

1 SB286
2 151232-4
3 By Senators Beason, Bedford, Sanford, Marsh, Holley, Glover,
4 McGill, Allen, Reed, Whatley, Taylor and Holtzclaw
5 RFD: Judiciary
6 First Read: 28-FEB-13

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3
4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to firearms; to amend Section 11-80-11,
12 Code of Alabama 1975, to consolidate certain preemption
13 language regarding the authority of counties and
14 municipalities to regulate certain activity related to
15 firearms; to provide civil remedies to persons adversely
16 affected by unauthorized action of a county or municipality
17 relating to firearm regulation; to amend Section 13A-11-7,
18 Code of Alabama 1975, to establish a rebuttable presumption
19 that the carrying of a firearm under certain conditions does
20 not constitute the crime of disorderly conduct; to amend
21 Section 13A-11-59, Code of Alabama 1975, to clarify the
22 prohibition of carrying a firearm while attending a
23 demonstration at a public place; to amend Section 13A-11-73,
24 Code of Alabama 1975, to further provide for the possession of
25 a pistol in a motor vehicle; to provide that the mere presence
26 of a pistol in a vehicle does not create a presumption that
27 the pistol is concealed; to amend Section 13A-11-75, Code of

1 Alabama 1975, to provide for the issuance of a lifetime
2 vehicle-only permit authorizing a person to carry a pistol in
3 a vehicle; to require a sheriff to issue a lifetime
4 vehicle-only permit and concealed pistol permit within a
5 certain time frame; to increase the renewal period; to provide
6 certain eligibility requirements for the issuance of permits;
7 to provide for the revocation of a permit; to provide an
8 appeals process for denials and revocations of permits; to
9 further provide for the permit fee; to provide for the
10 issuance of permits to applicants who are not United States
11 citizens under certain conditions; to require a report from
12 the National Instant Background Check System as part of the
13 investigation process relating to the issuance of a concealed
14 pistol permit; to amend Section 13A-11-85, Code of Alabama
15 1975, to authorize the Attorney General to enter into
16 reciprocal agreements with other states for the mutual
17 recognition of licenses to carry pistols; to amend Section
18 40-12-143, Code of Alabama 1975, relating to the levy of
19 business license taxes on persons participating in gun shows;
20 to allow employees to transport or store a firearm in the
21 employee's privately-owned motor vehicle under certain
22 conditions; to prohibit an employer from inquiring whether the
23 employee is transporting or storing a firearm in a private
24 vehicle; to prohibit a business entity or property owner or
25 legal possessor from establishing policies against persons
26 transporting or storing a firearm or ammunition when the
27 person is otherwise in compliance with all other applicable

1 laws under certain conditions; to further provide for the
2 carrying of pistols on private and public property; to provide
3 a list of prohibited places where a person may not knowingly
4 possess a firearm without permission; to specify that a person
5 or business entity has no duty to guard against the criminal
6 acts of a third party; to provide that an employer is not
7 liable for the actions of its employees outside the line and
8 scope of employment; to repeal Section 11-45-1.1, Code of
9 Alabama 1975, relating to the authority of a municipality to
10 enact ordinances relating to handguns, Section 13A-11-52, Code
11 of Alabama 1975, relating to the carrying of a pistol on the
12 property of another; and in connection therewith would have as
13 its purpose or effect the requirement of a new or increased
14 expenditure of local funds within the meaning of Amendment 621
15 of the Constitution of Alabama of 1901, now appearing as
16 Section 111.05 of the Official Recompilation of the
17 Constitution of Alabama of 1901, as amended.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Section 11-80-11, Code of Alabama 1975,
20 is amended to read as follows:

21 "§11-80-11.

22 ~~"(a) No county or municipal corporation,~~
23 ~~instrumentality, or political subdivision thereof, by~~
24 ~~ordinance, resolution, or other enactment, shall regulate in~~
25 ~~any manner gun shows, the possession, ownership, transport,~~
26 ~~carrying, transfer, sale, purchase, licensing, registration or~~

1 use of firearms, ammunition, components of firearms, firearms
2 dealers, or dealers in firearm components.

3 "(b) (1) Subsection (a) does not affect the authority
4 a municipality has under law to regulate the discharge of
5 firearms within the limits of the municipality or the
6 authority a county has under law enacted prior to August 1,
7 2000, to regulate the discharge of firearms within the
8 jurisdiction of the county.

9 "(2) Subsection (a) does not affect the authority of
10 the state, a county, or a municipality to assess, enforce, and
11 collect sales taxes, use taxes, and gross receipts taxes in
12 the nature of sales taxes as defined by Section 40-2A-3(8), on
13 the retail sale of firearms and ammunition or to assess,
14 enforce, and collect business licenses from firearms or
15 ammunition manufacturers, trade associations, distributors, or
16 dealers for the privilege of engaging in business.

17 "Further, nothing herein shall exempt any business
18 which uses firearms or ammunition in the conduct of its
19 business or any business which leases or sells firearms or
20 ammunition from the provisions of county and municipal
21 planning and zoning laws, as long as the code, ordinance, or
22 regulations are not used to circumvent the intent of
23 subsection (a).

24 "This section shall not be construed to limit or
25 restrict the power of a municipality to adopt or enforce
26 ordinances which make the violation of a state firearm law a

1 ~~violation of a municipal ordinance to the same extent as other~~
2 ~~state law violations.~~

3 "~~(c)~~ The authority to bring or settle any lawsuit in
4 which the state has an exclusive interest or right to recover
5 against any firearm or ammunition manufacturer, trade
6 association, or dealer, and the authority to bring or settle
7 any lawsuit on behalf of any governmental unit created by or
8 pursuant to an act of the Legislature or the Constitution of
9 Alabama of 1901, or any department, agency, or authority
10 thereof, for damages, abatement, injunctive relief, or other
11 equitable relief resulting from or relating to the design,
12 manufacture, marketing, or lawful sale of firearms or
13 ammunition, or both, shall be reserved exclusively to the
14 Attorney General, by and with the consent of the Governor.
15 This section shall not prohibit a county or municipal
16 corporation from bringing an action against a firearms or
17 ammunition manufacturer or dealer for breach of contract or
18 warranty as to firearms or ammunition purchased by the
19 political subdivision or local governmental authority."

