

1 HB17
2 196616-3
3 By Representatives Rowe, Fridy and Weaver
4 RFD: Judiciary
5 First Read: 05-MAR-19
6 PFD: 01/10/2019

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

ENROLLED, An Act,

To amend Section 13A-11-75 as amended by Act 2018-400, 2018 Regular Session, of the Code of Alabama 1975, relating to pistol permits; to provide a deadline for a sheriff to issue or reinstate an appellant's pistol permit after a successful appeal.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-11-75 as amended by Act 2018-400, 2018 Regular Session, of the Code of Alabama 1975, is amended to read as follows:

"§13A-11-75.

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

1 such determination, the sheriff may consider whether the applicant:

2 "1. Was found guilty but mentally ill in a criminal
3 case.

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

6 "3. Was declared incompetent to stand trial in a
7 criminal case.

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

10 "5. Was found not guilty only by reason of lack of
11 mental responsibility under the Uniform Code of Military
12 Justice.

13 "6. Required involuntary inpatient treatment in a
14 psychiatric hospital or similar treatment facility.

15 "7. Required involuntary outpatient treatment in a
16 psychiatric hospital or similar treatment facility based on a
17 finding that the person is an imminent danger to himself or
18 herself or to others.

19 "8. Required involuntary commitment to a psychiatric
20 hospital or similar treatment facility for any reason,
21 including drug use.

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

1 "10. Falsified any portion of the permit
2 application.

3 "11. Caused justifiable concern for public safety.

4 "b. The sheriff shall take into account how recent
5 any consideration under paragraph a. is in relation to the
6 date of the application. The sheriff shall provide a written
7 statement of the reasons for a denial of a permit and the
8 evidence upon which it is based must be disclosed to the
9 applicant, unless disclosure would interfere with a criminal
10 investigation.

11 "c. Except as otherwise provided by the laws of this
12 state, a permit issued under this subdivision is valid
13 throughout the state.

14 "d. Except as expressly provided in this section, a
15 sheriff may not place conditions or requirements on the
16 issuance of a pistol permit or limit its scope or
17 applicability.

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

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

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

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

18 "(5) If the district court issues a determination in
19 favor of a person whose permit was denied or revoked, the
20 person shall be issued a permit or the permit must be
21 reinstated no later than the close of business on the third
22 fifth business day following the district court's transmittal
23 of its order to the appropriate sheriff.

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 issued to the permittee, and a duplicate
10 shall, within seven days, be sent by registered or certified
11 mail to the Secretary of the Alabama State Law Enforcement
12 Agency. The application and a copy shall be preserved for six
13 years by the authority issuing the same. The sheriff may
14 charge a fee as provided by local law for the issuance of the
15 permit under subdivision (1) of subsection (a). The amount of
16 the fee for a period of one year up to five years shall be the
17 amount of the fee as prescribed by local law multiplied by the
18 number of years of the permit requested by the applicant. The
19 fee shall be paid into the county treasury unless otherwise
20 provided by local law. Prior to issuance or renewal of a
21 permit, the sheriff shall contact available local, state, and
22 federal criminal history data banks, including the National
23 Instant Criminal Background Check System, to determine whether
24 possession of a firearm by an applicant would be a violation
25 of state or federal law.

1 "(c) A sheriff may not place a time constraint or
2 other requirement upon taking possession of a pistol permit by
3 the applicant after he or she has been notified that his or
4 her pistol permit has been approved.

5 "(d) 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 "(e) 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 "(f) The name, address, signature, photograph, and
25 any other personally identifying information collected from an

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

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

1 "(h) This section shall not be construed to limit or
2 place any conditions upon a person's right to carry a pistol
3 that is not in a motor vehicle or not concealed.

4 "(i) If a person issued a pistol permit in this
5 state establishes residence in another state, the pistol
6 permit shall expire upon the establishment of residence in the
7 other state."

8 Section 2. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.

