

# HB64 INTRODUCED



1 UT9BDD-1  
2 By Representative Bolton  
3 RFD: Judiciary  
4 First Read: 07-Mar-23  
5 PFD: 06-Mar-23



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SYNOPSIS:

Under existing law, certain persons are prohibited from owning, possessing, or having under their control a pistol or other firearm.

This bill would provide that no alien who is in the United States unlawfully or through a nonimmigrant visa provided by the federal government may own, possess, or have under his or her control a pistol or other firearm.

This bill would provide persons in violation of this provision are guilty of a Class C felony.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to



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29           require a new or increased expenditure of local funds  
30           within the meaning of the amendment. However, the bill  
31           does not require approval of a local governmental  
32           entity or enactment by a 2/3 vote to become effective  
33           because it comes within one of the specified exceptions  
34           contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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41           Relating to firearms; to amend Section 13A-11-72, Code  
42           of Alabama 1975, to further provide for persons prohibited  
43           from possessing a firearm; to prohibit aliens unlawfully in  
44           the United States or aliens admitted under a nonimmigrant visa  
45           from possessing a firearm; to provide a penalty for persons in  
46           violation of this provision; to make nonsubstantive, technical  
47           revisions to update the existing code language to current  
48           style; and in connection therewith would have as its purpose  
49           or effect the requirement of a new or increased expenditure of  
50           local funds within the meaning of Section 111.05 of the  
51           Constitution of Alabama of 2022.

52

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

53

Section 1. Section 13A-11-72, Code of Alabama 1975, is  
54           amended to read as follows:

55

"§13A-11-72

56

(a) (1) No person who has been convicted in this state



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57 or elsewhere of committing or attempting to commit a crime of  
58 violence, misdemeanor offense of domestic violence, violent  
59 offense as listed in Section 12-25-32(15), anyone who is  
60 subject to a valid protection order for domestic abuse, or  
61 anyone of unsound mind shall own a firearm or have one in his  
62 or her possession or under his or her control.

63 (2) A violation of this subsection is a Class C felony.

64 (b) (1) No person who is a minor, except under the  
65 circumstances provided in this section, ~~a drug addict, or an~~  
66 ~~habitual drunkard~~ or who has a drug or alcohol addiction  
67 shall own a pistol or have one in his or her possession or  
68 under his or her control.

69 (2) A violation of this subsection is a Class A  
70 misdemeanor.

71 (c) (1) No person who is an alien and is illegally or  
72 unlawfully in the United States or has been admitted to the  
73 United States under a nonimmigrant visa as defined in 8 U.S.C  
74 § 1101(a) (26), provided no exception to the this subsection as  
75 listed in 18 U.S.C § 922(y) (2) applies, shall own a pistol or  
76 other firearm or have one in his or her possession or under  
77 his or her control.

78 (2) A violation of this subsection is a Class C felony.

79 ~~(e)~~ (d) (1) Subject to the exceptions provided by Section  
80 13A-11-74, no person shall knowingly with intent to do bodily  
81 harm carry or possess a deadly weapon on the premises of a  
82 public school.

83 ~~(d) (2) Possession of a deadly weapon with the intent to~~  
84 ~~do bodily harm on the premises of a public school in~~ A



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85 violation of this subsection ~~(c) of this section~~ is a Class C  
86 felony.

87 (e) School security personnel and school resource  
88 officers qualified under ~~subsection (a) of~~ Section  
89 16-1-44.1 (a), employed by a local board of education, and  
90 authorized by the employing local board of education to carry  
91 a deadly weapon while on duty are exempt from subsection (c)  
92 ~~of this section~~. Law enforcement officers are exempt from this  
93 section, and persons with ~~pistol~~ permits issued pursuant to  
94 Section 13A-11-75, are exempt from subsection (c) ~~of this~~  
95 ~~section~~.

96 (f) A person shall not be in violation of Section  
97 13A-11-57 or 13A-11-76 and a minor shall not be in violation  
98 of this section if the minor has permission to possess a  
99 pistol from a parent or legal guardian who is not prohibited  
100 from possessing a firearm under state or federal law, and any  
101 of the following are satisfied:

102 (1) The minor is attending a hunter education course or  
103 a firearms safety course under the supervision of an adult who  
104 is not prohibited from possessing a firearm under state or  
105 federal law.

106 (2) The minor is engaging in practice in the use of a  
107 firearm or target shooting at an established range under the  
108 supervision of an adult who is not prohibited from possessing  
109 a firearm under state or federal law.

110 (3) The minor is engaging in an organized competition  
111 involving the use of a firearm or participating in or  
112 practicing for a performance by an organized group under 26



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113 U.S.C. § 501(c)(3) which uses firearms as part of the  
114 performance.

115 (4) The minor is hunting or fishing pursuant to a valid  
116 license, if required, and the person has the license in his or  
117 her possession; has written permission of the owner or legal  
118 possessor of the land on which the activities are being  
119 conducted; and the pistol, when loaded, is carried only in a  
120 manner discernible by ordinary observation.

121 (5) The minor is on real property under the control of  
122 the minor's parent, legal guardian, or grandparent.

123 (6) The minor is a member of the armed services or  
124 National Guard and the minor is acting in the line of duty.

125 (7) The minor is traveling by motor vehicle to any of  
126 the locations or activities listed in subdivisions (1) through  
127 (6), has written permission to possess the pistol or firearm  
128 by his or her parent or legal guardian, and the pistol or  
129 firearm is unloaded, locked in a compartment or container that  
130 is in or affixed securely to the motor vehicle, and is out of  
131 reach of the driver and any passenger in the motor vehicle.