20 Section 2. Sections 13A-11-7, 13A-11-59, 13A-11-73,
21 13A-11-75, and 13A-11-85, Code of Alabama 1975, are amended to
22 read as follows:

23 "§13A-11-7.

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

1 "(1) Engages in fighting or in violent tumultuous or
2 threatening behavior;~~or.~~

3 "(2) Makes unreasonable noise;~~or.~~

4 "(3) In a public place uses abusive or obscene
5 language or makes an obscene gesture;~~or.~~

6 "(4) Without lawful authority, disturbs any lawful
7 assembly or meeting of persons;~~or.~~

8 "(5) Obstructs vehicular or pedestrian traffic, or a
9 transportation facility;~~or.~~

10 "(6) Congregates with other person in a public place
11 and refuses to comply with a lawful order of ~~the police~~ law
12 enforcement to disperse.

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

14 "(c) It shall be a rebuttable presumption that the
15 mere carrying of a visible, holstered firearm in a public
16 place, in and of itself, is not a violation of this section.

17 "§13A-11-59.

18 "(a) For the purposes of this section, the following
19 words and phrases shall have the meanings respectively
20 ascribed to them in this subsection, except in those instances
21 where the context clearly indicates a different meaning:

22 "(1) DEMONSTRATION. Demonstrating, picketing,
23 speechmaking or marching, holding of vigils and all other like
24 forms of conduct for which a permit has been issued and which
25 involve the communication or expression of views or grievances
26 engaged in by ~~one~~ ten or more persons, the conduct of which
27 has the effect, intent or propensity to draw a crowd or

1 onlookers. Such term shall not include casual use of property
2 by visitors or tourists which does not have an intent or
3 propensity to attract a crowd or onlookers.

4 "(2) FIREARM. Any pistol, rifle, shotgun or firearm
5 of any kind, whether loaded or not.

6 "(3) LAW ENFORCEMENT OFFICER. Any duly appointed and
7 acting federal, state, county or municipal law enforcement
8 officer, peace officer or investigating officer, or any
9 military or militia personnel called out or directed by
10 constituted authority to keep the law and order, and any park
11 ranger while acting as such on the grounds of a public park
12 and who is on regular duty and present to actively police and
13 control the demonstration, and who is assigned this duty by
14 his department or agency. Such term does not include a peace
15 officer on strike or a peace officer not on duty.

16 "(4) PUBLIC PLACE. Any place to which the general
17 public has access and a right to resort for business,
18 entertainment or other lawful purpose, but does not
19 necessarily mean a place devoted solely to the uses of the
20 public. Such term shall include the front or immediate area or
21 parking lot of any store, shop, restaurant, tavern, shopping
22 center or other place of business. Such term shall also
23 include any public building, the grounds of any public
24 building, or within the curtilage of any public building, or
25 in any public parking lot, public street, right-of-way,
26 sidewalk right-of-way, or within any public park or other
27 public grounds.

1 "(b) It shall be unlawful for any person, other than
2 a law enforcement officer, to have in his or her possession or
3 on his or her person or in any vehicle any firearm while
4 participating in or attending any demonstration being held at
5 a public place.

6 "(c) It shall be unlawful for any person, other than
7 a law enforcement officer as defined in subsection (a) of this
8 section, to have in his or her possession or about his or her
9 person or in any vehicle at a point within 1,000 feet of a
10 demonstration at a public place, any firearm after having
11 first been advised by a law enforcement officer that a
12 demonstration was taking place at a public place and after
13 having been ordered by such officer to remove himself or
14 herself from the prescribed area until such time as he or she
15 no longer was in possession of any firearm. This subsection
16 shall not apply to any person in possession of or having on
17 his or her person any firearm within a private dwelling or
18 other private building or structure.

19 "(d) Any person violating any of the provisions of
20 this section shall be guilty of a Class C misdemeanor ~~and~~
21 ~~shall be punished as provided by law.~~

22 "§13A-11-73.

23 "~~No~~ Except on land under his or her control or in
24 his or her own abode or fixed place of business, no person
25 shall carry a pistol in any vehicle or concealed on or about
26 his or her person ~~except on his land, in his own abode or~~
27 ~~fixed place of business,~~ without a license ~~therefor as~~

1 ~~hereinafter provided~~ issued under subdivision Section
2 13A-11-75(a) (1) or (2). The mere presence of a pistol in a
3 motor vehicle does not create a presumption that the pistol is
4 concealed.

5 "§13A-11-75.

6 "(a) (1)a. The sheriff of a county, upon the
7 application of any person residing in that county, ~~may~~ within
8 30 days from receipt of a complete application and
9 accompanying fee, shall issue or renew a ~~qualified or~~
10 ~~unlimited~~ license to ~~for~~ such person to carry a pistol in a
11 vehicle or concealed on or about his or her person within this
12 state for ~~not more than one year~~ one to five year increments,
13 as requested by the person seeking the license, from date of
14 issue, ~~if it appears that the applicant has good reason to~~
15 ~~fear injury to his or her person or property or has any other~~
16 ~~proper reason for carrying a pistol, and that he or she is a~~
17 ~~suitable person to be so licensed.~~ unless the sheriff
18 determines, based upon reasonable suspicion, that there is a
19 credible risk that the person will use a weapon unlawfully or
20 in such other manner that would endanger the person's self or
21 others. The sheriff may consider whether the applicant:

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

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

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

1 "4. Was found not guilty only by reason of lack of
2 mental responsibility under the Uniform Code of Military
3 Justice.

4 "5. Required involuntary inpatient treatment in a
5 psychiatric hospital.

