carrying it unloaded in a secure~~
19 ~~wrapper, from the place of purchase to his home or place of~~
20 ~~business, or to or from a place of repair or in moving from~~
21 ~~one place of abode or business to another.~~

22 "§13A-11-75.

23 "(a) (1)a. The sheriff of a county, upon the
24 application of any person residing in that county, within 30
25 days from receipt of a complete application and accompanying
26 fee, shall issue or renew a permit for such person to carry a
27 pistol in a vehicle or concealed on or about his or her person

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

10 "1. Was found guilty but mentally ill in a criminal
11 case.

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

14 "3. Was declared incompetent to stand trial in a
15 criminal case.

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

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

21 "6. Required involuntary inpatient treatment in a
22 psychiatric hospital or similar treatment facility.

23 "7. Required involuntary outpatient treatment in a
24 psychiatric hospital or similar treatment facility based on a
25 finding that the person is an imminent danger to himself or
26 herself or to others.

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

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

8 "10. Falsified any portion of the permit
9 application.

10 "11. Caused justifiable concern for public safety.

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

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

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

26 "b. The sheriff shall provide a written statement of
27 the reasons for the revocation and the evidence upon which it

1 is based must be disclosed to the applicant, unless disclosure
2 would interfere with a criminal investigation.

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

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

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

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

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

22 "(c) For the convenience of the applicant, the
23 sheriff may provide for application or renewal of a permit
24 under subdivision (1) of subsection (a) through electronic
25 means. The sheriff may also accept payment for a permit by
26 debit or credit card or other consumer electronic payment

1 method. Any transaction or banking fee charged for the
2 electronic payment method shall be paid by the applicant.

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

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

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

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

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

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

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

25 Section 3. 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 4. This act shall become effective on the
7 first day of the third month following its passage and
8 approval by the Governor, or its otherwise becoming law.