

1 SB286
2 151232-13
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

1 SB286

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3
4 ENROLLED, An Act,

5 Relating to firearms; to amend Section 11-80-11,
6 Code of Alabama 1975, to consolidate certain preemption
7 language regarding the authority of counties and
8 municipalities to regulate certain activity related to
9 firearms; to provide civil remedies to persons adversely
10 affected by unauthorized action of a county or municipality
11 relating to firearm regulation; to amend Section 13A-11-7,
12 Code of Alabama 1975, to establish a rebuttable presumption
13 that the carrying of a firearm under certain conditions does
14 not constitute the crime of disorderly conduct; to amend
15 Section 13A-11-52, Code of Alabama 1975, to allow a person to
16 carry a pistol on the property of another under certain
17 conditions; to amend section 13A-11-70, Code of Alabama 1975,
18 to further define the term "crime of violence" or the purposes
19 of determining who may legally possess a pistol; to amend
20 Section 13A-11-73, Code of Alabama 1975, to further provide
21 for the possession of a pistol in a motor vehicle under
22 certain conditions; to amend Section 13A-11-75, Code of
23 Alabama 1975, to require a sheriff to issue a concealed weapon
24 permit within a certain time frame; to increase the renewal
25 period; to provide certain eligibility requirements for the

1 issuance of permits; to provide for the revocation of a
2 permit; to provide an appeals process for denials and
3 revocations of permits; to provide for the issuance of permits
4 to applicants who are not United States citizens under certain
5 conditions; to require a report from the National Instant
6 Background Check System as part of the investigation process
7 relating to the issuance of a concealed weapon permit; to
8 provide for electronic applications and renewals of concealed
9 weapon permits; to authorize electronic payment methods for
10 accompanying fees; to amend Section 13A-11-85, Code of Alabama
11 1975, to authorize the Attorney General to enter into
12 reciprocal agreements with other states for the mutual
13 recognition of permits to carry pistols; to amend Section
14 40-12-143, Code of Alabama 1975, relating to the levy of
15 business license taxes on persons participating in gun shows;
16 to allow employees to transport or store a firearm in the
17 employee's privately-owned motor vehicle under certain
18 conditions; to provide protection from civil liability to
19 employers, businesses and property owners from damages, harm
20 or injury resulting from the presence of a firearm; to provide
21 that a person may not possess a firearm in certain places
22 without the permission of a person with authority over the
23 premises; to amend Section 13A-3-23, Code of Alabama 1975,
24 relating to the use of physical force to allow the use of
25 force on business property; to repeal Section 11-45-1.1, Code

1 of Alabama 1975, relating to the authority of a municipality
2 to enact ordinances relating to handguns; and in connection
3 therewith would have as its purpose or effect the requirement
4 of a new or increased expenditure of local funds within the
5 meaning of Amendment 621 of the Constitution of Alabama of
6 1901, now appearing as Section 111.05 of the Official
7 Recompilation of the Constitution of Alabama of 1901, as
8 amended.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

12 "§11-80-11.

13 ~~"(a) No county or municipal corporation,~~
14 ~~instrumentality, or political subdivision thereof, by~~
15 ~~ordinance, resolution, or other enactment, shall regulate in~~
16 ~~any manner gun shows, the possession, ownership, transport,~~
17 ~~carrying, transfer, sale, purchase, licensing, registration or~~
18 ~~use of firearms, ammunition, components of firearms, firearms~~
19 ~~dealers, or dealers in firearm components.~~

20 ~~"(b) (1) Subsection (a) does not affect the authority~~
21 ~~a municipality has under law to regulate the discharge of~~
22 ~~firearms within the limits of the municipality or the~~
23 ~~authority a county has under law enacted prior to August 1,~~
24 ~~2000, to regulate the discharge of firearms within the~~
25 ~~jurisdiction of the county.~~

1 ~~"(2) Subsection (a) does not affect the authority of~~
2 ~~the state, a county, or a municipality to assess, enforce, and~~
3 ~~collect sales taxes, use taxes, and gross receipts taxes in~~
4 ~~the nature of sales taxes as defined by Section 40-2A-3(8), on~~
5 ~~the retail sale of firearms and ammunition or to assess,~~
6 ~~enforce, and collect business licenses from firearms or~~
7 ~~ammunition manufacturers, trade associations, distributors, or~~
8 ~~dealers for the privilege of engaging in business.~~