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

9 "7. Required involuntary commitment to a psychiatric
10 hospital for any reason, including drug use.

11 "8. Is prohibited from the possession of a pistol or
12 firearm pursuant to state or federal law.

13 "9. Falsified any portion of the license
14 application.

15 "10. Caused legitimate concern for public safety.

16 "b. The sheriff shall take into account how recent
17 any consideration under paragraph a. is in relation to the
18 date of the application. The sheriff shall provide a written
19 statement of the reasons for a denial of a license and the
20 evidence upon which it is based must be disclosed to the
21 applicant, unless disclosure would interfere with a criminal
22 investigation or the person is otherwise prohibited under the
23 laws of this state or the United States from possessing or
24 receiving a firearm.

25 "c.1. Except as provided in subparagraph 2., a
26 license issued under this subdivision shall cover a person who
27 has the express authorization of the licensee to, for a

1 limited purpose, drive a motor vehicle owned, rented, or
2 leased by the licensee, provided that the following conditions
3 are satisfied:

4 "(i) The person does not have a felony conviction.

5 "(ii) The person does not routinely drive the motor
6 vehicle.

7 "(iii) The person is not driving the vehicle in the
8 course of committing a felony.

9 "2. This paragraph shall not authorize a person
10 driving a motor vehicle owned, leased, or rented by a licensee
11 to carry a concealed pistol on or about his or her person
12 without a concealed pistol permit.

13 "d. Except as otherwise provided by the laws of this
14 state, a license 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 license or limit its
17 scope or applicability.

18 "(2)a. The sheriff of a county, upon the application
19 of any person residing in that county, within 30 days from
20 receipt of a complete application, shall issue a lifetime
21 vehicle-only license for the person to carry a pistol in a
22 vehicle within this state unless the sheriff determines, based
23 upon reasonable suspicion, that the person is likely to use a
24 weapon unlawfully or in such other manner that would endanger
25 the person's self or others. The sheriff may consider the
26 factors contained in subparagraphs 1. through 10. of paragraph

1 (1)a. regarding the issuance of a lifetime vehicle-only
2 license.

3 "b. The sheriff shall take into account how recent
4 any consideration under paragraph a. is in relation to the
5 date of the application. The sheriff shall provide a written
6 statement of the reasons for a denial of a license and the
7 evidence upon which it is based must be disclosed to the
8 applicant, unless disclosure would interfere with a criminal
9 investigation or the person is otherwise prohibited under the
10 laws of this state or the United States from possessing or
11 receiving a firearm.

12 "c. A lifetime vehicle-only permit issued under this
13 subdivision shall be valid for the carrying of a pistol open
14 or concealed in a motor vehicle.

15 "d. A license issued under this subdivision shall
16 cover a person who has the express authorization of the
17 licensee to, for a limited purpose, drive a motor vehicle
18 owned, rented, or leased by the licensee, provided that the
19 following conditions are satisfied:

20 "1. The person does not have a felony conviction.

21 "2. The person does not routinely drive the motor
22 vehicle.

23 "(3)a. The sheriff may revoke a license issued under
24 subdivision (1) or subdivision (2) if he or she determines,
25 based upon reasonable suspicion, that the person is likely to
26 use a weapon unlawfully or in such other manner that would

1 endanger the person's self or others. The sheriff may consider
2 whether the license holder:

3 "1. Has been found guilty but mentally ill in a
4 criminal case.

5 "2. Has been found not guilty in a criminal case by
6 reason of insanity or mental disease or defect.

7 "3. Has been declared incompetent to stand trial in
8 a criminal case.

9 "4. Has been found not guilty only by reason of lack
10 of mental responsibility under the Uniform Code of Military
11 Justice.

12 "5. Has required involuntary inpatient treatment in
13 a psychiatric hospital.

14 "6. Has required involuntary outpatient treatment in
15 a psychiatric hospital based on a finding that the person is
16 an imminent danger to himself or herself or to others.

17 "7. Has required involuntary commitment to a
18 psychiatric hospital for any reason, including drug use.

19 "8. Has been prohibited from the possession of a
20 pistol or firearm pursuant to state or federal law.

21 "9. Has falsified any portion of the license
22 application.

23 "10. Has caused legitimate concern for public
24 safety.

25 "b. The sheriff shall take into account how recent
26 any consideration used is in a determination to revoke. The
27 sheriff shall provide a written statement of the reasons for

1 the revocation and the evidence upon which it is based must be
2 disclosed to the applicant, unless disclosure would interfere
3 with a criminal investigation or the person is otherwise
4 prohibited under the laws of this state or the United States
5 from possessing or receiving a firearm.

6 "(3) A person who is denied a license under
7 subdivision (1) or subdivision (2), or a person whose license
8 is revoked under subdivision (3), within 30 days of
9 notification of the denial or revocation, may appeal the
10 denial or revocation to the district court of the county where
11 the denial or revocation was issued and any required filing
12 fees for this action shall be waived for the person. Upon a
13 review of a denial under this subdivision, the sheriff shall
14 have the burden of proving by clear and convincing evidence
15 that there is a credible risk that the person would use a
16 weapon unlawfully or in such other manner as would endanger
17 the person's self or others if granted a license to carry a
18 concealed firearm under this section.

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

22 "(5) If the district court issues a determination in
23 favor of a person whose permit was denied or revoked, the
24 person shall be issued a permit or the permit must be
25 reinstated and the person shall not be required to pay the
26 permit fees under subsection (b). Additionally, the person may
27 be reimbursed for any court costs and reasonable attorney's

1 fees by the sheriff of the county where the denial or
2 revocation was issued.

