

1 SB286
2 149766-1
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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8 SYNOPSIS: This bill would consolidate certain
9 preemption language regarding the authority of
10 counties and municipalities to regulate certain
11 activity related to firearms and would provide
12 civil remedies for persons adversely affected by
13 unauthorized action of a county or municipality
14 relating to firearm regulation.

15 This bill would provide for the possession
16 of a pistol in a motor vehicle and would provide
17 that the mere presence of a pistol in a vehicle
18 does not create a presumption that the pistol is
19 concealed.

20 This bill would provide that lawfully
21 carrying a firearm under certain conditions does
22 not, in and of itself, constitute the crime of
23 disorderly conduct.

24 This bill would require a sheriff to issue
25 or deny a concealed pistol permit within 30 days of
26 receipt of the application and accompanying fees,
27 would specify that the license must be renewed from

1 one to five years from the date of issuance, would
2 provide for the revocation of licenses, and would
3 provide an appeals process for license denials and
4 revocations.

5 This bill would specify certain eligibility
6 requirements for the issuance of a pistol permit
7 and would further provide for the permit fee.

8 This bill would provide for the issuance of
9 pistol permits to applicants who are not United
10 States citizens under certain conditions and would
11 authorize employers to restrict employees from
12 carrying concealed pistols under limited
13 circumstances.

14 This bill would require a report from the
15 National Instant Background Check System as part of
16 the investigation process relating to the issuance
17 of a concealed pistol permit.

18 This bill would authorize the Attorney
19 General to enter into reciprocal agreements with
20 other states for the mutual recognition of licenses
21 to carry pistols.

22 This bill would further provide for the
23 carrying of a pistol on public and private property
24 in certain locations.

25 This bill would allow employees to transport
26 or store a firearm in the employee's
27 privately-owned motor vehicle under certain

1 conditions and would prohibit an employer from
2 inquiring whether the employee is transporting or
3 storing a firearm in a vehicle and would provide
4 certain remedies for employees.

5 This bill would require state and local
6 entities to allow certain persons on property of
7 the state or local entity to check a firearm at a
8 designated entrance for secure storage while the
9 person is on the property.

10 This bill would specify that a person or
11 business entity has no duty to guard against the
12 criminal acts of a third party relating to firearm
13 use or otherwise.

14 This bill would prohibit a business entity
15 or property owner or legal possessor from
16 establishing policies against persons transporting
17 or storing a firearm or ammunition when the person
18 is otherwise in compliance with all other
19 applicable laws under certain conditions and would
20 provide certain remedies for violations.

21 This bill would repeal the prohibition
22 against the possession of a firearm at a public
23 demonstration.

24 Amendment 621 of the Constitution of Alabama
25 of 1901, now appearing as Section 111.05 of the
26 Official ReCompilation of the Constitution of
27 Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a
2 new or increased expenditure of local funds from
3 becoming effective with regard to a local
4 governmental entity without enactment by a 2/3 vote
5 unless: it comes within one of a number of
6 specified exceptions; it is approved by the
7 affected entity; or the Legislature appropriates
8 funds, or provides a local source of revenue, to
9 the entity for the purpose.

10 The purpose or effect of this bill would be
11 to require a new or increased expenditure of local
12 funds within the meaning of the amendment. However,
13 the bill does not require approval of a local
14 governmental entity or enactment by a 2/3 vote to
15 become effective because it comes within one of the
16 specified exceptions contained in the amendment.

