

1 HB442  
2 191342-1  
3 By Representatives Farley, Fridy, Mooney, Butler, Wingo, Lee,  
4 Faust and Davis  
5 RFD: Public Safety and Homeland Security  
6 First Read: 22-FEB-18

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8 SYNOPSIS: Under existing law, subject to certain  
9 exceptions, a person is prohibited from knowingly  
10 carrying or possessing a deadly weapon on the  
11 premises of a public school if he or she has intent  
12 to do bodily harm.

13 This bill would prohibit the carrying or  
14 possession of a firearm on school premises  
15 regardless of whether the person has intent to do  
16 bodily harm.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

21  
22 Relating to firearms; to amend Section 13A-11-72,  
23 Code of Alabama 1975, to prohibit the carrying or possession  
24 of a firearm on school premises regardless of whether the  
25 person has intent to do bodily harm.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3           "§13A-11-72.

4           "(a) No person who has been convicted in this state  
5 or elsewhere of committing or attempting to commit a crime of  
6 violence, misdemeanor offense of domestic violence, violent  
7 offense as listed in Section 12-25-32(15), anyone who is  
8 subject to a valid protection order for domestic abuse, or  
9 anyone of unsound mind shall own a firearm or have one in his  
10 or her possession or under his or her control.

11           "(b) No person who is a minor, except under the  
12 circumstances provided in this section, a drug addict, or an  
13 habitual drunkard shall own a pistol or have one in his or her  
14 possession or under his or her control.

15           "(c) Subject to the exceptions provided by this  
16 section and Section 13A-11-74, no person shall ~~knowingly with~~  
17 ~~intent to do bodily harm~~ carry or possess a deadly weapon on  
18 the premises of a public school.

19           "(d) Possession of a deadly weapon ~~with the intent~~  
20 ~~to do bodily harm~~ on the premises of a public school in  
21 violation of subsection (c) of this section is a Class C  
22 felony.

23           "(e) School security personnel and school resource  
24 officers qualified under subsection (a) of Section 16-1-44.1,  
25 employed by a local board of education, and authorized by the  
26 employing local board of education to carry a deadly weapon  
27 while on duty are exempt from subsection (c) of this section.

1 Law enforcement officers are exempt from this section, and  
2 persons with pistol permits issued pursuant to Section  
3 13A-11-75, are exempt from subsection (c) of this section.

4 "(f) A person shall not be in violation of Section  
5 13A-11-57 or 13A-11-76 and a minor shall not be in violation  
6 of this section if the minor has permission to possess a  
7 pistol from a parent or legal guardian who is not prohibited  
8 from possessing a firearm under state or federal law, and any  
9 of the following are satisfied:

10 "(1) The minor is attending a hunter education  
11 course or a firearms safety course under the supervision of an  
12 adult who is not prohibited from possessing a firearm under  
13 state or federal law.

14 "(2) The minor is engaging in practice in the use of  
15 a firearm or target shooting at an established range under the  
16 supervision of an adult who is not prohibited from possessing  
17 a firearm under state or federal law.

18 "(3) The minor is engaging in an organized  
19 competition involving the use of a firearm or participating in  
20 or practicing for a performance by an organized group under 26  
21 U.S.C. § 501(c) (3) which uses firearms as part of the  
22 performance.

23 "(4) The minor is hunting or fishing pursuant to a  
24 valid license, if required, and the person has the license in  
25 his or her possession; has written permission of the owner or  
26 legal possessor of the land on which the activities are being

1 conducted; and the pistol, when loaded, is carried only in a  
2 manner discernible by ordinary observation.

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

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

7 "(7) The minor is traveling by motor vehicle to any  
8 of the locations or activities listed in subdivisions (1)  
9 through (6), has written permission to possess the pistol by  
10 his or her parent or legal guardian, and the pistol is  
11 unloaded, locked in a compartment or container that is in or  
12 affixed securely to the motor vehicle and is out of reach of  
13 the driver and any passenger in the motor vehicle.

14 "(g) This section does not apply to a minor who uses  
15 a pistol while acting in self-defense of himself or herself or  
16 other persons against an intruder into the residence of the  
17 minor or a residence in which the minor is an invited guest.