9 ~~"Further, nothing herein shall exempt any business~~
10 ~~which uses firearms or ammunition in the conduct of its~~
11 ~~business or any business which leases or sells firearms or~~
12 ~~ammunition from the provisions of county and municipal~~
13 ~~planning and zoning laws, as long as the code, ordinance, or~~
14 ~~regulations are not used to circumvent the intent of~~
15 ~~subsection (a).~~

16 ~~"This section shall not be construed to limit or~~
17 ~~restrict the power of a municipality to adopt or enforce~~
18 ~~ordinances which make the violation of a state firearm law a~~
19 ~~violation of a municipal ordinance to the same extent as other~~
20 ~~state law violations.~~

21 ~~"(c) The authority to bring or settle any lawsuit in~~
22 ~~which the state has an exclusive interest or right to recover~~
23 ~~against any firearm or ammunition manufacturer, trade~~
24 ~~association, or dealer, and the authority to bring or settle~~
25 ~~any lawsuit on behalf of any governmental unit created by or~~

1 pursuant to an act of the Legislature or the Constitution of
2 Alabama of 1901, or any department, agency, or authority
3 thereof, for damages, abatement, injunctive relief, or other
4 equitable relief resulting from or relating to the design,
5 manufacture, marketing, or lawful sale of firearms or
6 ammunition, or both, shall be reserved exclusively to the
7 Attorney General, by and with the consent of the Governor.
8 This section shall not prohibit a county or municipal
9 corporation from bringing an action against a firearms or
10 ammunition manufacturer or dealer for breach of contract or
11 warranty as to firearms or ammunition purchased by the
12 political subdivision or local governmental authority."

13 Section 2. Sections 13A-11-7, 13A-11-52, 13A-11-70,
14 13A-11-73, 13A-11-75, and 13A-11-85, Code of Alabama 1975, are
15 amended to read as follows:

16 "§13A-11-7.

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

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

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

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

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

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

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

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

9 "(c) It shall be a rebuttable presumption that the
10 mere carrying of a visible pistol, holstered or secured, in a
11 public place, in and of itself, is not a violation of this
12 section.

13 "§13A-11-52.

14 "Except as otherwise provided in this article, no
15 person shall carry a pistol about his person on ~~premises~~
16 private property not his own or under his control unless the
17 person possesses a valid concealed weapon permit or the person
18 has the consent of the owner or legal possessor of the
19 premises; but this section shall not apply to any ~~sheriff or~~
20 ~~his deputy or police officer of an incorporated town or city~~
21 law enforcement officer in the lawful discharge of the duties
22 of his office, or to United States marshal or his deputies,
23 rural free delivery mail carriers in the discharge of their
24 duties as such, bonded constables in the discharge of their

1 duties as such, conductors, railway mail clerks and express
 2 messengers in the discharge of their duties.

3 "§13A-11-70.

4 "For the purposes of this division, the following
 5 terms shall have the respective meanings ascribed by this
 6 section:

7 "(1) PISTOL. Any firearm with a barrel less than 12
 8 inches in length.

9 "(2) CRIME OF VIOLENCE. Any of the following crimes
 10 or an attempt to commit any of them, namely, murder,
 11 manslaughter, (except manslaughter arising out of the
 12 operation of a vehicle), rape, mayhem, assault with intent to
 13 rob, assault with intent to ravish, assault with intent to
 14 murder, robbery, burglary, and kidnapping and larceny. "Crime
 15 of violence" shall also mean any Class A felony or any Class B
 16 felony that has as an element serious physical injury, the
 17 distribution or manufacture of a controlled substance, or is
 18 of a sexual nature involving a child under the age of 12.

19 "(3) PERSON. Such term includes any firm,
 20 partnership, association or corporation.

21 "§13A-11-73.

22 "~~No~~ (a) Except on land under his or her control or
 23 in his or her own abode or his or her own fixed place of
 24 business, no person shall carry a pistol in any vehicle or
 25 concealed on or about his or her person ~~except on his land, in~~

1 ~~his own abode or fixed place of business,~~ without a license
2 ~~therefor as hereinafter provided~~ permit issued under Section
3 13A-11-75(a) (1) or recognized under Section 13A-11-85.

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

11 "§13A-11-75.

