

ALABAMA
ALA. CODE

Title 11. Counties and Municipal Corporations

11-45-1.1. Handguns. No incorporated municipality shall have the power to enact any ordinance, rule, or regulation which shall tax, restrict, prevent, or in any way affect the possession or ownership of handguns by the citizens of this state. The entire subject matter of handguns is reserved to the State Legislature. This section shall not be construed to limit or restrict the power of a municipality to adopt ordinances which make the violation of a state handgun law a violation of a municipal ordinance to the same extent as other state law violations, or to limit or restrict the power of a municipal court to exercise concurrent jurisdiction with the district court over violations of state handgun laws which may be prosecuted as breaches of a municipal ordinance.

11-47-12. Gunpowder and explosives storage.

It is the duty of the corporate authorities of every city or town to provide a suitable fireproof building without the limits of the town or city for the storage of gunpowder or other explosive material on such terms as the corporate authorities may prescribe.

11-80-11. Firearms.

(a) No county or municipal corporation, instrumentality, or political subdivision thereof, by ordinance, resolution, or other enactment, shall regulate in any manner gun shows, the possession, ownership, transport, carrying, transfer, sale, purchase, licensing, registration or use of firearms, ammunition, components of firearms, firearms dealers, or dealers in firearm components.

(b)(1) Subsection (a) does not affect the authority a municipality has under law to regulate the discharge of firearms within the limits of the municipality or the authority a county has under law enacted prior August 1, 2000, to regulate the discharge of firearms within the jurisdiction of the county.

(2) Subsection (a) does not affect the authority of the state, a county, or a municipality to assess, enforce, and collect sales taxes, use taxes, and gross receipts taxes in the nature of sales taxes as defined by Section 40-2A-3(8), on the retail sale of fire-arms and ammunition or to assess, enforce, and collect business licenses from firearms or am-munition manufacturers, trade associations, dis-tributors, or dealers for the privilege of engaging in business.

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

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

Chapter 11. Offenses Against Public Order and Safety

Article 3. Offenses Relating to Firearms and Weapons

Division 1. General Provisions.

13A-11-57. Selling, giving or lending pistol or knife to minor. Any person who sells, gives or lends to any minor any pistol or bowie knife, or other knife of like kind or description, shall, on conviction, be fined not less than \$50.00 nor more than \$500.00.

13A-11-58. Sale or purchase of rifles, shotguns and ammunition in adjoining state.

(a) Any resident of Alabama authorized to sell and deliver rifles, shotguns, and ammunition may sell and deliver them to a resident of any state where the sale of the firearms and ammunition is legal. Any purchaser of the firearm or ammunition may take or send it out of the state or have it delivered to his or her place of residence.

(b) Any resident of Alabama who legally purchases rifles, shotguns, and ammunition in any state where the purchase is legal may take delivery of the weapons either in the state where they were purchased or in Alabama.

13A-11-59. Possession of firearm at or near demonstration.

(a) For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them in this subsection, except in those instances where the context clearly indicates a different meaning:

(1) **Demonstration.** Demonstrating, picketing, speechmaking or marching, holding of vigils and all other like forms of conduct which involve the communication or expression of views or grievances engaged in by one or more persons, the conduct of which has the effect, intent or propensity to draw a crowd or onlookers. Such term shall not include casual use of property by visitors or tourists which does not have an intent or propensity to attract a crowd or onlookers.

(2) **Firearm.** Any pistol, rifle, shotgun or firearm of any kind, whether loaded or not.

(3) **Law enforcement officer.** Any duly appointed and acting federal, state, county or municipal law enforcement officer, peace officer or investigating officer, or any military or militia personnel called out or directed by constituted authority to keep the law and order, and any park ranger while acting as such on the grounds of a public park and who is on regular duty and present to actively police and control the demonstration, and who is assigned this duty by his department or agency. Such term does not include a peace officer on strike or a peace officer not on duty.

(4) **Public place.** Any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. Such term shall include the front or immediate area or parking lot of any store, shop, restaurant, tavern, shopping center or other place of business. Such term shall also include any public building, the grounds of any public building, or within the curtilage of any public building, or in any public parking lot, public street, right-of-way, sidewalk right-of-way, or within any public park or other public grounds.

(b) It shall be unlawful for any person, other than a law enforcement officer, to have in his or her possession or on his or her person or in any vehicle any firearm while participating in or attending any demonstration being held at a public place.

(c) It shall be unlawful for any person, other than a law enforcement officer as defined in subsection (a) of this section, to have in his or her possession or about his or her person or in any vehicle at a point within 1,000 feet of a demonstration at a public place, any firearm after having first been advised by a law enforcement officer that a demonstration was taking place at a public place and after having been ordered by such officer to remove himself or herself from the prescribed area until such time as he or she no longer was in possession of any firearm. This subsection shall not apply to any person in possession of or having on his or her person any firearm within a private dwelling or other private building or structure.

(d) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished as provided by law.

13A-11-60. Possession or sale of brass or steel teflon-coated handgun ammunition.

(a) Except as provided in subsection (b) of this section, the possession or sale of brass or steel teflon-coated handgun ammunition is illegal anywhere within the State of Alabama. The possession or sale of said ammunition or any ammunition of like kind designed to penetrate bullet-proof vests, shall be unlawful and punishable as provided in subsection (c) of this section.

(b) The provisions of this section shall not apply to state or local law enforcement officers; nor shall it apply to the possession or sale of teflon-coated lead or brass ammunition designed to expand upon contact.

