

1 HB618
2 212763-1
3 By Representatives Stringer, Brown (C), Lipscomb, Marques,
4 Estes, Oliver, Meadows, Kiel, Hanes, Robertson, Easterbrook
5 and Sorrell
6 RFD: Public Safety and Homeland Security
7 First Read: 13-APR-21

1
2
3
4
5
6
7
8 SYNOPSIS: Under existing law, with exceptions, a
9 person may not conceal a firearm on his or her
10 person, or carry a pistol in his or her vehicle,
11 without a permit. Also under existing law, when a
12 person commits a crime of violence, the possession
13 of a pistol without a permit is prima facie
14 evidence of the intent to commit the crime.

15 This bill would authorize individuals to
16 carry a pistol or other firearm concealed or in a
17 vehicle without a permit and would delete the
18 presumption of intent to commit a crime of violence
19 solely for not possessing a permit.

20 This bill would also revise the process by
21 which a pistol seized in connection with a
22 violation of Sections 13A-11-71 to 13A-11-73, Code
23 of Alabama 1975, is disposed of or returned to its
24 owner.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

2
3 Relating to firearms; to amend Sections 13A-11-71,
4 13A-11-73, and 13A-11-84, to delete certain permit
5 requirements related to the possession of a pistol or firearm;
6 to delete a presumption of intent to commit a crime of
7 violence; to revise the process by which certain seized
8 pistols are returned to their owners or destroyed; and to
9 repeal Sections 13A-11-50, 13A-11-52, and 13A-11-74, Code of
10 Alabama 1975, to authorize the permitless concealed carry of
11 firearms, with exceptions.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 13A-11-71, 13A-11-73, and
14 13A-11-84, Code of Alabama 1975, are amended to read as
15 follows:

16 "§13A-11-71.

17 "If any person shall commit or attempt to commit a
18 crime of violence when armed with a pistol, ~~he may,~~ in
19 addition to the punishment provided for the crime, the person
20 may be punished also as provided by this division. ~~In the~~
21 ~~trial of a person for committing or attempting to commit a~~
22 ~~crime of violence, the fact that he was armed with a pistol~~
23 ~~and had no license to carry the same shall be prima facie~~
24 ~~evidence of his intention to commit said crime of violence.~~

25 "§13A-11-73.

26 "(a) ~~Except on land under his or her control or in~~
27 ~~his or her own abode or his or her own fixed place of~~

1 ~~business, no~~ Subject to Section 13A-11-72, a person shall 19
2 or more years of age who is not otherwise prohibited by state
3 law from possessing a firearm may carry a pistol or other
4 firearm in any vehicle or concealed on or about his or her
5 person without a permit issued under Section 13A-11-75(a) (1)
6 or recognized under Section 13A-11-85.

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

14 "§13A-11-84.

15 "(a) Every violation of subsection (a) of Section
16 13A-11-72 or Section 13A-11-81 shall be a Class C felony.
17 Every violation of subsection (b) of Section 13A-11-72 or
18 Sections 13A-11-73, ~~13A-11-74,~~ 13A-11-76, and 13A-11-77
19 through 13A-11-80 shall be a Class A misdemeanor. The
20 punishment for violating Section 13A-11-78 or 13A-11-79 may
21 include revocation of license.

22 "(b) (1) It shall be the duty of any sheriff,
23 policeman, or other peace officer of the State of Alabama,
24 arresting any person charged with violating Sections 13A-11-71
25 through 13A-11-73, or any one or more of those sections, to
26 seize the pistol or pistols in the possession or under the
27 control of the person or persons charged with violating the

1 section or sections, and to deliver the pistol or pistols to
2 one of the following named persons: if a municipal officer
3 makes the arrest, to the city clerk or custodian of stolen
4 property of the municipality employing the arresting officer;
5 if a county, state, or other peace officer makes the arrest,
6 to the sheriff of the county in which the arrest is made. The
7 person receiving the pistol or pistols from the arresting
8 officer shall keep it in a safe place in as good condition as
9 received until disposed of as hereinafter provided.

10 "(2) Within five days after the final conviction of
11 any person arrested for violating any of the above-numbered
12 sections, the person receiving possession of the pistol or
13 pistols, seized as provided in this section, shall report the
14 seizure and detention of the pistol or pistols to the district
15 attorney within the county where the pistol or pistols are
16 seized, giving a full description thereof, the number, make
17 and model thereof, the name of the person in whose possession
18 it was found when seized, the person making claim to the same
19 or any interest therein, if the name can be ascertained or is
20 known, and the date of the seizure.

21 "(3)a. Upon receipt of the report from the person
22 receiving possession of the pistol or pistols, it shall be the
23 duty of the district attorney within the county wherein the
24 pistol or pistols were seized to direct the sheriff to return
25 the pistol or pistols to the person in whose possession it was
26 found when seized or the person making the claim to the pistol
27 or pistols or to any interest in the pistol or pistols, as the

1 district attorney determines is appropriate, unless the
2 district attorney determines it necessary or proper in the
3 ends of justice to forthwith file a complaint in the circuit
4 court of the proper county, praying that the seized pistol or
5 pistols be declared contraband, be forfeited to the state and
6 be destroyed.

7 "b. Any person, firm, or corporation, or association
8 of persons in whose possession the pistol or pistols may be
9 seized or who claim to own the same or any interest therein
10 shall be made a party defendant to the complaint, and
11 thereupon the matter shall proceed and be determined in the
12 circuit court of the proper county in the same form and
13 manner, as near as may be, as in the forfeiture and
14 destruction of gaming devices, except as otherwise provided.

15 "c. When any judgment of condemnation and forfeiture
16 is made in any case filed under this section, the judge making
17 the judgment shall direct the destruction of the pistol or
18 pistols by the person receiving possession of the pistol or
19 pistols from the arresting officer in the presence of the
20 clerk or register of the court, unless the judge is of the
21 opinion that the nondestruction thereof is necessary or proper
22 in the ends of justice, in which event and upon recommendation
23 of the district attorney, the judge shall award the pistol or
24 pistols to the sheriff of the county or to the chief of police
25 of the municipality to be used exclusively by the sheriff or
26 the chief of police in the enforcement of law, and the sheriff
27 of the county and the chiefs of police of the municipalities

1 shall keep a permanent record of all pistols awarded to them
2 as provided for in this section, to be accounted for as other
3 public property, and the order, in the event that no appeal is
4 taken within 15 days from the rendition thereof, shall be
5 carried out and executed before the expiration of 20 days from
6 the date of the judgment.

7 "d. The court may direct in the judgment that the
8 costs of the proceedings be paid by the person in whose
9 possession the pistol or pistols were found when seized, or by
10 any party or parties who claim to own the pistol or pistols,
11 or any interest therein, and who contested the condemnation
12 and forfeiture thereof."

13 Section 2. Sections 13A-11-50, 13A-11-52, and
14 13A-11-74, Code of Alabama 1975, providing prohibitions
15 against carrying a concealed weapon without a permit and
16 providing certain exceptions to that prohibition, are
17 repealed.

18 Section 3. This act shall become effective
19 immediately following its passage and approval by the
20 Governor, or its otherwise becoming law.