3 "(b) Each ~~The~~ license shall be in triplicate, in
4 form to be prescribed by the Secretary of State, and shall
5 bear the name, address, description, and signature of the
6 licensee ~~and the reason given for desiring a license~~. The
7 original ~~thereof~~ shall be delivered to the licensee, the
8 duplicate shall, within seven days, be sent by registered or
9 certified mail to the Director of Public Safety, and the
10 triplicate shall be preserved for six years by the authority
11 issuing the same. ~~The fee for issuing such license shall be~~
12 ~~one dollar (\$1) which~~ sheriff may charge a fee as provided by
13 local law for the issuance of the license under subdivision
14 (1) of subsection (a). Any provision in a local law, currently
15 existing at the time of the enactment of this legislation
16 shall not be affected by this act. Any new fees shall not
17 exceed an aggregate amount of fifty dollars (\$50) for a
18 five-year period. The fee shall be paid into the county
19 treasury unless otherwise provided by local law. The sheriff
20 may not charge a fee for the issuance of a license under
21 subdivision (2) of subsection (a). Prior to issuance or
22 renewal of a license, the sheriff shall contact available
23 local, state, and federal criminal history data banks,
24 including the National Instant Criminal Background Check
25 System, to determine whether possession of a firearm by an
26 applicant would be a violation of state or federal law. ~~The~~

1 ~~sheriff may revoke a license upon proof that the licensee is~~
2 ~~not a proper person to be licensed.~~

3 "(c) If a person who is not a United States citizen
4 applies for a license under this section, the sheriff shall
5 conduct an Immigration Alien Query through the Bureau of
6 Immigration and Customs Enforcement, or any successor agency,
7 and the application form shall require information relating to
8 the applicant's country of citizenship, place of birth, and
9 any alien or admission number issued by the Bureau of
10 Immigration and Customs Enforcement, or any successor agency.
11 The sheriff shall review the results of these inquiries before
12 making a determination of whether to issue a license or
13 renewal license. A person who is unlawfully present in this
14 state may not be issued a license to carry a pistol in a motor
15 vehicle or a pistol that is concealed.

16 ~~"(b)~~ (d) The name, address, and signature collected
17 from an applicant or licensee under this section shall be kept
18 confidential, shall be exempt from disclosure under Section
19 36-12-40, and may only be used for law enforcement purposes
20 except when a current licensee is charged in any state with a
21 felony involving the use of a pistol. All other information on
22 licenses under this section, including information concerning
23 the annual number of applicants, number of licenses issued,
24 number of licenses denied or revoked, revenue from issuance of
25 licenses, and any other fiscal or statistical data otherwise,
26 shall remain public writings subject to public disclosure.
27 Except as provided above, the sheriff of a county shall redact

1 the name, address, signature, and photograph of an applicant
2 before releasing a copy of a license for a non-law enforcement
3 purpose. The sheriff may charge one dollar (\$1) per copy of
4 any redacted license record requested other than when
5 requested for law enforcement purposes. To knowingly publish
6 or release to the public in any form any information or
7 records related to the licensing process, or the current
8 validity of any license, except as authorized in this
9 subsection or in response to a court order or subpoena, is a
10 Class A misdemeanor.

11 "(e) A concealed pistol permit license issued under
12 this section shall be valid for the carrying of a pistol in a
13 motor vehicle or concealed on the licensee's person throughout
14 the state, unless prohibited by this section.

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

18 "§13A-11-85.

19 "(a) A person licensed to carry a handgun in any
20 state ~~whose laws recognize and give effect in that state to a~~
21 ~~license issued under the laws of the State of Alabama~~ shall be
22 authorized to carry a handgun in this state. This section
23 shall apply to a ~~licenseholder~~ license holder from another
24 state only while the ~~licenseholder~~ license holder is not a
25 resident of this state. A ~~licenseholder~~ license holder from
26 another state shall carry the handgun in compliance with the
27 laws of this state.

1 "(b) The Attorney General is authorized to enter
2 into reciprocal agreements with other states for the mutual
3 recognition of licenses to carry handguns and shall
4 periodically publish a list of states which ~~meet the~~
5 ~~requirements of subsection (a)~~ recognize licenses issued
6 pursuant to Section 13A-11-75."

7 Section 3. Section 40-12-143, Code of Alabama 1975,
8 is amended to read as follows:

9 "§40-12-143.

10 "Persons dealing in pistols, revolvers, maxim
11 silencers, bowie knives, dirk knives, brass knucks or knucks
12 of like kind, whether principal stock in trade or not shall
13 pay the following license tax: in cities and towns of 35,000
14 inhabitants and over, \$150; and in all other places, \$100. The
15 required license amounts shall be paid for each place of
16 business from which sales of such items are made. In addition
17 to any other required licenses, a person may organize and
18 conduct a gun and knife show of no more than seven days, by
19 paying the maximum license tax prescribed in this section, as
20 well as the maximum license taxes provided in Sections
21 40-12-158 and 40-12-174(d), for each such show. Participants
22 shall not be required to pay the license taxes provided in
23 this section, nor in Section 40-12-158 or 40-12-174 for
24 participating in such shows, provided the organizer has paid
25 the license taxes prescribed in this section prior to the
26 commencement of the event. It shall be the duty of the
27 organizer of such show to determine if each participant is

1 licensed under the sales tax laws of this state as well as the
2 particular county and municipality in which the show is
3 conducted. The organizer shall be responsible for providing a
4 list of participants to the county and municipality in which
5 the gun show is held and for collecting and remitting all
6 state and local sales taxes for any participant not licensed
7 under state or local sales tax laws. In the event the
8 organizer does not pay the license taxes prescribed in this
9 section, prior to the commencement of the event, each
10 participant shall be responsible for his or her applicable
11 licenses. The organizer and all participants shall abide by
12 applicable federal, state, and local laws and regulations. All
13 persons dealing in pistols, revolvers, and maxim silencers
14 shall be required to keep a permanent record of the sale of
15 every pistol, revolver, or maxim silencer, showing the date of
16 sale, serial number, or other identification marks,
17 manufacturer's name, caliber and type, and also the name and
18 address of the purchaser, which record. The organizer of the
19 show shall be responsible for keeping and maintaining such
20 records for any sales made at the show by any participant who,
21 for any reason, is not otherwise required to keep the records.
22 The records shall always be open for inspection by any peace
23 officer of the State of Alabama or any municipality thereof.
24 The failure to keep such record shall subject such person to
25 having his or her license revoked by the probate judge of the
26 county where such license was issued on motion of any district
27 attorney of the State of Alabama."