17
18 A BILL

19 TO BE ENTITLED

20 AN ACT

21
22 Relating to firearms; to amend Section 11-80-11,
23 Code of Alabama 1975, to consolidate certain preemption
24 language regarding the authority of counties and
25 municipalities to regulate certain activity related to
26 firearms; to provide civil remedies to persons adversely
27 affected by unauthorized action of a county or municipality

1 relating to firearm regulation; to amend Section 13A-11-7,
2 Code of Alabama 1975, to provide that the lawful carrying of a
3 firearm under certain conditions does not constitute the crime
4 of disorderly conduct; to amend Section 13A-11-73, Code of
5 Alabama 1975, to further provide for the possession of a
6 pistol in a motor vehicle; to provide that the mere presence
7 of a pistol in a vehicle does not create a presumption that
8 the pistol is concealed; to amend Section 13A-11-75, Code of
9 Alabama 1975, to require a sheriff to issue a concealed pistol
10 permit within a certain time frame; to increase the renewal
11 period; to provide certain eligibility requirements for the
12 issuance of the permit; to provide for the revocation of a
13 permit; to provide an appeals process for denials and
14 revocations of permits; to further provide for the permit fee;
15 to provide for the issuance of permits to applicants who are
16 not United States citizens under certain conditions; to
17 require a report from the National Instant Background Check
18 System as part of the investigation process relating to the
19 issuance of a concealed pistol permit; to amend Section
20 13A-11-85, Code of Alabama 1975, to authorize the Attorney
21 General to enter into reciprocal agreements with other states
22 for the mutual recognition of licenses to carry pistols; to
23 allow employees to transport or store a firearm in the
24 employee's privately-owned motor vehicle under certain
25 conditions; to prohibit an employer from inquiring whether the
26 employee is transporting or storing a firearm in a private
27 vehicle; to prohibit a business entity or property owner or

1 legal possessor, from establishing policies against persons
2 transporting or storing a firearm or ammunition when the
3 person is otherwise in compliance with all other applicable
4 laws under certain conditions; to further provide for the
5 carrying of pistols on private and public property; to require
6 certain procedures for checking and storing firearms on
7 property of the state and political subdivisions thereof; to
8 specify that a person or business entity has no duty to guard
9 against the criminal acts of a third party; to repeal Section
10 11-45-1.1, Code of Alabama 1975, relating to the authority of
11 a municipality to enact ordinances relating to handguns,
12 Section 13A-11-52, Code of Alabama 1975, relating to the carry
13 of a pistol on the property of another, and Section 13A-11-59,
14 Code of Alabama 1975, relating to the possession of firearms
15 by persons participating in or attending demonstrations at
16 public places; and in connection therewith would have as its
17 purpose or effect the requirement of a new or increased
18 expenditure of local funds within the meaning of Amendment 621
19 of the Constitution of Alabama of 1901, now appearing as
20 Section 111.05 of the Official ReCompilation of the
21 Constitution of Alabama of 1901, as amended.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

25 "§11-80-11.

26 "~~(a) No county or municipal corporation,~~
27 ~~instrumentality, or political subdivision thereof, by~~

1 ~~ordinance, resolution, or other enactment, shall regulate in~~
2 ~~any manner gun shows, the possession, ownership, transport,~~
3 ~~carrying, transfer, sale, purchase, licensing, registration or~~
4 ~~use of firearms, ammunition, components of firearms, firearms~~
5 ~~dealers, or dealers in firearm components.~~

6 ~~"(b) (1) Subsection (a) does not affect the authority~~
7 ~~a municipality has under law to regulate the discharge of~~
8 ~~firearms within the limits of the municipality or the~~
9 ~~authority a county has under law enacted prior to August 1,~~
10 ~~2000, to regulate the discharge of firearms within the~~
11 ~~jurisdiction of the county.~~

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

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

1 ~~"This section shall not be construed to limit or~~
2 ~~restrict the power of a municipality to adopt or enforce~~
3 ~~ordinances which make the violation of a state firearm law a~~
4 ~~violation of a municipal ordinance to the same extent as other~~
5 ~~state law violations.~~

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

23 Section 2. Sections 13A-11-7, 13A-11-73, 13A-11-75,
24 and 13A-11-85, Code of Alabama 1975, are amended to read as
25 follows:

26 "§13A-11-7.

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

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

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

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

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

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

14 "(6) Congregates with other person in a public place
15 and refuses to comply with a lawful order of the police to
16 disperse.

