

1 SB14
2 174076-4
3 By Senator Allen
4 RFD: Judiciary
5 First Read: 02-FEB-16
6 PFD: 12/01/2015

1 SB14

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To amend Sections 13A-11-7, 13A-11-73, 13A-11-74,
12 and 13A-11-75, Code of Alabama 1975, to provide that lawfully
13 carrying a firearm does not, in and of itself, constitute
14 disorderly conduct; to authorize certain persons to carry a
15 pistol in his or her vehicle or on certain property without a
16 concealed pistol permit; and in connection therewith would
17 have as its purpose or effect the requirement of a new or
18 increased expenditure of local funds within the meaning of
19 Amendment 621 of the Constitution of Alabama of 1901, now
20 appearing as Section 111.05 of the Official ReCompilation of
21 the Constitution of Alabama of 1901, as amended.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

26 "§13A-11-7.

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

5 "(1) Engages in fighting or in violent tumultuous or
6 threatening behavior.

7 "(2) Makes unreasonable noise.

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

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

12 "(5) Obstructs vehicular or pedestrian traffic, or a
13 transportation facility.

14 "(6) Congregates with other person in a public place
15 and refuses to comply with a lawful order of law enforcement
16 to disperse.

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

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

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

1 "§13A-11-73.

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

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

21 "§13A-11-74.

22 "The provisions of Section 13A-11-73 shall not apply
23 to marshals, sheriffs, prison and jail wardens and their
24 regularly employed deputies, policemen and other law
25 enforcement officers of any state or political subdivision
26 thereof, or to the members of the army, navy or marine corps
27 of the United States or of the national guard, or to the

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

18 "§13A-11-75.

19 "(a) (1)a. The sheriff of a county, upon the
20 application of any person residing in that county, within 30
21 days from receipt of a complete application and accompanying
22 fee, shall issue or renew a permit for such person to carry a
23 pistol ~~in a vehicle or~~ concealed on or about his or her person
24 within this state for one to five year increments, as
25 requested by the person seeking the permit, from date of
26 issue, unless the sheriff determines that the person is
27 prohibited from the possession of a pistol or firearm pursuant

1 to state or federal law, or has a reasonable suspicion that
2 the person may use a weapon unlawfully or in such other manner
3 that would endanger the person's self or others. In making
4 such determination, the sheriff may consider whether the
5 applicant:

6 "1. Was found guilty but mentally ill in a criminal
7 case.

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

10 "3. Was declared incompetent to stand trial in a
11 criminal case.

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

14 "5. Was found not guilty only by reason of lack of
15 mental responsibility under the Uniform Code of Military
16 Justice.

17 "6. Required involuntary inpatient treatment in a
18 psychiatric hospital or similar treatment facility.

19 "7. Required involuntary outpatient treatment in a
20 psychiatric hospital or similar treatment facility based on a
21 finding that the person is an imminent danger to himself or
22 herself or to others.

23 "8. Required involuntary commitment to a psychiatric
24 hospital or similar treatment facility for any reason,
25 including drug use.

26 "9. Is or was the subject of a prosecution or of a
27 commitment or incompetency proceeding that could lead to a

1 prohibition on the receipt or possession of a firearm under
2 the laws of Alabama or the United States.

3 "10. Falsified any portion of the permit
4 application.

5 "11. Caused justifiable concern for public safety.

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

13 "c. Except as otherwise provided by the laws of this
14 state, a permit issued under this subdivision is valid
15 throughout the state, and a sheriff may not place conditions
16 or requirements on the issuance of the permit or limit its
17 scope or 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.

25 "(3) A person who is denied a permit under
26 subdivision (1), or a person whose permit is revoked under
27 subdivision (2), within 30 days of notification of the denial

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

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

15 "(5) If the district court issues a determination in
16 favor of a person whose permit was denied or revoked, the
17 person shall be issued a permit or the permit must be
18 reinstated.

