

HB28 INTRODUCED



1 11BQ3L-1
2 By Representative England
3 RFD: Judiciary
4 First Read: 07-Mar-23
5 PFD: 23-Feb-23



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SYNOPSIS:

Under existing law, persons with lawful pistol permits are exempt from the proscription that no person may knowingly, with intent to do bodily harm, carry or possess a deadly weapon on the premises of a public school.

This bill would remove this exemption.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

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

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. If this bill is not enacted by a 2/3 vote, it will not become effective with regard to a local entity unless approved by the



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29 local entity or until, and only as long as, the
30 Legislature appropriates funds or provides for a local
31 source of revenue.

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A BILL

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TO BE ENTITLED

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AN ACT

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39 Relating to firearms; to amend Section 13A-11-72, Code
40 of Alabama 1975, to further provide for the unlawful
41 possession of a firearm on the premises of a public school; to
42 remove exemption for persons with pistol permits; to make
43 nonsubstantive, technical revisions to update the existing
44 code language to current style; and in connection therewith
45 would have as its purpose or effect the requirement of a new
46 or increased expenditure of local funds within the meaning of
47 Section 111.05 of the Constitution of Alabama of 2022.

48 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

49 Section 1. Section 13A-11-72, Code of Alabama 1975, is
50 amended to read as follows:

51 "§13A-11-72

52 (a) (1) No person who has been convicted in this state
53 or elsewhere of committing or attempting to commit a crime of
54 violence, misdemeanor offense of domestic violence, violent
55 offense as listed in Section 12-25-32(15), anyone who is
56 subject to a valid protection order for domestic abuse, or



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57 anyone of unsound mind shall own a firearm or have one in his
58 or her possession or under his or her control.

59 (2) A violation of this subsection is a Class C felony.

60 (b) (1) No person who is a minor, except under the
61 circumstances provided in this section, ~~a drug addict, or an~~
62 ~~habitual drunkard~~ or has a drug or alcohol addiction shall own
63 a pistol or have one in his or her possession or under his or
64 her control.

65 (2) A violation of this subsection is a Class A
66 misdemeanor.

67 (c) (1) Subject to the exceptions provided by Section
68 13A-11-74, no person shall knowingly, with intent to do bodily
69 harm, carry or possess a deadly weapon on the premises of a
70 public school.

71 ~~(d) (2) Possession of a deadly weapon with the intent to~~
72 ~~do bodily harm on the premises of a public school in A~~
73 violation of this subsection ~~(c) of this section~~ is a Class C
74 felony.

75 ~~(e) (d)~~ School security personnel and school resource
76 officers qualified under ~~subsection (a) of~~ Section
77 16-1-44.1 (a), employed by a local board of education, and
78 authorized by the employing local board of education to carry
79 a deadly weapon while on duty are exempt from subsection (c)
80 ~~of this section~~. Law enforcement officers are exempt from this
81 section, ~~and persons with pistol permits issued pursuant to~~
82 ~~Section 13A-11-75, are exempt from subsection (c) of this~~
83 ~~section.~~

84 ~~(f) (e)~~ A person shall not be in violation of Section



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85 13A-11-57 or 13A-11-76 and a minor shall not be in violation
86 of this section if the minor has permission to possess a
87 pistol from a parent or legal guardian who is not prohibited
88 from possessing a firearm under state or federal law, and any
89 of the following are satisfied:

90 (1) The minor is attending a hunter education course or
91 a firearms safety course under the supervision of an adult who
92 is not prohibited from possessing a firearm under state or
93 federal law.

94 (2) The minor is engaging in practice in the use of a
95 firearm or target shooting at an established range under the
96 supervision of an adult who is not prohibited from possessing
97 a firearm under state or federal law.

98 (3) The minor is engaging in an organized competition
99 involving the use of a firearm or participating in or
100 practicing for a performance by an organized group under 26
101 U.S.C. § 501(c) (3) which uses firearms as part of the
102 performance.

103 (4) The minor is hunting or fishing pursuant to a valid
104 license, if required, and the person has the license in his or
105 her possession; has written permission of the owner or legal
106 possessor of the land on which the activities are being
107 conducted; and the pistol, when loaded, is carried only in a
108 manner discernible by ordinary observation.

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

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



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113 (7) The minor is traveling by motor vehicle to any of
114 the locations or activities listed in subdivisions (1) through
115 (6), has written permission to possess the ~~pistol~~ firearm by
116 his or her parent or legal guardian, and the ~~pistol~~ firearm is
117 unloaded, locked in a compartment or container that is in or
118 affixed securely to the motor vehicle and is out of reach of
119 the driver and any passenger in the motor vehicle.