12 "(a) (1)a. The sheriff of a county, upon the
13 application of any person residing in that county, ~~may~~ within
14 30 days from receipt of a complete application and
15 accompanying fee, shall issue or renew a ~~qualified or~~
16 ~~unlimited license~~ permit to for such person to carry a pistol
17 in a vehicle or concealed on or about his or her person within
18 this state for ~~not more than one year~~ one to five year
19 increments, as requested by the person seeking the permit,
20 from date of issue, ~~if it appears that the applicant has good~~
21 ~~reason to fear injury to his or her person or property or has~~
22 ~~any other proper reason for carrying a pistol, and that he or~~
23 ~~she is a suitable person to be so licensed.~~ unless the sheriff
24 determines that the person is prohibited from the possession
25 of a pistol or firearm pursuant to state or federal law, or

1 has a reasonable suspicion that the person may use a weapon
2 unlawfully or in such other manner that would endanger the
3 person's self or others. In making such determination, the
4 sheriff may consider whether the applicant:

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

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

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

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

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

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

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

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

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

5 "10. Falsified any portion of the permit
6 application.

7 "11. Caused justifiable concern for public safety.

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

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

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

23 "b. The sheriff shall provide a written statement of
24 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) of this section that the person may
14 use a weapon unlawfully or in such other manner as would
15 endanger the person's self or others if granted a permit to
16 carry a 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.

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

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

1 Criminal Background Check System, to determine whether
2 possession of a firearm by an applicant would be a violation
3 of state or federal law. ~~The sheriff may revoke a license upon~~
4 ~~proof that the licensee is not a proper person to be licensed.~~

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

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

24 "~~(b)~~(e) The name, address, and signature,
25 photograph, and any other personally identifying information

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

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

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

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

12 "§13A-11-85.

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

22 "(b) The Attorney General is authorized to enter
23 into reciprocal agreements with other states for the mutual
24 recognition of licenses to carry handguns and shall
25 periodically publish a list of states which ~~meet the~~

1 ~~requirements of subsection (a)~~ recognize licenses issued
2 pursuant to Section 13A-11-75."

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

5 "§40-12-143.

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

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

23 Section 4. (a) Except as provided in subdivision
24 (b), a public or private employer may restrict or prohibit its
25 employees, including those with a permit issued or recognized

1 under Section 13A-11-75, Code of Alabama 1975, from carrying
2 firearms while on the employer's property or while engaged in
3 the duties of the person's employment.

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

9 (1) The employee either:

10 a. Has a valid concealed weapon permit; or

11 b. If the weapon is any firearm legal for use for
12 hunting in Alabama other than a pistol:

13 i. The employee possesses a valid Alabama hunting
14 license;

15 ii. The weapon is unloaded at all times on the
16 property;

17 iii. It is during a season in which hunting is
18 permitted by Alabama law or regulation;

19 iv. The employee has never been convicted of any
20 crime of violence as that term is defined in Section
21 13A-11-70, Code of Alabama 1975, nor of any crime set forth in
22 Article 6 of Title 13A, Code of Alabama 1975, nor is subject
23 to a Domestic Violence Order, as that term is defined in
24 Section 13A-6-141, Code of Alabama 1975;

1 v. The employee does not meet any of the factors set
2 forth in Section 13A-11-75(a) (1) a.1-8; and

3 vi. The employee has no documented prior workplace
4 incidents involving the threat of physical injury or which
5 resulted in physical injury.

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

8 (3) The firearm is either of the following:

9 a. In a motor vehicle attended by the employee, kept
10 from ordinary observation within the person's motor vehicle.

11 b. In a motor vehicle unattended by the employee,
12 kept from ordinary observation and locked within a
13 compartment, container, or in the interior of the person's
14 privately owned motor vehicle or in a compartment or container
15 securely affixed to the motor vehicle.

16 (c) If an employer believes that an employee
17 presents a risk of harm to himself/herself or to others, the
18 employer may inquire as to whether the employee possesses a
19 firearm in his or her private motor vehicle. If the employee
20 does possess a firearm in his or her private motor vehicle on
21 the property of the employer, the employer may make any
22 inquiry necessary to establish that the employee is in
23 compliance with subsection (b) of this section.

24 (1) If the employee is not in compliance with
25 subsection (b), the employer may take adverse employment

1 action against the employee, in the discretion of the
2 employer.

3 (2) If the employee has been in compliance with
4 subsection (b) of this section at all times, the employer may
5 not take adverse employment action against the employee based
6 solely on the presence of the firearm.