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

22 "(b) Each permit shall be written or in an
23 electronic or digital form to be prescribed by the Secretary
24 of State in consultation with the Alabama Sheriff's
25 Association, and shall bear the name, address, description,
26 and signature of the permittee. The original hardcopy of the
27 permit shall be delivered to the permittee, and a duplicate

1 shall, within seven days, be sent by registered or certified
2 mail to the ~~Director of Public Safety~~ Secretary of the Alabama
3 Law Enforcement Agency. The application and a copy shall be
4 preserved for six years by the authority issuing the same. The
5 sheriff may charge a fee as provided by local law for the
6 issuance of the permit under subdivision (1) of subsection
7 (a). The amount of the fee for a period of one year up to five
8 years shall be the amount of the fee as prescribed by local
9 law multiplied by the number of years of the permit requested
10 by the applicant. The fee shall be paid into the county
11 treasury unless otherwise provided by local law. Prior to
12 issuance or renewal of a permit, the sheriff shall contact
13 available local, state, and federal criminal history data
14 banks, including the National Instant Criminal Background
15 Check System, to determine whether possession of a firearm by
16 an applicant would be a violation of state or federal law.

17 "(c) For the convenience of the applicant, the
18 sheriff may provide for application or renewal of a permit
19 under subdivision (1) of subsection (a) through electronic
20 means. The sheriff may also accept payment for a permit by
21 debit or credit card or other consumer electronic payment
22 method. Any transaction or banking fee charged for the
23 electronic payment method shall be paid by the applicant.

24 "(d) If a person who is not a United States citizen
25 applies for a permit under this section, the sheriff shall
26 conduct an Immigration Alien Query through U.S. Immigration
27 and Customs Enforcement, or any successor agency, and the

1 application form shall require information relating to the
2 applicant's country of citizenship, place of birth, and any
3 alien or admission number issued by U.S. Immigration and
4 Customs Enforcement, or any successor agency. The sheriff
5 shall review the results of these inquiries before making a
6 determination of whether to issue a permit or renewal permit.
7 A person who is unlawfully present in this state may not be
8 issued a permit under this section.

9 "(e) The name, address, signature, photograph, and
10 any other personally identifying information collected from an
11 applicant or permittee under this section shall be kept
12 confidential, shall be exempt from disclosure under Section
13 36-12-40, and may only be used for law enforcement purposes
14 except when a current permittee is charged in any state with a
15 felony involving the use of a pistol. All other information on
16 permits under this section, including information concerning
17 the annual number of applicants, number of permits issued,
18 number of permits denied or revoked, revenue from issuance of
19 permits, and any other fiscal or statistical data otherwise,
20 shall remain public writings subject to public disclosure.
21 Except as provided above, the sheriff of a county shall redact
22 the name, address, signature, photograph, and any other
23 personally identifying information of a permit holder before
24 releasing a copy of a permit for a non-law enforcement
25 purpose. The sheriff may charge one dollar (\$1) per copy of
26 any redacted permit record requested other than when requested
27 for law enforcement purposes. To knowingly publish or release

1 to the public in any form any information or records related
2 to the licensing process, or the current validity of any
3 permit, except as authorized in this subsection or in response
4 to a court order or subpoena, is a Class A misdemeanor.

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

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

12 "(h) If a person issued a pistol permit in this
13 state establishes residence in another state, the pistol
14 permit shall expire upon the establishment of residence in the
15 other state."

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

19 Section 3. Although this bill would have as its
20 purpose or effect the requirement of a new or increased
21 expenditure of local funds, the bill is excluded from further
22 requirements and application under Amendment 621, now
23 appearing as Section 111.05 of the Official Recompile of
24 the Constitution of Alabama of 1901, as amended, because the
25 bill defines a new crime or amends the definition of an
26 existing crime.

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

1
2
3 Senate

4 Read for the first time and referred to the Senate
5 committee on Judiciary..... 02-FEB-16
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7 Reported from Judiciary as Favorable with 1 sub-
8 stitute..... 25-FEB-16
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10 Read for the third time and passed as amended 05-APR-16

11 Yeas 27
12 Nays 6

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15 Patrick Harris
16 Secretary
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