

1 HB233
2 136274-1
3 By Representative Fincher
4 RFD: Agriculture and Forestry
5 First Read: 08-FEB-12

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.

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

A BILL

TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§9-3-9.

1 "(a) The commission shall have the power to adopt
2 and promulgate rules ~~and regulations~~ pertaining to all phases
3 of forestry within this state, which rules ~~and regulations~~
4 when adopted shall have the force and effect of law. All rules
5 ~~and regulations~~ of the Division of Forestry of the Department
6 of 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
9 any rule adopted by the commission pertaining to the conduct
10 of persons on land designated as a state forest shall be a
11 Class C misdemeanor.

12 "(b) For purposes of this section, the term "state
13 forest" means land owned, leased, or otherwise held by the
14 commission and designated by the commission as a state
15 forest."

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

24 Section 3. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.