7 (d) If an employer discovers by other means that an
8 employee is transporting or storing a firearm in his or her
9 private motor vehicle, the employer may not take any adverse
10 employment action against the employee based solely on the
11 possession of that firearm if the employee has complied with
12 the requirements in subsection (b).

13 (e) Nothing in this section shall prohibit an
14 employer from reporting to law enforcement a complaint based
15 upon information and belief that there is credible evidence of
16 any of the following:

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

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

19 b. Stolen property or a prohibited or illegal item
20 other than a firearm.

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

23 (f) If law enforcement officers, pursuant to a valid
24 search warrant or valid warrantless search based upon probable
25 cause, exigent circumstances, or other lawful exception to the

1 search warrant requirement, discover a firearm prohibited by
2 state or federal law, stolen property, or a prohibited or
3 illegal item other than a firearm, the employer may take
4 adverse employment action against the employee.

5 (g) However, if the employee has fully complied with
6 the requirements of subsection (b) and does not possess a
7 firearm prohibited by state or federal law, that employee is
8 entitled to recovery as specified in this subsection for any
9 adverse employment action against the employee. If demand for
10 the recovery has not been satisfied within 45 calendar days,
11 the employee may file a civil action in the appropriate court
12 of this state against the public or private employer. A
13 plaintiff is entitled to seek an award of all of the
14 following:

15 (1) Compensation, if applicable, for lost wages or
16 benefits.

17 (2) Compensation, if applicable, for other lost
18 remuneration caused by the termination, demotion, or other
19 adverse action.

20 (h) The license requirements set forth in sections
21 (b) (1)a. and (b) (1)b.i. are for the purposes of this section
22 only in order to determine whether an employee may transport
23 or store a lawfully possessed firearm or ammunition in an
24 employee's privately owned motor vehicle while parked or
25 operated in a public or private parking area owned by the

1 employer and shall not be construed to otherwise expand the
2 requirements for the lawful possession of a firearm. These
3 requirements shall not be interpreted to mean that the laws of
4 the State of Alabama create any new connection between the
5 possession of a hunting license and the right of a citizen to
6 keep and bear arms.

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

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

13 Section 5. (a) Except as provided in subsection
14 4(g), an employer and the owner and/or lawful possessor of the
15 property on which the employer is situated shall be absolutely
16 immune from any claim, cause of action or lawsuit that may be
17 brought by any person seeking any form of damages that are
18 alleged to arise, directly or indirectly, as a result of any
19 firearm brought onto the property of the employer, owner or
20 lawful possessor by an employee, including a firearm that is
21 transported in an employee's privately owned motor vehicle.

22 (b) The presence of a firearm or ammunition on an
23 employer's property under the authority of this act does not,
24 by itself, constitute the failure by the employer to provide a
25 safe workplace.

1 (c) For the purposes of this act, a public or
2 private employer, or the employer's principal, officer,
3 director, employee, or agent, does not have a duty:

4 (1) To patrol, inspect, or secure:

5 a. Any parking lot, parking garage, or other parking
6 area the employer provides for employees; or

7 b. Any privately owned motor vehicle located in a
8 parking lot, parking garage, or other parking area the
9 employer provides for employees; or

10 (2) To investigate, confirm, or determine an
11 employee's compliance with laws related to the ownership or
12 possession of a firearm or ammunition or the transportation
13 and storage of a firearm or ammunition.

14 (d) Nothing in this section shall be construed to
15 provide immunity from liability to an employer, business
16 entity or property owner for his or her own affirmative
17 wrongful acts that cause harm, damage or injury to another.

18 (e) The denial by a Court of a Motion to Dismiss
19 based on immunity grounds shall be appealable in the same
20 manner as a final order to the appellate court which would
21 otherwise have jurisdiction over the appeal from a final order
22 of the action. Such appeal may only be filed within 42 days of
23 the order denying the Motion to Dismiss. The filing of such
24 appeal, the failure to file an appeal, or the affirmance of
25 the denial of the Motion to Dismiss shall in no way affect the

1 right of the Defendant, after entry of judgment, to appeal the
2 denial of immunity. During the pendency of such appeal, the
3 action in the trial court shall be stayed in all respects.

