

1 SB302
2 136738-1
3 By Senators Allen, Holley, Dial, Brewbaker, Waggoner, Marsh,
4 Ward, Scofield, Whatley, Williams and Reed
5 RFD: Judiciary
6 First Read: 14-FEB-12

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8 SYNOPSIS: This bill would create the crime of looting
9 during a state of emergency declared by the
10 Governor and would provide that a violation would
11 be a Class C felony.

12 Amendment 621 of the Constitution of Alabama
13 of 1901, now appearing as Section 111.05 of the
14 Official Recompilation of the Constitution of
15 Alabama of 1901, as amended, prohibits a general
16 law whose purpose or effect would be to require a
17 new or increased expenditure of local funds from
18 becoming effective with regard to a local
19 governmental entity without enactment by a 2/3 vote
20 unless: it comes within one of a number of
21 specified exceptions; it is approved by the
22 affected entity; or the Legislature appropriates
23 funds, or provides a local source of revenue, to
24 the entity for the purpose.

25 The purpose or effect of this bill would be
26 to require a new or increased expenditure of local
27 funds within the meaning of the amendment. However,

1 the bill does not require approval of a local
2 governmental entity or enactment by a 2/3 vote to
3 become effective because it comes within one of the
4 specified exceptions contained in the amendment.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT
9

10 To create the crime of looting; to provide
11 penalties; and in connection therewith would have as its
12 purpose or effect the requirement of a new or increased
13 expenditure of local funds within the meaning of Amendment 621
14 of the Constitution of Alabama of 1901, now appearing as
15 Section 111.05 of the Official Recompilation of the
16 Constitution of Alabama of 1901, as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. (a) For the purposes of this section, the
19 following words have the following meaning:

20 (1) BUILDING. Any structure that may be entered and
21 utilized by persons for business, public use, lodging, or the
22 storage of goods. The term includes any vehicle, aircraft, or
23 watercraft used for the lodging of persons or carrying on
24 business therein and includes any railroad boxcar or other
25 rail equipment or trailer or tractor trailer, or combination
26 thereof. Where a building consists of two or more units

1 separately occupied or secure, each shall be deemed both a
2 separate building and a part of the main building.

3 (2) STATE OF EMERGENCY. When the Governor duly
4 proclaims the existence of conditions of disaster or of
5 extreme peril to the safety of persons and property within the
6 state caused by fire, flood, storm, epidemic, technological
7 failure or accident, riot, drought, sudden and severe energy
8 shortage, plant or animal infestation or disease, earthquake,
9 explosion, terrorism, man-made disaster, or other conditions,
10 other than conditions resulting from a labor controversy or
11 conditions causing a state of war emergency, which, by reason
12 of their magnitude, are or are likely to be beyond the control
13 of the services, personnel, equipment, and facilities of any
14 single county, city, or county and city and require the
15 combined forces of a mutual aid region or regions to combat or
16 an energy shortage which requires extraordinary measures
17 beyond the authority vested in the Alabama Public Service
18 Commission.

19 (b) A person commits the crime of looting if the
20 person intentionally enters without authorization any building
21 or real property during a state of emergency and obtains,
22 exerts control over, damages, or removes the property of
23 another person without lawful authority.

24 (c) The crime of looting is a Class C felony.

25 (d) The fact that a person may be subject to
26 prosecution under this section shall not bar his or her
27 prosecution or punishment for any other offense.

1 Section 2. Although this bill would have as its
2 purpose or effect the requirement of a new or increased
3 expenditure of local funds, the bill is excluded from further
4 requirements and application under Amendment 621, now
5 appearing as Section 111.05 of the Official Recompilation of
6 the Constitution of Alabama of 1901, as amended, because the
7 bill defines a new crime or amends the definition of an
8 existing crime.

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