120 ~~(g)~~ (f) This section does not apply to a minor who uses
121 a ~~pistol~~ firearm while acting in self-defense of himself, ~~or~~
122 herself, or other persons against an intruder into the
123 residence of the minor or a residence in which the minor is an
124 invited guest.

125 ~~(h)~~ (g) The term "school resource officer" as used in
126 this section means an Alabama Peace Officers' Standards and
127 Training Commissioner-certified law enforcement officer
128 employed by a law enforcement agency who is specifically
129 selected and specially trained for the school setting.

130 ~~(i)~~ (h) The term "public school" as used in this section
131 applies only to a school composed of grades K-12 and shall
132 include a school bus used for grades K-12.

133 ~~(j)~~ (i) The term "deadly weapon" as used in this section
134 means a firearm or anything manifestly designed, made, or
135 adapted for the purposes of inflicting death or serious
136 physical injury, ~~and such term includes~~ including, but ~~is~~ not
137 limited to, a bazooka, hand grenade, missile, or explosive or
138 incendiary device; a pistol, rifle, or shotgun; or a
139 switch-blade knife, gravity knife, stiletto, sword, or dagger;
140 or any club, baton, billy, black-jack, bludgeon, or metal



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141 knuckles.

142 ~~(k)~~ (j) (1) The term "convicted" as used in this section
143 requires that the person was represented by counsel in the
144 case, or knowingly and intelligently waived the right to
145 counsel in the case if required by law, and either the case
146 was tried before a judge, tried by a jury, or the person
147 knowingly and intelligently waived the right to have the case
148 tried, by guilty plea or otherwise.

149 (2) A person ~~may~~ is not ~~be~~ considered to have been
150 convicted for the purposes of this section if the person is
151 not considered to have been convicted in the jurisdiction in
152 which the proceedings were held or the conviction has been
153 expunged, set aside, or is of an offense for which the person
154 has been pardoned or has had his or her civil rights restored,
155 unless the pardon, expungement, or restoration of civil rights
156 expressly provides that the person may not ship, transport,
157 possess, or receive firearms.

158 ~~(l)~~ (k) The term "misdemeanor offense of domestic
159 violence" as used in this section means a misdemeanor offense
160 that has, as its elements, the use or attempted use of
161 physical force or the threatened use of a dangerous instrument
162 or deadly weapon, and the victim is a current or former
163 spouse, parent, child, person with whom the defendant has a
164 child in common, or a present or former household member.

165 ~~(m)~~ (l) The term "valid protection order" as used in
166 this section means an order issued after a hearing of which
167 the person received actual notice, and at which the person had
168 an opportunity to participate, that does ~~any~~ either of the



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169 following:

170 (1) Restrains the person from harassing, stalking, or
171 threatening a qualified individual or child of the qualified
172 individual or person or engaging in other conduct that would
173 place a qualified individual in reasonable fear of bodily
174 injury to the individual or child and that includes a finding
175 that the person represents a credible threat to the physical
176 safety of the qualified individual or child.

177 (2) By its terms, explicitly prohibits the use,
178 attempted use, or threatened use of physical force against the
179 qualified individual or child that would reasonably be
180 expected to cause bodily injury.

181 ~~(n)~~ (m) The term "qualified individual" as used in
182 subsection ~~(m)~~ (1), means a spouse or former spouse of the
183 person, an individual who is a parent of a child of the
184 person, or an individual who cohabitates or has cohabited with
185 the person.

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

190 (1) Found by a court, board, commission, or other
191 lawful authority that, as a result of marked subnormal
192 intelligence, mental illness, incompetency, condition, or
193 disease, is a danger to himself, ~~or~~ herself, or others or
194 lacks the mental capacity to contract or manage his or her own
195 affairs.

196 (2) Found to be insane, not guilty by reason of mental



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197 disease or defect, found mentally incompetent to stand trial,
198 or found not guilty by a reason of lack of mental
199 responsibility by a court in a criminal case, to include
200 state, federal, and military courts.

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

204 Section 2. The purpose or effect of this bill would be
205 to require a new or increased expenditure of local funds
206 within the meaning of Section 111.05 of the Constitution of
207 Alabama of 2022. If this bill is not enacted by a 2/3 vote, it
208 will not become effective with regard to a local entity unless
209 approved by the local entity or until, and only as long as,
210 the Legislature appropriates funds or provides for a local
211 source of revenue.

212 Section 3. This act shall become effective on the first
213 day of the third month following its passage and approval by
214 the Governor, or its otherwise becoming law.