

HB234 INTRODUCED



1 R57WNN-1
2 By Representative Wood (R)
3 RFD: Judiciary
4 First Read: 04-Apr-23
5



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SYNOPSIS:

Under existing state law, a person who possesses, obtains, receives, sells, or uses a short-barreled rifle or short-barreled shotgun is guilty of a Class C felony. A person may only lawfully possess or use these prohibited firearms if the person meets certain federal requirements.

This bill would prohibit the possession, sale, or use of a trigger activator that is designed or intended to allow a firearm to shoot more than one shot with a single pull of the trigger, and would provide criminal penalties for a violation.

This bill would further provide for the duties of a law enforcement officer during an investigatory stop, to provide that when the officer takes a firearm, or part or component of a firearm, into temporary custody, in addition to other requirements provided by law, the officer may only return the firearm or parts or components thereof that are lawful.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3



HB234 INTRODUCED

29 vote unless: it comes within one of a number of
30 specified exceptions; it is approved by the affected
31 entity; or the Legislature appropriates funds, or
32 provides a local source of revenue, to the entity for
33 the purpose.

34 The purpose or effect of this bill would be to
35 require a new or increased expenditure of local funds
36 within the meaning of the amendment. However, the bill
37 does not require approval of a local governmental
38 entity or enactment by a 2/3 vote to become effective
39 because it comes within one of the specified
40 exceptions contained in the amendment.

41

42

43

44

45

46

47

48

49

50

51

52

53

54

55

56

A BILL

TO BE ENTITLED

AN ACT

Relating to crimes and offenses; to amend Section
13A-11-62, as last amended by Act 2022-133 and Act 2022-438,
2022 Regular Session, and 13A-11-63, Code of Alabama 1975, to
prohibit the possession and use of a trigger activator and
provide criminal penalties for a violation; to amend Section 5
of Act 2022-133, 2022 Regular Session, now appearing as
Section 13A-11-97, Code of Alabama 1975, to further provide
for the duties of a law enforcement officer during an
investigatory stop involving a firearm; and in connection



HB234 INTRODUCED

57 therewith would have as its purpose or effect the requirement
58 of a new or increased expenditure of local funds within the
59 meaning of Section 111.05 of the Constitution of Alabama of
60 2022.

61 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

62 Section 1. Section 13A-11-62, as last amended by Act
63 2022-133 and Act 2022-438, 2022 Regular Session, and Section
64 13A-11-63, Code of Alabama 1975, are amended to read as
65 follows:

66 "§13A-11-62

67 For purposes of this division, the following terms
68 ~~shall~~ have the following meanings, unless the context clearly
69 indicates otherwise:

70 (1) FIREARM. As defined under Section 13A-8-1.

71 (2) RIFLE. Any weapon designed or redesigned, made or
72 remade, and intended to be fired from the shoulder and
73 designed or redesigned and made or remade to use the energy of
74 the explosive in a fixed metallic cartridge to fire only a
75 single projectile through a rifled bore for each pull of the
76 trigger.

77 (3) SHORT-BARRELED RIFLE. A rifle having one or more
78 barrels less than 16 inches in length and any weapon made from
79 a rifle, whether by alteration, modification, or otherwise,
80 if ~~such~~ the weapon, as modified, has an overall length of less
81 than 26 inches.

82 (4) SHORT-BARRELED SHOTGUN. A shotgun having one or
83 more barrels less than 18 inches in length and any weapon made
84 from a shotgun, whether by alteration, modification, or



HB234 INTRODUCED

85 otherwise), if ~~such~~ the weapon, as modified, has an overall
86 length of less than 26 inches.

87 (5) SHOTGUN. ~~A~~ Any weapon designed or redesigned, made
88 or remade, and intended to be fired from the shoulder and
89 designed or redesigned and made or remade to use the energy of
90 the explosive in a fixed shotgun shell to fire through a
91 smooth bore either a number of ball shot or a single
92 projectile for each single pull of the trigger.