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

7 Section 6. (a) In addition to any other place
8 limited or prohibited by state or federal law, a person,
9 including a person with a permit issued under Section
10 13A-11-75(a)(1) or recognized under Section 13A-11-85, Code of
11 Alabama 1975, may not knowingly possess or carry a firearm in
12 any of the following places without the express permission of
13 a person or entity with authority over the premises:

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

16 (2) Inside or on the premises of a prison, jail,
17 halfway house, community corrections facility, or other
18 detention facility for those who have been charged with or
19 convicted of a criminal or juvenile offense.

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

23 (4) Inside a courthouse, courthouse annex, a
24 building in which a District Attorney's office is located, or
25 a building in which a county commission or city council is

1 currently having a regularly scheduled or specially called
2 meeting.

3 (5) Inside any facility hosting an athletic event
4 not related to or involving firearms which is sponsored by a
5 private or public elementary or secondary school or any
6 private or public institution of postsecondary education,
7 unless the person has a permit issued under Section
8 13A-11-75(a) (1) or recognized under Section 13A-11-85.

9 (6) Inside any facility hosting a professional
10 athletic event not related to or involving firearms, unless
11 the person has a permit issued under Section 13A-11-75(a) (1)
12 or recognized under Section 13A-11-85.

13 (b) Notwithstanding the provisions of subsection
14 (a), a person, including a person with a permit issued under
15 Section 13A-11-75(a) (1) or recognized under Section 13A-11-85,
16 Code of Alabama 1975, may not, without the express permission
17 of a person or entity with authority over the premises,
18 knowingly possess or carry a firearm inside any building or
19 facility to which access of unauthorized persons and
20 prohibited articles is limited during normal hours of
21 operation by the continuous posting of guards and the use of
22 other security features, including, but not limited to,
23 magnetometers, key cards, biometric screening devices, or
24 turnstiles or other physical barriers.

1 (c) The person or entity with authority over the
2 premises set forth in subsections (a)(1)-(6) and subsection
3 (b) shall place a notice at the public entrances of such
4 premises or buildings alerting those entering that firearms
5 are prohibited.

6 (d) Except as provided in subsections (a)(5) and
7 (a)(6), any firearm on the premises of any facility set forth
8 in subsection (a)(1), or subsections (a)(4)-(6), or subsection
9 (b) must be kept from ordinary observation and locked within a
10 compartment or in the interior of the person's motor vehicle
11 or in a compartment or container securely affixed to the motor
12 vehicle.

13 (e) A violation of subsections (a) or (d) is a Class
14 C misdemeanor.

15 (f) This section shall not prohibit any person from
16 possessing a firearm within the person's residence or during
17 ingress or egress thereto.

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

21 (h) Nothing in this section shall be construed to
22 authorize the carrying or possession of a firearm where
23 prohibited by federal law.

24 Section 7. (a) The purpose of this section is to
25 establish within the Legislature complete control over

1 regulation and policy pertaining to firearms, ammunition, and
2 firearm accessories in order to ensure that such regulation
3 and policy is applied uniformly throughout this state to each
4 person subject to the state's jurisdiction and to ensure
5 protection of the right to keep and bear arms recognized by
6 the Constitutions of the State of Alabama and the United
7 States. This section is to be liberally construed to
8 accomplish its purpose.

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

11 (1) AMMUNITION. Fixed cartridge ammunition, shotgun
12 shells, the individual components of fixed cartridge
13 ammunition and shotgun shells, projectiles for muzzle-loading
14 firearms, and any propellant used in firearms or ammunition.

15 (2) EXPRESSLY AUTHORIZED BY A STATUTE OF THIS STATE.
16 The authority of a political subdivision to regulate firearms,
17 ammunition, or firearm accessories that is granted by a duly
18 enacted state law that specifically mentions firearms, a
19 particular type of firearm, ammunition, or a particular type
20 of ammunition.

21 (3) FIREARM ACCESSORY. A device specifically
22 designed or adapted to enable the wearing or carrying about
23 one's person, or the storage or mounting in or on a
24 conveyance, of a firearm, or an attachment or device
25 specifically designed or adapted to be inserted into or

1 affixed onto a firearm to enable, alter, or improve the
2 functioning or capabilities of the firearm.

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

5 (5) PERSON ADVERSELY AFFECTED. Any of the following:

6 a. A resident of this state who may legally possess
7 a firearm under the laws of this state and the United States
8 and who is either of the following:

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

13 2. If the person were present in the political
14 subdivision in question, subject to any manner of regulation
15 alleged to be promulgated or enforced in violation of this
16 section, whether or not specific enforcement action has been
17 initiated or threatened against that person or another person.