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

18 "(c) The mere carrying of a visible, holstered
19 firearm in a public place, in and of itself, shall not be a
20 violation of this section.

21 "§13A-11-73.

22 No person shall carry a pistol ~~in any vehicle or~~
23 concealed on or about his or her person, except on his or her
24 land, in his or her own abode or fixed place of business, or
25 in or on a private motor vehicle or other private means of
26 conveyance without a license therefor as hereinafter provided.

1 The mere presence of a pistol in a vehicle does not create a
2 presumption that the pistol is concealed.

3 "§13A-11-75.

4 "(a) (1) The sheriff of a county, upon the
5 application of any person residing in that county, ~~may~~ within
6 30 days from receipt of a complete application and
7 accompanying fees, shall issue or renew a ~~qualified or~~
8 ~~unlimited~~ license to such for such person to carry a pistol ~~in~~
9 ~~a vehicle or~~ concealed on or about his or her person within
10 this state for ~~not more than one year~~ one to five year
11 increments, as requested by the person seeking the license,
12 from date of issue, ~~if it appears that the applicant has good~~
13 ~~reason to fear injury to his or her person or property or has~~
14 ~~any other proper reason for carrying a pistol, and that he or~~
15 ~~she is a suitable person to be so licensed. unless the sheriff~~
16 determines, based upon documented, specific actions of the
17 person, where at least one of the actions occurred within two
18 years immediately preceding the date of the application, that
19 the person is likely to use a weapon unlawfully or in such
20 other manner that would endanger the person's self or others.
21 The sheriff shall provide a written statement of the reasons
22 for the denial, and the evidence upon which it is based must
23 be disclosed to the applicant unless disclosure would
24 interfere with a criminal investigation or the person is
25 otherwise prohibited under the laws of this state or the
26 United States from possessing or receiving a firearm.

1 "(2) The sheriff may revoke a license issued under
2 subdivision (1) if he or she determines, based upon
3 documented, specific actions of the person, where at least one
4 of the actions occurred within two years immediately preceding
5 the date of the application, that the person is likely to use
6 a weapon unlawfully or in such other manner that would
7 endanger the person's self or others. The sheriff shall
8 provide a written statement of the reasons for the revocation,
9 and the evidence upon which it is based must be disclosed to
10 the applicant unless disclosure would interfere with a
11 criminal investigation or the person is otherwise prohibited
12 under the laws of this state or the United States from
13 possessing or receiving a firearm.

14 "(3) A person who is denied a license under
15 subdivision (1), or a person whose license is revoked under
16 subdivision (2), within 30 days of notification of the denial
17 or revocation, may file a written appeal of the denial or
18 revocation to a concealed pistol permit review panel stating
19 the grounds for which the permit was wrongfully denied or
20 revoked. Upon a review of a denial under this subdivision, the
21 sheriff shall have the burden of proving by clear and
22 convincing evidence that the person would be likely to use a
23 weapon unlawfully or in such other manner as would endanger
24 the person's self or others if granted a license to carry a
25 concealed firearm under this section. The panel shall be
26 comprised of the following members of the county in which the
27 application was made:

1 "a. The probate judge.

2 "b. The district attorney.

3 "c. The president of the local bar association.

4 "(4) Within 30 days of receipt of the appeal, the
5 panel shall review the written appeal and issue a final
6 determination in writing providing the reasons for the
7 determination.

8 "(5) If the panel issues a determination in favor of
9 a person who was denied a permit, the person shall be issued a
10 permit and shall not be required to pay the permit fees under
11 subsection (b). If the panel issues a determination in favor
12 of a person whose license was revoked, the person shall be
13 reimbursed for the amount paid for the permit that was
14 revoked.