18 "(h) The term "school resource officer" as used in  
19 this section means an Alabama Peace Officers' Standards and  
20 Training Commissioner-certified law enforcement officer  
21 employed by a law enforcement agency who is specifically  
22 selected and specially trained for the school setting.

23 "(i) The term "public school" as used in this  
24 section applies only to a public K-12 school ~~composed of~~  
25 ~~grades K-12~~ and shall include a school bus used for grades  
26 K-12.

1           "(j) The term "deadly weapon" as used in this  
2 section means a firearm or anything manifestly designed, made,  
3 or adapted for the purposes of inflicting death or serious  
4 physical injury, and such term includes, but is not limited  
5 to, a bazooka, hand grenade, missile, or explosive or  
6 incendiary device; a pistol, rifle, or shotgun; or a  
7 switch-blade knife, gravity knife, stiletto, sword, or dagger;  
8 or any club, baton, billy, black-jack, bludgeon, or metal  
9 knuckles.

10           "(k) (1) The term "convicted" as used in this section  
11 requires that the person was represented by counsel in the  
12 case, or knowingly and intelligently waived the right to  
13 counsel in the case if required by law, and either the case  
14 was tried before a judge, tried by a jury, or the person  
15 knowingly and intelligently waived the right to have the case  
16 tried, by guilty plea or otherwise.

17           "(2) A person may not be considered to have been  
18 convicted for the purposes of this section if the person is  
19 not considered to have been convicted in the jurisdiction in  
20 which the proceedings were held or the conviction has been  
21 expunged, set aside, or is of an offense for which the person  
22 has been pardoned or has had civil rights restored, unless the  
23 pardon, expungement, or restoration of civil rights expressly  
24 provides that the person may not ship, transport, possess, or  
25 receive firearms.

26           "(l) The term "misdemeanor offense of domestic  
27 violence" as used in this section means a misdemeanor offense

1 that has, as its elements, the use or attempted use of  
2 physical force or the threatened use of a dangerous instrument  
3 or deadly weapon, and the victim is a current or former  
4 spouse, parent, child, person with whom the defendant has a  
5 child in common, or a present or former household member.

6 "(m) The term "valid protection order" as used in  
7 this section means an order issued after a hearing of which  
8 the person received actual notice, and at which the person had  
9 an opportunity to participate, that does any of the following:

10 "(1) Restrains the person from harassing, stalking,  
11 or threatening a qualified individual or child of the  
12 qualified individual or person or engaging in other conduct  
13 that would place a qualified individual in reasonable fear of  
14 bodily injury to the individual or child and that includes a  
15 finding that the person represents a credible threat to the  
16 physical safety of the qualified individual or child.

17 "(2) By its terms, explicitly prohibits the use,  
18 attempted use, or threatened use of physical force against the  
19 qualified individual or child that would reasonably be  
20 expected to cause bodily injury.

21 "(n) The term "qualified individual" as used in  
22 subsection (m), means a spouse or former spouse of the person,  
23 an individual who is a parent of a child of the person, or an  
24 individual who cohabitates or has cohabited with the person.

25 "(o) The term "unsound mind" as used in this section  
26 includes any person who is subject to any of the findings

1 listed below, and who has not had his or her rights to possess  
2 a firearm reinstated by operation of law or legal process:

3 "(1) Found by a court, board, commission, or other  
4 lawful authority that, as a result of marked subnormal  
5 intelligence, mental illness, incompetency, condition, or  
6 disease, is a danger to himself or herself or others or lacks  
7 the mental capacity to contract or manage his or her own  
8 affairs.

9 "(2) Found to be insane, not guilty by reason of  
10 mental disease or defect, found mentally incompetent to stand  
11 trial, or found not guilty by a reason of lack of mental  
12 responsibility by a court in a criminal case, to include  
13 state, federal and military courts.

14 "(3) Involuntarily committed for a final commitment  
15 for inpatient treatment to the Department of Mental Health or  
16 a Veterans' Administration hospital by a court after a  
17 hearing."

18 Section 2. This act shall become effective on the  
19 first day of the third month following its passage and  
20 approval by the Governor, or its otherwise becoming law.