1 Section 4. (a) (1) Except as provided in subdivision
2 (2), a public or private employer may restrict or prohibit its
3 employees, including those with a license issued or recognized
4 under Section 13A-11-75, Code of Alabama 1975, from carrying
5 firearms while on the employer's property or while engaged in
6 the duties of the person's employment.

7 (2) A public or private employer may not restrict or
8 prohibit the transportation or storage of a lawfully possessed
9 firearm or ammunition in an employee's privately owned motor
10 vehicle while parked or operated in a public or private
11 parking area if the employee satisfies all of the following:

12 a. The motor vehicle is operated or parked in a
13 location where it is otherwise permitted to be.

14 b. The firearm is either of the following:

15 1. In a motor vehicle attended by the employee, kept
16 from ordinary observation with the person's motor vehicle.

17 2. In a motor vehicle unattended by the employee,
18 kept from ordinary observation and locked within the trunk,
19 glove box, or interior of the person's privately owned motor
20 vehicle or a container securely affixed to the motor vehicle.

21 (b) A public or private employer may not inquire or
22 require an employee to disclose whether an employee is
23 transporting a firearm or has stored a firearm in his or her
24 private motor vehicle.

25 (c) If an employer discovers by other means that an
26 employee is transporting or storing a firearm in his or her
27 private motor vehicle, the employer may not take any adverse

1 employment action against the employee if the employee has
2 complied with the requirements in subdivision (2) of
3 subsection (a).

4 (d) Nothing in this section shall prohibit an
5 employer from reporting to law enforcement a complaint based
6 upon information and belief that there is credible evidence of
7 any of the following:

8 (1) That the employee's motor vehicle contains:

9 a. A firearm prohibited by state or federal law.

10 b. Stolen property or a prohibited or illegal item
11 other than a firearm.

12 (2) A threat made by an employee to cause bodily
13 harm to themselves or others.

14 (e) If law enforcement officers, pursuant to a valid
15 search warrant or valid warrantless search based upon probable
16 cause, exigent circumstances, or other lawful exception to the
17 search warrant requirement, discover a firearm prohibited by
18 state or federal law, stolen property, or a prohibited or
19 illegal item other than a firearm, the employer may take
20 adverse employment action against the employee.

21 (f) However, if the employee has fully complied with
22 the requirements of subdivision (2) of subsection (a) and does
23 not possess a firearm prohibited by state or federal law, that
24 employee is entitled to recovery as specified in this
25 subsection for any adverse employment action against the
26 employee. If demand for the recovery has not been satisfied
27 within 45 calendar days, the employee may file a civil action

1 in the appropriate court of this state against the public or
2 private employer and is entitled to seek an award of all of
3 the following:

4 (1) Compensation, if applicable, for lost wages or
5 benefits.

6 (2) Compensation, if applicable, for other lost
7 remuneration caused by the termination, demotion, or other
8 adverse action.

9 (g) Prohibitions regarding the carrying of a firearm
10 under this section shall not apply to law enforcement officers
11 engaged in the lawful execution of their official duties.

12 (h) Nothing in this section shall be construed to
13 authorize the transportation, carrying, storing, or possession
14 of a firearm or ammunition where prohibited by federal law.

15 Section 5. (a) For the purposes of this section,
16 "business entity" means any person or group of persons
17 performing or engaging in any activity, enterprise,
18 profession, or occupation for gain, benefit, advantage, or
19 livelihood, whether for profit or not for profit.

20 (b) A business entity has no duty to guard against
21 the criminal acts of a third party, whether involving the
22 third party's use of a firearm or otherwise.

23 (c) A business entity is not legally liable for the
24 actions of its employees when those actions are outside the
25 line and scope of employment. If an employee fails to comply
26 with the requirements of subdivision (2) of subsection (a) of

1 Section 3, the employee is not acting within the line and
2 scope of employment.

3 (d) Nothing in this act is intended to expand or
4 limit the rights an employer or employee currently has under
5 Section 25-5-1 et seq., Code of Alabama 1975.

6 Section 6. (a) A person who owns or controls
7 property that is open to the public may restrict or prohibit
8 as trespassers those who possess or carry a pistol, including
9 those persons with a license issued or recognized under
10 Section 13A-11-75, Code of Alabama 1975, while on the property
11 provided that notice of the prohibition is prominently posted
12 at any public entrance to the property. If a person disregards
13 the notice and carries a pistol on the property, the person
14 who owns or controls the property may in the presence of a law
15 enforcement agent verbally request that the person carrying
16 the pistol leave the property. If the person continues to
17 remain on the property after the verbal request, the person
18 who owns or controls the property may request the law
19 enforcement agent to remove the person from the property as a
20 trespasser under existing law. A person who disregards a
21 posted notice shall be solely responsible for any injury,
22 damage, or death occurring as a result of any actions
23 regarding the presence or use of his or her pistol.

24 (b) In addition to any other place limited or
25 prohibited by state or federal law, a person, including a
26 person with a license issued under Section 13A-11-75, Code of
27 Alabama 1975, may not knowingly possess or carry a firearm in

1 any of the following places without the express permission of
2 a person or entity with authority over the premises:

3 (1) Inside the building of a police, sheriff, or
4 highway patrol station.

5 (2) Inside or on the premises of a prison, jail,
6 halfway house, or other detention facility for those who have
7 been charged with or convicted of a criminal or juvenile
8 offense.

9 (3) Inside or on the premises of a facility which
10 provides inpatient or custodial care of those with
11 psychiatric, mental, or emotional disorders.

