

1 HB452  
2 117068-1  
3 By Representative McMillan  
4 RFD: Judiciary  
5 First Read: 26-JAN-10

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8 SYNOPSIS: Under existing law, the State Forestry  
9 Commission may promulgate administrative rules.

10 This bill would provide that a violation of  
11 certain administrative rules promulgated by the  
12 State Forestry Commission and pertaining to the  
13 conduct of persons on land designated as a state  
14 forest is a Class C misdemeanor.

15 Amendment 621 of the Constitution of Alabama  
16 of 1901, now appearing as Section 111.05 of the  
17 Official Recompilation of the Constitution of  
18 Alabama of 1901, as amended, prohibits a general  
19 law whose purpose or effect would be to require a  
20 new or increased expenditure of local funds from  
21 becoming effective with regard to a local  
22 governmental entity without enactment by a 2/3 vote  
23 unless: it comes within one of a number of  
24 specified exceptions; it is approved by the  
25 affected entity; or the Legislature appropriates  
26 funds, or provides a local source of revenue, to  
27 the entity for the purpose.

1                   The purpose or effect of this bill would be  
2                   to require a new or increased expenditure of local  
3                   funds within the meaning of the amendment. However,  
4                   the bill does not require approval of a local  
5                   governmental entity or enactment by a 2/3 vote to  
6                   become effective because it comes within one of the  
7                   specified exceptions contained in the amendment.  
8

9   A BILL  
10    TO BE ENTITLED  
11    AN ACT

12  
13                   To amend Section 9-3-9, Code of Alabama 1975,  
14                   relating to the State Forestry Commission; to provide for  
15                   criminal penalties for a violation of certain rules  
16                   promulgated by the commission pertaining to the conduct of  
17                   persons on land designated as a state forest; and in  
18                   connection therewith would have as its purpose or effect the  
19                   requirement of a new or increased expenditure of local funds  
20                   within the meaning of Amendment 621 of the Constitution of  
21                   Alabama of 1901, now appearing as Section 111.05 of the  
22                   Official Recompilation of the Constitution of Alabama of 1901,  
23                   as amended.

24                   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25                   Section 1. Section 9-3-9, Code of Alabama 1975, is  
26                   amended to read as follows:

27                   "§9-3-9.

1           "The commission shall have the power to adopt and  
2 promulgate rules ~~and regulations~~ pertaining to all phases of  
3 forestry within this state, which rules ~~and regulations~~ when  
4 adopted shall have the force and effect of law. All rules ~~and~~  
5 ~~regulations~~ of the Division of Forestry of the Department of  
6 Conservation and Natural Resources heretofore promulgated  
7 shall continue in effect until repealed or amended by the  
8 commission. Unless otherwise provided by law, a violation of a  
9 rule adopted by the commission pertaining to the conduct of  
10 persons on land designated as a state forest shall be a Class  
11 C misdemeanor."

12           Section 2. Although this bill would have as its  
13 purpose or effect the requirement of a new or increased  
14 expenditure of local funds, the bill is excluded from further  
15 requirements and application under Amendment 621, now  
16 appearing as Section 111.05 of the Official Recompilation of  
17 the Constitution of Alabama of 1901, as amended, because the  
18 bill defines a new crime or amends the definition of an  
19 existing crime.

20           Section 3. 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.