93 (6) TRIGGER ACTIVATOR. A device, part, component, or
94 combination of parts specifically designed or intended to
95 allow an otherwise semi-automatic firearm to automatically
96 shoot more than one shot with a single function of the trigger
97 of the firearm to which the trigger is affixed so that the
98 trigger rests and continues firing without additional physical
99 manipulation of the trigger by the shooter."

100 "§13A-11-63

101 (a) A person who possesses, obtains, receives, sells,
102 or uses a short-barreled rifle or a short-barreled shotgun ~~in~~
103 ~~violation of federal law~~ is guilty of a Class C felony.

104 (b) A person who possesses, obtains, receives, sells,
105 uses, manufactures, assembles, imports, or transports a
106 trigger activator is guilty of a Class B felony.

107 (c) A person has a duty to inspect a firearm, including
108 any device, part, component, or combination of parts attached
109 to the firearm, before purchasing, selling, possessing, or
110 using the firearm, to ensure the firearm, or device, part,
111 component, or combination thereof, is not prohibited under
112 subsection (a) or (b). A person who possesses, obtains,



HB234 INTRODUCED

113 receives, sells, purchases, or uses a firearm or trigger
114 activator prohibited under subsection (a) or (b) violates the
115 duty prescribed in this subsection to inspect and shall be
116 deemed to have possessed the firearm or trigger activator
117 knowingly.

118 ~~(b)~~ (d) This section does not apply to a ~~peace officer~~
119 ~~who possesses, obtains, receives, sells, or uses a~~
120 ~~short-barreled rifle or a short-barreled shotgun~~ law
121 enforcement officer in the course of or in connection with his
122 or her official duties.

123 (e) Nothing in this section shall be construed to
124 prohibit a person from manufacturing, importing, selling,
125 offering for sale, possessing, receiving, transferring, or
126 transporting any item for which the person is in compliance
127 with the National Firearms Act, 26 U.S.C. § 5801, et seq., or
128 other applicable federal law."

129 Section 2. Section 5 of Act 2022-133, 2022 Regular
130 Session, now appearing as Section 13A-11-97, Code of Alabama
131 1975, is amended to read as follows:

132 "§13A-11-97

133 (a) If at any time during an investigation a law
134 enforcement officer acting in the lawful discharge of the
135 officer's official duties has a reasonable suspicion that an
136 individual is engaged or is about to be engaged in criminal
137 conduct, or the officer determines that a reasonable person
138 would believe that it is necessary for the protection of the
139 officer, individual, or any other individual, the officer may
140 temporarily take into custody the firearm that could be used



HB234 INTRODUCED

141 to engage in criminal conduct or to cause harm to the officer,
142 individual, or any other individual.

143 (b) While the firearm is in the law enforcement
144 officer's possession, and if the officer has a reasonable
145 suspicion that an individual is engaged or is about to be
146 engaged in criminal conduct, the law enforcement officer may
147 conduct a search of any available local, state, or federal
148 criminal history and weapons databases to determine whether
149 the individual is prohibited from possessing the firearm or
150 whether the firearm should not be returned to the individual
151 pursuant to state or federal law.

152 (c) The law enforcement officer shall return the
153 firearm to the individual before discharging the individual
154 from the scene if the officer determines that ~~both~~all of the
155 following are fulfilled:

156 (1) The individual is not an immediate threat to the
157 officer, individual, or any other individual.

158 (2) The individual has not committed a violation that
159 results in the arrest of the individual.

160 (3) The firearm is not prohibited under Section
161 13A-11-63 and is not a trigger activator, as defined under
162 Section 13A-11-62.

163 (d) If the law enforcement officer is unable to
164 determine whether the firearm or components or parts are
165 prohibited under Section 13A-11-63, the officer may retain
166 custody of the firearm or parts or components for not more
167 than 48 hours to make the determination."

168 Section 3. Although this bill would have as its purpose



HB234 INTRODUCED

169 or effect the requirement of a new or increased expenditure of
170 local funds, the bill is excluded from further requirements
171 and application under Section 111.05 of the Constitution of
172 Alabama of 2022, because the bill defines a new crime or
173 amends the definition of an existing crime.

174 Section 4. This act shall become effective on the first
175 day of the third month following its passage and approval by
176 the Governor, or its otherwise becoming law.