12 (4) Inside the building of a courthouse or a
13 courthouse annex.

14 (5) Inside any facility hosting an athletic event
15 not related to or involving firearms which is sponsored by a
16 private or public elementary or secondary school or any
17 private or public institution of postsecondary education.

18 (6) Inside any facility hosting a professional
19 athletic event not related to or involving firearms.

20 (7) Inside any building or facility to which access
21 of unauthorized persons and prohibited articles is limited
22 during normal hours of operation by the continuous posting of
23 guards and the use of other security features, including, but
24 not limited to, magnetometers, key cards, biometric screening
25 devices, or turnstiles or other physical barriers, provided
26 that this shall not prohibit any person from possession of a

1 firearm within the person's residence or during ingress or
2 egress thereto.

3 (c) A violation of subsection (a) is a Class C
4 misdemeanor, and in the event of a conviction of a person
5 licensed under Section 13A-11-75, Code of Alabama 1975, the
6 license may be suspended for 90 days.

7 (d) This section shall not prohibit any person from
8 possessing a firearm within the person's residence or during
9 ingress or egress thereto.

10 (e) Prohibitions regarding the carrying of a firearm
11 under this section shall not apply to law enforcement officers
12 engaged in the lawful execution of their official duties.

13 (f) Nothing in this section shall be construed to
14 authorize the carrying or possession of a firearm where
15 prohibited by federal law.

16 (g) A business entity or owner, manager, or legal
17 possessor of real property may not establish, maintain, or
18 enforce a policy or rule that prohibits or has the effect of
19 prohibiting a person's transportation or storage of a firearm
20 or ammunition when the following conditions are satisfied:

21 (1) The firearm or ammunition is either of the
22 following:

23 a. Kept from ordinary observation within the
24 person's attended privately owned motor vehicle.

25 b. Kept from ordinary observation and locked within
26 the trunk, glove box, or interior of the person's privately

1 owned motor vehicle or a container securely affixed to the
2 motor vehicle.

3 (2) The motor vehicle is operated or parked in a
4 location where it is otherwise permitted to be.

5 (h) (1) A person who is denied the opportunity to
6 transport or store a firearm or ammunition by a policy or rule
7 prohibited in subsection (g) may file a civil action in the
8 appropriate court to enjoin any business entity or owner,
9 manager, or legal possessor of real property from violating
10 subsection (g).

11 (2) In any action brought under this subsection,
12 court costs and attorney's fees shall be awarded to a
13 prevailing plaintiff.

14 (i) Subsection (g) shall not apply if any of the
15 following conditions are satisfied:

16 (1) The person operating the motor vehicle is any of
17 the following:

18 a. Prohibited from possessing, receiving, or
19 transporting pistols or other firearms under Section
20 13A-11-72, Code of Alabama 1975, or 18 U.S.C. § 922(g) or (n)
21 or by any court order.

22 b. In violation of Section 13A-11-50, Code of
23 Alabama 1975, relating to the concealed carrying of weapons.

24 c. In violation of Section 13A-11-54, Code of
25 Alabama 1975, relating to the prohibition of carrying a rifle
26 or shotgun walking cane.

1 d. In violation of Section 13A-11-60, Code of
2 Alabama 1975, relating to the possession of prohibited
3 ammunition.

4 e. In violation of Section 13A-11-63, Code of
5 Alabama 1975, relating to the position of NFA rifles or
6 shotguns in violation of federal law.

7 f. In violation of Section 13A-11-64, Code of
8 Alabama 1975, relating to possession of a firearm with an
9 altered serial number or manufacturer's identification.

10 g. In violation of Section 13A-11-73, Code of
11 Alabama 1975, relating to the prohibition on the unlicensed
12 carrying of a pistol in a motor vehicle or concealed about
13 one's person.

14 (2) The motor vehicle is located in any place where
15 firearms are expressly prohibited by federal law.

16 (3) The motor vehicle is owned by a business entity,
17 property owner, or employer while it is being used by agents
18 or employees of the business entity, property owner, or
19 employer in the course of their employment.

20 Section 7. (a) The purpose of this section is to
21 establish within the Legislature complete control over
22 regulation and policy pertaining to firearms, ammunition, and
23 firearm accessories in order to ensure that such regulation
24 and policy is applied uniformly throughout this state to each
25 person subject to the state's jurisdiction and to ensure
26 protection of the right to keep and bear arms recognized by
27 the Constitutions of the State of Alabama and the United

1 States. This section is to be liberally construed to
2 accomplish its purpose.

3 (b) For the purposes of this section, the following
4 words shall have the following meanings:

5 (1) AMMUNITION. Fixed cartridge ammunition, shotgun
6 shells, the individual components of fixed cartridge
7 ammunition and shotgun shells, projectiles for muzzle-loading
8 firearms, and any propellant used in firearms or ammunition.

9 (2) EXPRESSLY AUTHORIZED BY A STATUTE OF THIS STATE.
10 The authority of a political subdivision to regulate firearms,
11 ammunition, or firearm accessories that is granted by a duly
12 enacted state law that specifically mentions firearms, a
13 particular type of firearm, ammunition, or a particular type
14 of ammunition.

15 (3) FIREARM ACCESSORY. A device specifically
16 designed or adapted to enable the wearing or carrying about
17 one's person, or the storage or mounting in or on a
18 conveyance, of a firearm, or an attachment or device
19 specifically designed or adapted to be inserted into or
20 affixed onto a firearm to enable, alter, or improve the
21 functioning or capabilities of the firearm.

22 (4) FIREARM. This term has the same meaning as in
23 Section 13A-8-1(4), Code of Alabama 1975.

24 (5) PERSON ADVERSELY AFFECTED. Any of the following:
25 a. A resident of this state who may legally possess
26 a firearm under the laws of this state and the United States
27 and who is either of the following:

1 1. Subject to any manner of regulation alleged to be
2 promulgated or enforced in violation of this section, whether
3 or not specific enforcement action has been initiated or
4 threatened against that person or another person.

