

1 SB354  
2 160426-2  
3 By Senators Beason, Allen, Glover, Whatley, Fielding, Smith,  
4 Bedford, Sanford, Scofield, Marsh, Holtzclaw, Pittman,  
5 Williams, Blackwell, Reed, Hightower, Bussman and Holley  
6 RFD: Judiciary  
7 First Read: 13-FEB-14

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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, as amended by Act  
12 2013-283, 2013 Regular Session, 13A-11-73, as amended by Act  
13 2013-283, 2013 Regular Session, 13A-11-74, and 13A-11-75, as  
14 amended by Act 2013-283, 2013 Regular Session, Code of Alabama  
15 1975, to provide that lawfully carrying a firearm does not, in  
16 and of itself, constitute disorderly conduct; to authorize a  
17 person to carry a pistol in his or her vehicle or on certain  
18 property without a concealed pistol permit; and to revise  
19 certain procedures related to the licensing process; and in  
20 connection therewith would have as its purpose or effect the  
21 requirement of a new or increased expenditure of local funds  
22 within the meaning of Amendment 621 of the Constitution of  
23 Alabama of 1901, now appearing as Section 111.05 of the  
24 Official Recompilation of the Constitution of Alabama of 1901,  
25 as amended.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Sections 13A-11-7, as amended by Act  
2           2013-283, 2013 Regular Session, 13A-11-73, as amended by Act  
3           2013-283, 2013 Regular Session, 13A-11-74, and 13A-11-75, as  
4           amended by Act 2013-283, 2013 Regular Session, Code of Alabama  
5           1975, are amended to read as follows:

6           "§13A-11-7.

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

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

13          "(2) Makes unreasonable noise.

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

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

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

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

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

24          "~~It shall be a rebuttable presumption that the~~  
25          ~~mere carrying of a visible pistol, holstered or secured, in a~~  
26          ~~public place, in and of itself, is not a violation of this~~  
27          ~~section~~ The mere lawful carrying of a visible, holstered or

1 secured firearm in a public place, in and of itself, shall not  
2 be a violation of this section.

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

7 "§13A-11-73.

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

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

25 "§13A-11-74.

26 "The provisions of Section 13A-11-73 shall not apply  
27 to marshals, sheriffs, prison and jail wardens and their

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

22 "§13A-11-75.

23 "(a) (1) a. The sheriff of a county, upon the  
24 application of any person residing in that county, within 30  
25 days from receipt of a complete application and accompanying  
26 fee, shall issue or renew a permit for such person to carry a  
27 pistol in a vehicle or concealed on or about his or her person

1 within this state for one to five year increments, as  
2 requested by the person seeking the permit, from date of  
3 issue, unless the sheriff determines that the person is  
4 prohibited from the possession of a pistol or firearm pursuant  
5 to state or federal law, or has a reasonable suspicion that  
6 the person may use a weapon unlawfully or in such other manner  
7 that would endanger the person's self or others. In making  
8 such determination, the sheriff may consider whether the  
9 applicant:

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

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

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

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

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

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

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

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

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

8           "10. Falsified any portion of the permit  
9 application.

10          "11. Caused justifiable concern for public safety.

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

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

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

26          "b. The sheriff shall provide a written statement of  
27 the reasons for the revocation and the evidence upon which it

1 is based must be disclosed to the applicant, unless disclosure  
2 would interfere with a criminal investigation.

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

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

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

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



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

22          "(c) For the convenience of the applicant, the  
23          sheriff may provide for application or renewal of a permit  
24          under subdivision (1) of subsection (a) through electronic  
25          means. The sheriff may also accept payment for a permit by  
26          debit or credit card or other consumer electronic payment

1 method. Any transaction or banking fee charged for the  
2 electronic payment method shall be paid by the applicant.

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

15 "(e) The name, address, signature, photograph, and  
16 any other personally identifying information collected from an  
17 applicant or permittee 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 permittee is charged in any state with a  
21 felony involving the use of a pistol. All other information on  
22 permits under this section, including information concerning  
23 the annual number of applicants, number of permits issued,  
24 number of permits denied or revoked, revenue from issuance of  
25 permits, 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, photograph, and any other  
2 personally identifying information of a permit holder before  
3 releasing a copy of a permit for a non-law enforcement  
4 purpose. The sheriff may charge one dollar (\$1) per copy of  
5 any redacted permit record requested other than when requested  
6 for law enforcement purposes. To knowingly publish or release  
7 to the public in any form any information or records related  
8 to the licensing process, or the current validity of any  
9 permit, except as authorized in this subsection or in response  
10 to a court order or subpoena, is a Class A misdemeanor.

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

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

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

25 Section 3. Although this bill would have as its  
26 purpose or effect the requirement of a new or increased  
27 expenditure of local funds, the bill is excluded from further

1 requirements and application under Amendment 621, now  
2 appearing as Section 111.05 of the Official ReCompilation of  
3 the Constitution of Alabama of 1901, as amended, because the  
4 bill defines a new crime or amends the definition of an  
5 existing crime.

6 Section 4. This act shall become effective on the  
7 first day of the third month following its passage and  
8 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..... 13-FEB-14

Read for the second time and placed on the calen-  
dar with 1 substitute and..... 05-MAR-14

Read for the third time and passed as amended .... 19-MAR-14

Yeas 20  
Nays 7

Patrick Harris  
Secretary