15 "(b) The license shall be in triplicate, in form to
16 be prescribed by the Secretary of State, and shall bear the
17 name, address, description, and signature of the licensee and
18 the reason given for desiring a license. The original thereof
19 shall be delivered to the licensee, the duplicate shall,
20 within seven days, be sent by registered or certified mail to
21 the Director of Public Safety, and the triplicate shall be
22 preserved for six years by the authority issuing the same. The
23 fee for issuing such license shall be one dollar (\$1) which
24 sheriff may charge a fee as provided by local law for the
25 issuance of the license. Notwithstanding any provision in a
26 local law, the fee shall not exceed an aggregate amount of
27 fifty dollars (\$50) for a five-year period. The fee shall be

1 paid into the county treasury unless otherwise provided by
2 local law. Prior to issuance or renewal of a license, the
3 sheriff shall contact available local, state, and federal
4 criminal history data banks, including the National Instant
5 Criminal Background Check System, to determine whether
6 possession of a firearm by an applicant would be a violation
7 of state or federal law. ~~The sheriff may revoke a license upon~~
8 ~~proof that the licensee is not a proper person to be licensed.~~

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

22 ~~"(b) (d)~~ (d) The name, address, and signature collected
23 from an applicant or licensee under this section shall be kept
24 confidential, shall be exempt from disclosure under Section
25 36-12-40, and may only be used for law enforcement purposes
26 except when a current licensee is charged in any state with a
27 felony involving the use of a pistol. All other information on

1 licenses under this section, including information concerning
2 the annual number of applicants, number of licenses issued,
3 number of licenses denied, revenue from issuance of licenses,
4 and any other fiscal or statistical data otherwise, shall
5 remain public writings subject to public disclosure. Except as
6 provided above, the sheriff of a county shall redact the name,
7 address, signature, and photograph of an applicant before
8 releasing a copy of a license for a non-law enforcement
9 purpose. The sheriff may charge one dollar (\$1) per copy of
10 any redacted license record requested other than when
11 requested for law enforcement purposes. To knowingly publish
12 or release to the public in any form any information or
13 records related to the licensing process, or the current
14 validity of any license, except as authorized in this
15 subsection or in response to a court order or subpoena, is a
16 Class A misdemeanor.

17 "(e) A license issued under this section shall be
18 valid for the carrying of a pistol concealed on the licensee's
19 person throughout the state, unless prohibited by this
20 section.

21 "(f) This section shall not be construed to limit or
22 place any conditions upon a person's right to carry a pistol
23 that is not concealed.

24 "§13A-11-85.

25 "(a) A person licensed to carry a handgun in any
26 state ~~whose laws recognize and give effect in that state to a~~
27 ~~license issued under the laws of the State of Alabama~~ shall be

1 authorized to carry a handgun in this state. This section
2 shall apply to a ~~licenseholder~~ license holder from another
3 state only while the ~~licenseholder~~ license holder is not a
4 resident of this state. A ~~licenseholder~~ license holder from
5 another state shall carry the handgun in compliance with the
6 laws of this state.

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

13 Section 3. (a) Except as provided in subsections
14 (b), (c), and (d), a person may openly carry a pistol or carry
15 a pistol concealed on or about his or her person on private or
16 public property.

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

23 (2) A public or private employer may not restrict or
24 prohibit the transportation or storage of a firearm in an
25 employee's privately-owned motor vehicle while parked or
26 operated in a public or private parking area if the employee
27 satisfies all of the following:

1 a. The vehicle is operated or parked in a location
2 where it is otherwise permitted to be.

3 b. The firearm is either of the following:

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

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

10 (3) A public or private employer may not inquire
11 whether an employee is transporting a firearm or has stored a
12 firearm in his or her private motor vehicle.

13 (4) If an employer discovers by other means that an
14 employee is transporting or storing a firearm in his or her
15 private vehicle, the employer may not take any adverse
16 employment action against the employee if the employee has
17 complied with the requirements in subdivision (2).

18 (5) An employee is entitled to full recovery as
19 specified in this subsection for any adverse employment action
20 against the employee if the employee has complied with the
21 requirements of subdivision (2). If demand for the recovery
22 has not been satisfied within 45 calendar days, the employee
23 may file a civil action in the appropriate court of this state
24 against the public or private employer and is entitled to an
25 award of all of the following:

1 a. Reinstatement to the same position held at the
2 time of his or her termination from employment or demotion, or
3 to an equivalent position.