5 2. If the person were present in the political
6 subdivision in question, subject to any manner of regulation
7 alleged to be promulgated or enforced in violation of this
8 section, whether or not specific enforcement action has been
9 initiated or threatened against that person or another person.

10 b. A person who otherwise has standing under the
11 laws of this state to bring an action under subsection (f).

12 c. A membership organization the members of which
13 include a person described in paragraph a. or b. of this
14 subdivision and that is dedicated in whole or in part to
15 protecting the legal, civil, or constitutional rights of its
16 membership.

17 (6) POLITICAL SUBDIVISION. A county, incorporated
18 city, unincorporated city, public local entity, public-private
19 partnership, and any other public entity of a county or city
20 commonly considered to be a political subdivision of the
21 state.

22 (7) PUBLIC OFFICIAL. Any person elected to public
23 office, whether or not that person has taken office, by the
24 vote of the people of a political subdivision or its
25 instrumentalities, including governmental corporations, and
26 any person appointed to a position at the municipal level of

1 government or its instrumentalities, including governmental
2 corporations.

3 (8) REASONABLE EXPENSES. The expenses involved in
4 litigation, including, but not limited to, attorney fees,
5 expert witness fees, court costs, and compensation for loss of
6 income.

7 (c) Except as otherwise provided in this section or
8 as otherwise authorized by law, the Legislature hereby
9 occupies and preempts the entire field of regulation in this
10 state touching in any way upon firearms, ammunition, and
11 firearm accessories to the complete exclusion of any order,
12 ordinance, or rule promulgated or enforced by any political
13 subdivision of this state.

14 (d) The authority of a political subdivision to
15 regulate firearms, ammunition, or firearm accessories shall
16 not be inferred from its proprietary authority, home rule
17 status, or any other inherent or general power.

18 (e) Any existing or future orders, ordinances, or
19 rules promulgated or enforced contrary to the terms of this
20 section are null and void.

21 (f) (1) A person adversely affected by any order,
22 ordinance, or rule promulgated in violation of this section
23 may file a petition with the Attorney General requesting that
24 he or she bring an action in circuit court for declarative and
25 injunctive relief. The petition must be signed under oath and
26 under penalty of perjury and must include specific details
27 regarding the alleged violations.

1 (2) If, after investigation of the enactment or
2 adoption of the order, ordinance, or rule, the Attorney
3 General determines that there is reasonable cause to proceed
4 with an action, he or she shall provide the political
5 subdivision or public official enacting or adopting the order,
6 ordinance, or rule 60 days' notice of his or her intent to
7 file an action. Upon the expiration of the 60 days' notice,
8 the Attorney General may file the suit.

9 (3) If, after investigation of the enactment or
10 adoption of the order, ordinance, or rule, the Attorney
11 General determines that there is no reasonable cause to
12 proceed with an action, he or she shall publicly state in
13 writing the justification for the determination not to file
14 suit.

15 (4) The Attorney General shall either bring an
16 action or publicly state, within 90 days of receipt of the
17 petition, in the written justification why a violation of the
18 spirit of this section, specifically subsections (a) and (c),
19 has not occurred.

20 (5) The court shall award reasonable expenses to a
21 person adversely affected if an action under this subsection
22 results in either:

23 a. A final determination in favor of the person
24 adversely affected.

25 b. Rescission, repeal, or amendment of the
26 challenged manner of regulation or enforcement after suit has

1 been filed under this subsection but prior to a final
2 determination by the court.

3 (g) This section shall not be construed to prevent
4 any of the following:

5 (1) A duly organized law enforcement agency of a
6 political subdivision from promulgating and enforcing rules
7 pertaining to firearms, ammunition, or firearm accessories
8 that it issues to or that are used by the political
9 subdivision's peace officers in the course of their official
10 duties.

11 (2) An employer from regulating or prohibiting an
12 employee's carrying or possession of firearms, firearm
13 accessories, or ammunition during and in the course of the
14 employee's official duties.

15 (3) A court or administrative law judge from hearing
16 and resolving a case or controversy or issuing an opinion or
17 order on a matter within its jurisdiction.

18 (4) The enactment or enforcement of a generally
19 applicable zoning or business ordinance that includes firearms
20 businesses along with other businesses, provided that an
21 ordinance designed or enforced effectively to restrict or
22 prohibit the sale, purchase, transfer, manufacture, or display
23 of firearms, ammunition, or firearm accessories that is
24 otherwise lawful under the laws of this state is in conflict
25 with this section and is void.

1 (5) A political subdivision from enacting and
2 enforcing rules of operation and use for any firearm range
3 owned or operated by the political subdivision.

4 (6) A political subdivision from sponsoring or
5 conducting any firearm-related competition or educational or
6 cultural program and from enacting and enforcing rules for
7 participation in or attendance at such program, provided that
8 nothing in this section authorizes or permits a political
9 subdivision to offer remuneration for the surrender or
10 transfer of a privately owned firearm to the political
11 subdivision or another party as a method of reducing the
12 number of privately owned firearms within the political
13 subdivision.

14 (7) Any official of a political subdivision, a
15 sheriff, or other law enforcement officer with appropriate
16 authority and jurisdiction from enforcing any law enacted by
17 the Legislature.

18 (8) A sheriff of a county from acting on an
19 application for a license under Section 13A-11-75, Code of
20 Alabama 1975.

21 (9) A political subdivision from leasing public
22 property to another person or entity for a gun show or other
23 firearm-related event on terms agreeable to both parties.

24 (10) The adoption or enforcement by a county or
25 municipality of ordinances which make the violation of a state
26 firearm law a violation of an ordinance, provided that the
27 elements of the local ordinance may not differ from the state

1 firearm law, nor may the local ordinance impose a higher
2 penalty than what is imposed under the state firearm law.

