

1 HB209  
2 135680-1  
3 By Representative Ford  
4 RFD: Commerce and Small Business  
5 First Read: 07-FEB-12

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8 SYNOPSIS: This bill would prohibit public or private  
9 employers from requiring an applicant for  
10 employment or an employee to disclose information  
11 about whether the applicant or employee owns,  
12 possesses, uses, or transports a firearm or  
13 ammunition under certain conditions.

14 This bill would prohibit public or private  
15 employers from conditioning employment upon an  
16 agreement that the applicant forego any rights  
17 related to the lawful ownership, possession,  
18 storage, transportation, or use of a firearm or  
19 ammunition under certain conditions.

20 This bill also would authorize a civil  
21 action for an applicant or employee adversely  
22 affected by violations of the act, would specify  
23 those damages the applicant or employee would be  
24 entitled to recover, and would provide that a  
25 public employer or public official would not be  
26 immune from suit.

1 A BILL  
2 TO BE ENTITLED  
3 AN ACT  
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5 Relating to firearms and ammunition; to prohibit  
6 public or private employers from requiring an applicant for  
7 employment or an employee to disclose information about  
8 whether the applicant or employee owns, possesses, uses, or  
9 transports a firearm or ammunition; to prohibit public or  
10 private employers from conditioning employment upon an  
11 agreement that the applicant forego any rights related to the  
12 lawful ownership, possession, storage, transportation, or use  
13 of a firearm or ammunition under certain conditions; to  
14 authorize a civil action for an applicant or employee  
15 adversely affected by violations of the act and would specify  
16 those damages the applicant or employee would be entitled to  
17 recover; to waive any immunity from suit by public employers  
18 or public officials; and to provide exceptions.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. (a) For the purposes of this section, the  
21 following terms shall have the following meanings:

22 (1) FIREARM. A weapon from which a shot is fired by  
23 discharge.

24 (2) POLITICAL SUBDIVISION. Any county, city, town,  
25 fire protection district, public transportation corporation,  
26 local hospital authority or corporation, local airport

1 authority district, special service district, or other  
2 separate local governmental entity that may sue and be sued.

3 (3) PRIVATE EMPLOYER. Any individual, partnership,  
4 firm, association, corporation, or nonprofit organization that  
5 employs or offers to employ one or more individuals in this  
6 state.

7 (4) PUBLIC EMPLOYER. The state or any political  
8 subdivision of the state including, but not limited to, a  
9 department, agency, board, commission, institution, authority,  
10 or instrumentality of the state or a political subdivision.

11 (5) PUBLIC OFFICIAL. An elected or appointed  
12 official in the executive, legislative, or judicial branch of  
13 the state or a political subdivision, as well as an individual  
14 acting on behalf of a public employer, whether temporarily or  
15 permanently, including, but not limited to, members of boards,  
16 committees, commissions, authorities, and other  
17 instrumentalities of the state or a political subdivision.

18 (b) Except as otherwise provided in this section, a  
19 public or private employer doing business in this state or a  
20 public official shall not do either of the following:

21 (1) Require an applicant for employment or an  
22 employee of the public or private employer to disclose  
23 information related to whether the applicant or employee owns,  
24 possesses, uses, or transports a firearm or ammunition, unless  
25 the disclosure concerns the possession, use, or transportation  
26 of a firearm or ammunition that is used in fulfilling the  
27 duties of the employment of the individual.

1           (2) Condition employment, or any rights, benefits,  
2           privileges, or opportunities offered by the employment, upon  
3           an agreement that the applicant for employment or the employee  
4           forego either of the following:

5                 a. The rights of the applicant or employee under  
6                 this section.

7                 b. Otherwise lawful ownership, possession, storage,  
8                 transportation, or use of a firearm or ammunition.

9                 (c) An individual aggrieved by what the individual  
10                believes to be a violation of subsection (b) may file a civil  
11                action in a court of appropriate jurisdiction against a public  
12                or private employer or a public official that is alleged to  
13                have violated subsection (b).

14                (d) If a public or private employer or public  
15                official is found by a court in a civil action filed under  
16                subsection (c) to have violated subsection (b), a court may do  
17                the following:

18                     (1) Award a prevailing plaintiff any of the  
19                     following:

20                         a. Actual damages.

21                         b. Court costs and attorney's fees.

22                         c. In the case of a knowing and willful violation of  
23                         subsection (b), exemplary or punitive damages.

24                     (2) Enjoin further violations of subsection (b).

25                     (e) Notwithstanding any other law, a public employer  
26                     or public official does not have immunity from suit under this

1 section, and no public official who violates this section may  
2 be indemnified by public funds.

3 (f) Notwithstanding subsection (b), this section  
4 does not prohibit a public or private employer or a public  
5 official from doing any of the following:

6 (1) Regulating or prohibiting the possession or  
7 carrying of a firearm by an employee during and in the course  
8 of the duties of the employee on behalf of the employer or  
9 while on the property of the employer.

10 (2) Enforcing a regulation or prohibition adopted  
11 under subdivision (1).

12 (3) Requiring disclosure of information the employer  
13 reasonably and in good faith believes pertains to a violation  
14 of a regulation or prohibition adopted under this section or  
15 to a violation of law.

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