4 b. Reinstatement of the employee's full fringe
5 benefits and seniority rights, as appropriate.

6 c. Compensation, if applicable, for lost wages,
7 benefits, or other lost remuneration caused by the
8 termination, demotion, or other adverse action.

9 d. Payment of reasonable attorney's fees and legal
10 costs incurred.

11 (c) A person who owns or controls private property,
12 including property that is open to the public, may restrict or
13 prohibit as trespassers those who possess or carry firearms or
14 other deadly weapons, including those persons with a license
15 issued or recognized under Section 13A-11-75, Code of Alabama
16 1975, while on the property provided that notice of the
17 prohibition is prominently posted at any public entrance to
18 the property. If a person disregards the notice and carries a
19 pistol on the property, the person who owns or controls the
20 property may verbally request that the person carrying the
21 pistol leave the property. If the person continues to remain
22 on the property after the verbal request, the person who owns
23 or controls the property may contact a law enforcement agency
24 to remove the person from the property as a trespasser under
25 existing law.

26 (d) (1) A person, including a person with a license
27 issued under Section 13A-11-75, Code of Alabama 1975, may not

1 knowingly possess or carry a firearm or other deadly weapon in
2 the following place without the express permission of a person
3 or entity with authority over the premises:

4 a. Inside any building, facility, or venue to which
5 access of unauthorized persons and prohibited articles is
6 limited during normal hours of operation by the continuous
7 posting of guards and the use of other security features,
8 including but not limited to, magnetometers, key cards,
9 biometric screening devices, or turnstiles or other physical
10 barriers.

11 b. This subdivision shall not prohibit any person
12 from possessing a firearm within the person's residence or
13 during ingress or egress thereto.

14 (2) If the state, or a political subdivision
15 thereof, adopts a policy as described in subdivision (1), the
16 state or the political subdivision shall provide a means for a
17 person, upon arrival to the property, to give possession of a
18 pistol to a person designated by the state or political
19 subdivision at a designated entrance to the property. The
20 person designated by the state or political subdivision shall
21 store the pistol in a secure and locked location during the
22 course of the person's presence on the property.

23 (3)a. A person who is denied the opportunity to
24 check and store a firearm in violation of subdivision (2) may
25 file a civil action in the appropriate court to enjoin any
26 state or political subdivision from violating subdivision (2).

1 b. In any action brought under this subdivision,
2 court costs and attorney's fees shall be awarded to the
3 prevailing plaintiff.

4 (4) Any person who violates subdivision (1) shall be
5 guilty of a Class C misdemeanor.

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

10 (f) Nothing in this section shall be construed to
11 authorize the carrying or possession of a firearm or other
12 deadly weapon where prohibited by federal law.

13 (g) For the purposes of this section, the term
14 "deadly weapon" shall have the same meaning as in Section
15 13A-11-72, Code of Alabama 1975.

16 Section 4. (a) For the purposes of this section,
17 "business entity" means any person or group of persons
18 performing or engaging in any activity, enterprise,
19 profession, or occupation for gain, benefit, advantage, or
20 livelihood, whether for profit or not for profit.

21 (b) A person or business entity has no duty to guard
22 against the criminal acts of a third party, whether involving
23 the third party's use of a firearm or otherwise, unless the
24 person or business entity knows or has reason to know that the
25 criminal acts are occurring or are about to occur on the
26 premises that pose an imminent probability of harm to an
27 invitee on the property.

1 Section 5. (a) For the purposes of this section,
2 "motor vehicle" shall mean any automobile, truck, minivan,
3 sports utility vehicle, motorcycle, motor scooter, or any
4 other vehicle required to be registered under state law when
5 operated on the highways of this state.