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

20 c. A membership organization if its members would
21 otherwise have standing to sue in their own right, if the
22 interests it seeks to protect are germane to the
23 organization's purpose, and neither the claim asserted nor the
24 relief requested requires the participation of individual
25 members in the lawsuit.

1 (6) POLITICAL SUBDIVISION. A county, incorporated
2 city, unincorporated city, public local entity, public-private
3 partnership, and any other public entity of a county or city
4 commonly considered to be a political subdivision of the
5 state.

6 (7) PUBLIC OFFICIAL. Any person elected to public
7 office, whether or not that person has taken office, by the
8 vote of the people of a political subdivision or its
9 instrumentalities, including governmental corporations, and
10 any person appointed to a position at the municipal level of
11 government or its instrumentalities, including governmental
12 corporations.

13 (8) REASONABLE EXPENSES. The expenses involved in
14 litigation, including, but not limited to, expert witness
15 fees, court costs, and compensation for loss of income.

16 (c) Except as otherwise provided in this act or as
17 expressly authorized by a statute of this state, the
18 Legislature hereby occupies and preempts the entire field of
19 regulation in this state touching in any way upon firearms,
20 ammunition, and firearm accessories to the complete exclusion
21 of any order, ordinance, or rule promulgated or enforced by
22 any political subdivision of this state.

23 (d) The authority of a political subdivision to
24 regulate firearms, ammunition, or firearm accessories shall

1 not be inferred from its proprietary authority, home rule
2 status, or any other inherent or general power.

3 (e) Any existing orders, ordinances, or rules
4 promulgated or enforced contrary to the terms of this section
5 are null and void and any future order, ordinance, or rules
6 shall comply with this section.

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

14 (2) If, after investigation of the enactment or
15 adoption of the order, ordinance, or rule, the Attorney
16 General determines that there is reasonable cause to proceed
17 with an action, he or she shall provide the political
18 subdivision or public official enacting or adopting the order,
19 ordinance, or rule 60 days' notice of his or her intent to
20 file an action. Upon the expiration of the 60 days' notice,
21 the Attorney General may file the suit.

22 (3) If, after investigation of the enactment or
23 adoption of the order, ordinance, or rule, the Attorney
24 General determines that there is no reasonable cause to
25 proceed with an action, he or she shall publicly state in

1 writing the justification for the determination not to file
2 suit.

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

8 (5) The court may award reimbursement for actual and
9 reasonable expenses to a person adversely affected if an
10 action under this subsection results in a final determination
11 in favor of the person adversely affected.

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

14 (1) A duly organized law enforcement agency of a
15 political subdivision from promulgating and enforcing rules
16 pertaining to firearms, ammunition, or firearm accessories
17 that it issues to or that are used by the political
18 subdivision's peace officers in the course of their official
19 duties.

20 (2) An employer from regulating or prohibiting an
21 employee's carrying or possession of firearms, firearm
22 accessories, or ammunition during and in the course of the
23 employee's official duties.

1 (3) A prosecutor, court or administrative law judge
2 from hearing and resolving a case or controversy or issuing an
3 opinion or order on a matter within its jurisdiction.

4 (4) The enactment or enforcement of a generally
5 applicable zoning or business ordinance that includes firearms
6 businesses along with other businesses, provided that an
7 ordinance designed or enforced effectively to restrict or
8 prohibit the sale, purchase, transfer, manufacture, or display
9 of firearms, ammunition, or firearm accessories that is
10 otherwise lawful under the laws of this state is in conflict
11 with this section and is void.

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

15 (6) A political subdivision from sponsoring or
16 conducting any firearm-related competition or educational or
17 cultural program and from enacting and enforcing rules for
18 participation in or attendance at such program, provided that
19 nothing in this section authorizes or permits a political
20 subdivision to offer remuneration for the surrender or
21 transfer of a privately owned firearm to the political
22 subdivision or another party as a method of reducing the
23 number of privately owned firearms within the political
24 subdivision.

1 (7) Any official of a political subdivision, a
2 sheriff, or other law enforcement officer with appropriate
3 authority and jurisdiction from enforcing any law enacted by
4 the Legislature.

5 (8) A sheriff of a county from acting on an
6 application for a permit under Section 13A-11-75, Code of
7 Alabama 1975.