3 (11) A municipality from regulating the discharge of
4 firearms within the limits of the municipality or a county
5 from exercising any authority it has under law enacted prior
6 to August 1, 2000, to regulate the discharge of firearms
7 within the jurisdiction of the county. The discharge of a
8 firearm in defense of one's self or family or in defense of
9 one's property may not be construed to be a violation of state
10 law or any ordinance or rule of a political subdivision of
11 this state.

12 (12) A county or a municipality from exercising any
13 authority it has to assess, enforce, and collect generally
14 applicable sales taxes, use taxes, and gross receipts taxes in
15 the nature of sales taxes as defined by Section 40-2A-3(8),
16 Code of Alabama 1975, on the retail sale of firearms,
17 ammunition, and firearm accessories along with other goods,
18 provided that no such tax imposed by a county or municipality
19 may apply at a higher rate to firearms, ammunition, or firearm
20 accessories than to other goods.

21 Section 8. Section 13A-3-23, Code of Alabama 1975,
22 is amended to read as follows:

23 "§13A-3-23.

24 "(a) A person is justified in using physical force
25 upon another person in order to defend himself or herself or a
26 third person from what he or she reasonably believes to be the
27 use or imminent use of unlawful physical force by that other

1 person, and he or she may use a degree of force which he or
2 she reasonably believes to be necessary for the purpose. A
3 person may use deadly physical force, and is legally presumed
4 to be justified in using deadly physical force in self-defense
5 or the defense of another person pursuant to subdivision (4),
6 if the person reasonably believes that another person is:

7 "(1) Using or about to use unlawful deadly physical
8 force.

9 "(2) Using or about to use physical force against an
10 occupant of a dwelling while committing or attempting to
11 commit a burglary of such dwelling.

12 "(3) Committing or about to commit a kidnapping in
13 any degree, assault in the first or second degree, burglary in
14 any degree, robbery in any degree, forcible rape, or forcible
15 sodomy.

16 "(4) Using or about to use physical force against an
17 owner, employee, or other person authorized to be on business
18 property when the business is closed to the public while
19 committing or attempting to commit a burglary, theft, or
20 robbery.

21 "~~(4)~~ (5) In the process of unlawfully and forcefully
22 entering, or has unlawfully and forcefully entered, a
23 dwelling, residence, business property, or occupied vehicle,
24 or federally licensed nuclear power facility, or is in the
25 process of sabotaging or attempting to sabotage a federally
26 licensed nuclear power facility, or is attempting to remove,
27 or has forcefully removed, a person against his or her will

1 from any dwelling, residence, business property, or occupied
2 vehicle when the person has a legal right to be there, and
3 provided that the person using the deadly physical force knows
4 or has reason to believe that an unlawful and forcible entry
5 or unlawful and forcible act is occurring. The legal
6 presumption that a person using deadly physical force is
7 justified to do so pursuant to this subdivision does not apply
8 if:

9 "a. The person against whom the defensive force is
10 used has the right to be in or is a lawful resident of the
11 dwelling, residence, business property, or vehicle, such as an
12 owner or lessee, and there is not an injunction for protection
13 from domestic violence or a written pretrial supervision order
14 of no contact against that person;

15 "b. The person sought to be removed is a child or
16 grandchild, or is otherwise in the lawful custody or under the
17 lawful guardianship of, the person against whom the defensive
18 force is used;

19 "c. The person who uses defensive force is engaged
20 in an unlawful activity or is using the dwelling, residence,
21 or occupied vehicle to further an unlawful activity; or

22 "d. The person against whom the defensive force is
23 used is a law enforcement officer acting in the performance of
24 his or her official duties.

25 "(b) A person who is justified under subsection (a)
26 in using physical force, including deadly physical force, and
27 who is not engaged in an unlawful activity and is in any place

1 where he or she has the right to be has no duty to retreat and
2 has the right to stand his or her ground.

3 "(c) Notwithstanding the provisions of subsection
4 (a), a person is not justified in using physical force if:

5 "(1) With intent to cause physical injury or death
6 to another person, he or she provoked the use of unlawful
7 physical force by such other person.

8 "(2) He or she was the initial aggressor, except
9 that his or her use of physical force upon another person
10 under the circumstances is justifiable if he or she withdraws
11 from the encounter and effectively communicates to the other
12 person his or her intent to do so, but the latter person
13 nevertheless continues or threatens the use of unlawful
14 physical force.

15 "(3) The physical force involved was the product of
16 a combat by agreement not specifically authorized by law.

17 "(d) A person who uses force, including deadly
18 physical force, as justified and permitted in this section is
19 immune from criminal prosecution and civil action for the use
20 of such force, unless the force was determined to be unlawful.

21 "(e) A law enforcement agency may use standard
22 procedures for investigating the use of force described in
23 subsection (a), but the agency may not arrest the person for
24 using force unless it determines that there is probable cause
25 that the force used was unlawful."

26 Section 9. Section 11-45-1.1, Code of Alabama 1975,
27 relating to the authority of a municipality to enact

1 ordinances relating to handguns, is repealed. Section
2 13A-11-52, Code of Alabama 1975, relating to the carrying of a
3 pistol on the property of another, is repealed.

4 Section 10. Although this bill would have as its
5 purpose or effect the requirement of a new or increased
6 expenditure of local funds, the bill is excluded from further
7 requirements and application under Amendment 621, now
8 appearing as Section 111.05 of the Official Recompilation of
9 the Constitution of Alabama of 1901, as amended, because the
10 bill defines a new crime or amends the definition of an
11 existing crime.

12 Section 11. The provisions of this act are
13 severable. If any part of this act is declared invalid or
14 unconstitutional, that declaration shall not affect the part
15 which remains.

16 Section 12. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 28-FEB-13

Read for the second time and placed on the calen-
dar..... 05-MAR-13

Read for the third time and passed as amended 04-APR-13

Yeas 28
Nays 5

Patrick Harris
Secretary