132 (g) This section does not apply to a minor who uses a  
133 pistol or other firearm while acting in self-defense of  
134 himself, ~~or~~ herself, or other persons against an intruder into  
135 the residence of the minor or a residence in which the minor  
136 is an invited guest.

137 (h) For the purposes of this section, the following  
138 terms have the following meanings:

139 ~~(h) The term "school resource officer" as used in this~~  
140 ~~section~~ (6) SCHOOL RESOURCE OFFICER. means an An Alabama Peace



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141 Officers' Standards and Training Commissioner-certified law  
142 enforcement officer employed by a law enforcement agency who  
143 is specifically selected and specially trained for the school  
144 setting.

145 ~~(i) The term "public school" as used in this section~~  
146 ~~applies only to~~ (4) PUBLIC SCHOOL. ~~a~~ A school composed of  
147 grades K-12 and shall include a school bus used for grades  
148 K-12.

149 ~~(j) The term "deadly weapon" as used in this section~~  
150 ~~means a~~ (2) DEADLY WEAPON. A firearm or anything manifestly  
151 designed, made, or adapted for the purposes of inflicting  
152 death or serious physical injury, and ~~such~~ the term includes,  
153 but is not limited to, a bazooka, hand grenade, missile, or  
154 explosive or incendiary device; a pistol, rifle, or shotgun;  
155 or a switch-blade knife, gravity knife, stiletto, sword, or  
156 dagger; or any club, baton, billy, black-jack, bludgeon, or  
157 metal knuckles.

158 ~~(k) (1) The term "convicted" as used in this section~~  
159 ~~requires that the~~ (1) CONVICTED. a. Means a person was  
160 represented by counsel in the case, or knowingly and  
161 intelligently waived the right to counsel in the case if  
162 required by law, and either the case was tried before a judge,  
163 tried by a jury, or the person knowingly and intelligently  
164 waived the right to have the case tried, by guilty plea or  
165 otherwise.

166 ~~(2) b.~~ b. A person ~~may is~~ not ~~be~~ considered to have been  
167 convicted for the purposes of this section if the person is  
168 not considered to have been convicted in the jurisdiction in



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169 which the proceedings were held or the conviction has been  
170 expunged, set aside, or is of an offense for which the person  
171 has been pardoned or has had his or her civil rights restored,  
172 unless the pardon, expungement, or restoration of civil rights  
173 expressly provides that the person may not ship, transport,  
174 possess, or receive firearms.

175 ~~(1) The term "misdemeanor offense of domestic violence"~~  
176 ~~as used in this section means a~~ (3) MISDEMEANOR OFFENSE OF  
177 DOMESTIC VIOLENCE. A misdemeanor offense that has, as its  
178 elements, the use or attempted use of physical force or the  
179 threatened use of a dangerous instrument or deadly weapon, and  
180 the victim is a current or former spouse, parent, child,  
181 person with whom the defendant has a child in common, or a  
182 present or former household member.

183 ~~(m) The term "valid protection order" as used in this~~  
184 ~~section means an.~~ (8) VALID PROTECTION ORDER. An order issued  
185 after a hearing of which the person received actual notice,  
186 and at which the person had an opportunity to participate,  
187 that does ~~any~~ either of the following:

188 ~~(1)~~ a. Restrains the person from harassing, stalking, or  
189 threatening a qualified individual or child of the qualified  
190 individual or person or engaging in other conduct that would  
191 place a qualified individual in reasonable fear of bodily  
192 injury to the individual or child and that includes a finding  
193 that the person represents a credible threat to the physical  
194 safety of the qualified individual or child.

195 ~~(2)~~ b. By its terms, explicitly prohibits the use,  
196 attempted use, or threatened use of physical force against the





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197 qualified individual or child that would reasonably be  
198 expected to cause bodily injury.

199 ~~(n) The term "qualified individual" as used in~~  
200 ~~subsection (m),~~ (5) QUALIFIED INDIVIDUAL. As used in  
201 subdivision (6) of this subsection, means a spouse or former  
202 spouse of the person, an individual who is a parent of a child  
203 of the person, or an individual who cohabitates or has  
204 cohabited with the person.

205 ~~(o) The term "unsound mind" as used in this section~~  
206 ~~includes~~ (7) UNSOUND MIND. Includes any person who is subject  
207 to any of the findings listed below, and who has not had his  
208 or her rights to possess a firearm reinstated by operation of  
209 law or legal process:

210 ~~(1)~~ a. Found by a court, board, commission, or other  
211 lawful authority that, as a result of marked subnormal  
212 intelligence, mental illness, incompetency, condition, or  
213 disease, is a danger to himself, ~~or~~ herself, or others or  
214 lacks the mental capacity to contract or manage his or her own  
215 affairs.

216 ~~(2)~~ b. Found to be insane, not guilty by reason of  
217 mental disease or defect, found mentally incompetent to stand  
218 trial, or found not guilty by a reason of lack of mental  
219 responsibility by a court in a criminal case, to include  
220 state, federal, and military courts.

221 ~~(3)~~ c. Involuntarily committed for a final commitment  
222 for inpatient treatment to the Department of Mental Health or  
223 a Veterans' Administration hospital by a court after a  
224 hearing."



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225           Section 2. Although this bill would have as its purpose  
226 or effect the requirement of a new or increased expenditure of  
227 local funds, the bill is excluded from further requirements  
228 and application under Section 111.05 of the Constitution of  
229 Alabama of 2022, because the bill defines a new crime or  
230 amends the definition of an existing crime.

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