6 (b) Except as otherwise provided in this section, a
7 business entity, or owner, manager, or legal possessor of real
8 property may not establish, maintain, or enforce a policy or
9 rule that prohibits or has the effect of prohibiting a
10 person's transportation or storage of a firearm or ammunition
11 when the following conditions are satisfied:

12 (1) The firearm or ammunition is either of the
13 following:

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

16 b. Kept from ordinary observation and locked within
17 the trunk, glove box, or interior of the person's privately
18 owned motor vehicle or a container securely affixed to the
19 vehicle.

20 (2) The vehicle is operated or parked in a location
21 where it is otherwise permitted to be.

22 (c) (1) A person who is injured or incurs damages, or
23 the survivors of a person killed, as a result of a violation
24 of subsection (b) may file a civil action in the appropriate
25 court against any business entity, or owner, manager, or legal
26 possessor of real property who committed or caused the
27 violation.

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

7 (3) In any action brought under this subsection,
8 court costs and attorney's fees shall be awarded to a
9 prevailing plaintiff.

10 (d) This section shall not apply if any of the
11 following conditions are satisfied:

12 (1) The person operating the motor vehicle is any of
13 the following:

14 a. Prohibited from possessing, receiving, or
15 transporting pistols or other firearms under Section
16 13A-11-72, Code of Alabama 1975, or 18 U.S.C. § 922(g) or (n)
17 or by any court order.

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

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

23 d. In violation of Section 13A-11-60, Code of
24 Alabama 1975, relating to the possession of prohibited
25 ammunition.

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

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

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

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

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

17 Section 6. (a) The purpose of this section is to
18 establish within the Legislature complete control over
19 regulation and policy pertaining to firearms, ammunition, and
20 firearm accessories in order to ensure that such regulation
21 and policy is applied uniformly throughout this state to each
22 person subject to the state's jurisdiction and to ensure
23 protection of the right to keep and bear arms recognized by
24 the Constitutions of the State of Alabama and the United
25 States. This section is to be liberally construed to
26 accomplish its purpose.

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

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

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

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

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

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

23 a. A resident of this state who may legally possess
24 a firearm under the laws of this state and the United States
25 and who either of the following:

26 1. Is subject to any manner of regulation alleged to
27 be promulgated or enforced in violation of this section,

1 whether or not specific enforcement action has been initiated
2 or threatened against that person or another person.

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

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

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

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

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

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

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

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

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

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

26 (2) If, after investigation of the enactment or
27 adoption of the order, ordinance, or rule, the Attorney

1 General determines that there is reasonable cause to proceed
2 with an action, he or she shall provide the political
3 subdivision or public official enacting or adopting the order,
4 ordinance, or rule 30 days' notice of his or her intent to
5 file an action. Upon the expiration of the 30-days' notice,
6 the Attorney General may file the suit.

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

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

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

21 a. A final determination in favor of the person
22 adversely affected.

23 b. Rescission, repeal, or amendment of the
24 challenged manner of regulation or enforcement after suit has
25 been filed under this subsection but prior to a final
26 determination by the court.

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

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

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

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

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

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

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

11 (7) Any official of a political subdivision with
12 appropriate authority and jurisdiction from enforcing any law
13 enacted by the Legislature.

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

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

20 (10) The adoption or enforcement by a county or
21 municipality of ordinances which make the violation of a state
22 firearm law a violation of an ordinance, provided that the
23 elements of the local ordinance may not differ from the state
24 firearm law, nor may the local ordinance impose a higher
25 penalty than what is imposed under the state firearm law.

26 (11) A municipality from regulating the discharge of
27 firearms within the limits of the municipality or a county

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

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

17 Section 7. Section 11-45-1.1, Code of Alabama 1975,
18 relating to the authority of a municipality to enact
19 ordinances relating to handguns, is repealed. Section
20 13A-11-52, Code of Alabama 1975, relating to the carry of a
21 pistol on the property of another, is repealed. Section
22 13A-11-59, Code of Alabama 1975, relating to the possession of
23 firearms by persons participating in or attending
24 demonstrations at public places, is repealed.

25 Section 8. 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 9. 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.