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

11 (10) The adoption or enforcement by a county or
12 municipality of ordinances which make the violation of a state
13 firearm law a violation of an ordinance, provided that the
14 elements of the local ordinance may not differ from the state
15 firearm law, nor may the local ordinance impose a higher
16 penalty than what is imposed under the state firearm law.

17 (11) A municipality from regulating the discharge of
18 firearms within the limits of the municipality or a county
19 from exercising any authority it has under law, to regulate
20 the discharge of firearms within the jurisdiction of the
21 county. The discharge of a firearm in defense of one's self or
22 family or in defense of one's property may not be construed to
23 be a violation of state law or any ordinance or rule of a
24 political subdivision of this state.

1 (12) A county or a municipality from exercising any
2 authority it has to assess, enforce, and collect generally
3 applicable sales taxes, use taxes, and gross receipts taxes in
4 the nature of sales taxes as defined by Section 40-2A-3(8),
5 Code of Alabama 1975, on the retail sale of firearms,
6 ammunition, and firearm accessories along with other goods,
7 provided that no such tax imposed by a county or municipality
8 may apply at a higher rate to firearms, ammunition, or firearm
9 accessories than the general sales tax rate of the
10 jurisdiction.

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

13 "§13A-3-23.

14 "(a) A person is justified in using physical force
15 upon another person in order to defend himself or herself or a
16 third person from what he or she reasonably believes to be the
17 use or imminent use of unlawful physical force by that other
18 person, and he or she may use a degree of force which he or
19 she reasonably believes to be necessary for the purpose. A
20 person may use deadly physical force, and is legally presumed
21 to be justified in using deadly physical force in self-defense
22 or the defense of another person pursuant to subdivision (4),
23 if the person reasonably believes that another person is:

24 "(1) Using or about to use unlawful deadly physical
25 force.

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

4 "(3) Committing or about to commit a kidnapping in
5 any degree, assault in the first or second degree, burglary in
6 any degree, robbery in any degree, forcible rape, or forcible
7 sodomy.

8 "(4) Using or about to use physical force against an
9 owner, employee, or other person authorized to be on business
10 property when the business is closed to the public while
11 committing or attempting to commit a crime involving death,
12 serious physical injury, robbery, kidnapping, rape, sodomy, or
13 a crime of a sexual nature involving a child under the age of
14 12.

15 "~~(4)~~ (5) In the process of unlawfully and forcefully
16 entering, or has unlawfully and forcefully entered, a
17 dwelling, residence, business property, or occupied vehicle,
18 or federally licensed nuclear power facility, or is in the
19 process of sabotaging or attempting to sabotage a federally
20 licensed nuclear power facility, or is attempting to remove,
21 or has forcefully removed, a person against his or her will
22 from any dwelling, residence, business property, or occupied
23 vehicle when the person has a legal right to be there, and
24 provided that the person using the deadly physical force knows
25 or has reason to believe that an unlawful and forcible entry

1 or unlawful and forcible act is occurring. The legal
2 presumption that a person using deadly physical force is
3 justified to do so pursuant to this subdivision does not apply
4 if:

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

11 "b. The person sought to be removed is a child or
12 grandchild, or is otherwise in the lawful custody or under the
13 lawful guardianship of, the person against whom the defensive
14 force is used;

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

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

21 "(b) A person who is justified under subsection (a)
22 in using physical force, including deadly physical force, and
23 who is not engaged in an unlawful activity and is in any place
24 where he or she has the right to be has no duty to retreat and
25 has the right to stand his or her ground.

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

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

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

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

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

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

1 Section 9. Section 11-45-1.1, Code of Alabama 1975,
2 relating to the authority of a municipality to enact
3 ordinances relating to handguns, is repealed.

4 Section 10. Nothing in this act shall be construed
5 to prohibit law enforcement personnel who have reasonable
6 suspicion from acting to prevent a breach of the peace or from
7 taking action to preserve public safety.

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

16 Section 12. The provisions of this act are
17 severable. If any part of this act is declared invalid or
18 unconstitutional, that declaration shall not affect the part
19 which remains.

20 Section 13. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB286

Senate 04-APR-13

I hereby certify that the within Act originated in and passed the Senate, as amended.

Senate 20-MAY-13

I hereby certify that the within Act originated in and passed the Senate, as amended by Conference Committee Report.

Patrick Harris
Secretary

House of Representatives

Passed: 02-MAY-13, as amended

House of Representatives

Passed: 20-MAY-2013, as amended by Conference Committee Report.

By: Senator Beason