SB14
174076-4
By Senator Allen
RFD: Judiciary
First Read: 02-FEB-16
PFD: 12/01/2015
A BILL

TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§13A-11-7."
(a) A person commits the crime of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he or she does any of the following:

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

(2) Makes unreasonable noise.

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

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

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

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

(b) Disorderly conduct is a Class C misdemeanor.

(c) It shall be a rebuttable presumption that the mere carrying of a visible pistol, holstered or secured, in a public place, in and of itself, is not a violation of this section. The mere lawful carrying of a visible, holstered, or secured firearm in a public place, in and of itself, shall not be a violation of this section.

(d) Nothing in Act 2013-283 shall be construed to prohibit law enforcement personnel who have reasonable suspicion from acting to prevent a breach of the peace or from taking action to preserve public safety.
§13A-11-73.

"(a) Except on land under his or her control or in his or her own abode or his or her own fixed place of business, no person shall carry a pistol in any vehicle or concealed on or about his or her person without a permit issued under Section 13A-11-75(a)(1) or recognized under Section 13A-11-85 without a license as provided in this chapter, except on real property under his or her own control, including his or her own vehicle, in his or her own abode, in his or her own fixed place of business, on the real property of another with consent, or in a vehicle of another with consent.

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

§13A-11-74.

"The provisions of Section 13A-11-73 shall not apply to marshals, sheriffs, prison and jail wardens and their regularly employed deputies, policemen and other law enforcement officers of any state or political subdivision thereof, or to the members of the army, navy or marine corps of the United States or of the national guard, or to the
members of the national guard organized reserves or state guard organizations when on duty or going to or from duty, or to the regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States or from this state; provided, that such members are at or are going to or from their places of assembly or target practices, or to officers or employees of the United States duly authorized to carry a pistol, or to any person engaged in manufacturing, repairing or dealing in pistols, or the agent or representative of such person possessing, using, or carrying a pistol in the usual or ordinary course of such business, or to any common carrier, except taxicabs, licensed as a common carrier, or to any person permitted by law to possess a pistol while carrying it unloaded in a secure wrapper, from the place of purchase to his home or place of business, or to or from a place of repair or in moving from one place of abode or business to another.

"§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
such determination, the sheriff may consider whether the
applicant:

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

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

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

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

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

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

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

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

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

"10. Falsified any portion of the permit application.

"11. Caused justifiable concern for public safety.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 3. Although this bill would have as its
purpose or effect the requirement of a new or increased
expenditure of local funds, the bill is excluded from further
requirements and application under Amendment 621, now
appearing as Section 111.05 of the Official Recompilation of
the Constitution of Alabama of 1901, as amended, because the
bill defines a new crime or amends the definition of an
existing crime.
Section 4. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.
Senate

Read for the first time and referred to the Senate committee on Judiciary............................. Q2-FEB-16

Reported from Judiciary as Favorable with 1 substitute......................................................... 25-FEB-16

Read for the third time and passed as amended .... Q5-APR-16

Yeas 27
Nays 6

Patrick Harris
Secretary