(c) Any person who while armed with a firearm in the commission or attempted commission of any felony, has in his or her immediate possession, teflon-coated ammunition for such firearm, upon conviction of such felony or attempted felony, in addition and consecutive to the punishment prescribed for said felony or attempted felony, shall be punished by the imposition of an additional term of three years in the penitentiary.

(d) Any person violating the provisions of this section shall be guilty of a Class C felony as defined by Section 13A-5-3.

13A-11-61.1 Discharging a firearm into an unoccupied school bus or school building.

(a) No person shall shoot or discharge a firearm into an occupied or unoccupied school bus or school building.

(b) A person who shoots or discharges a firearm into an occupied school bus or school building shall be guilty of a Class B felony.

(c) A person who shoots or discharges a firearm into an unoccupied school bus or school building shall be guilty of a Class C felony.

(d) This section shall not be construed to repeal other criminal laws.

Whenever conduct prescribed by any provision of this section is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

Division 1A. Rifles and Shotguns.

13A-11-62. Definitions. For purposes of this division, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) **Firearm.** Definition is same as provided in Section 13A-8-1(4) ["A weapon from which a shot is discharged by gunpowder."].

(2) **Rifle.** Any weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each pull of the trigger.

(3) **Shotgun.** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(4) **Short-barreled rifle.** A rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than 26 inches.

(5) **Short-barreled shotgun.** A shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

13A-11-63. Short-barreled rifle or shotgun; possession, sale, etc.

(a) A person who possesses, obtains, receives, sells, or uses a short-barreled rifle or a short-barreled shotgun in violation of federal law is guilty of a Class C felony.

(b) This section does not apply to a peace officer who possesses, obtains, receives, sells, or uses a short-barreled rifle or a short-barreled shotgun in the course of or in connection with his official duties.

13A-11-64. Identification number, mark or name; altering; possession after alteration. A person who either:

(1) Changes, alters, removes, or obliterates the name of the maker, model, manufacturer's number or other mark or identification of any firearm, or

(2) Possesses, obtains, receives, sells, or uses a firearm after the maker, model, manufacturer's number or other mark or identification has been changed, altered, removed, or obliterated, is guilty of a Class C felony.

13A-11-65. Violation in connection with commission of other felony. Violation of Section 13A-11-63(a) or Section 13A-11-64 in the course of, or in connection with the commission of any other felony shall be a Class B felony, and the punishment imposed therefor shall be in addition to the punishment imposed for the other felony.

13A-11-66. Supplement to other laws-- Penalties provided by other laws. This division is supplemental to any other law and the penalties provided herein are in addition to any other penalties provided by law. This division shall not be construed to limit or in any way reduce the minimum and maximum penalties provided in any other law.

Division 2. Pistols.

13A-11-70. Definitions. For the purposes of this division, the following terms shall have the respective meanings ascribed by this section:

(1) **Pistol.** Any firearm with a barrel less than 12 inches in length.

(2) **Crime of violence.** Any of the following crimes or an attempt to commit any of them, namely, murder, manslaughter, (except manslaughter arising out of the operation of a vehicle), rape, mayhem, assault with intent to rob, assault with intent to ravish, assault with intent to murder, robbery, burglary, kidnapping and larceny.

(3) **Person.** Such term includes any firm, partnership, association or corporation.

13A-11-72. Violent felons, drug addicts or drunkards; possession and ownership restrictions--School grounds; possession or carrying on prohibited.

(a) No person who has been convicted in this state or elsewhere of committing or attempting to commit a crime of violence shall own a pistol or have one in his or her possession or under his or her control.

(b) No person who is a drug addict or an habitual drunkard shall own a pistol or have one in his or her possession or under his or her control.

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

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

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

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

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

13A-11-73. License to carry pistol; generally. No person shall carry a pistol in any vehicle or concealed on or about his person, except on his land, in his own abode or fixed place of business, without a license therefor as hereinafter provided.

13A-11-74. License to carry pistol; exceptions. The provisions of Section 13A-11-73 shall not apply to marshals, sheriffs, prison and jail wardens and their regularly employed deputies, policemen and other law enforcement officers of any state or political subdivision thereof, or to the members of the army, navy or marine corps of the United States or of the national guard, or to the members of the national guard organized reserves or state guard organizations when on duty or going to or from duty, or to the regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States or from this state; provided, that such members are at or are going to or from their places of assembly or target practices, or to officers or

employees of the United States duly authorized to carry a pistol, or to any person engaged in manufacturing, repairing or dealing in pistols, or the agent or representative of such person possessing, using, or carrying a pistol in the usual or ordinary course of such business, or to any common carrier, except taxicabs, licensed as a common carrier, or to any person permitted by law to possess a pistol while carrying it unloaded in a secure wrapper, from the place of purchase to his home or place of business, or to or from a place of repair or in moving from one place of abode or business to another.

13A-11-75. License to carry pistol; issuance; form and content; copies; fee; revocation.

(a) The sheriff of a county, upon the application of any person residing in that county, may issue a qualified or unlimited license to such person to carry a pistol in a vehicle or concealed on or about his or her person within this state for not more than one year from date of issue, if it appears that the applicant has good reason to fear injury to his or her person or property or has any other proper reason for carrying a pistol, and that he or she is a suitable person to be so licensed. The license shall be in triplicate, in form to be prescribed by the Secretary of State, and shall bear the name, address, description and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee, the duplicate shall, within seven days, be sent by registered or certified mail to the Director of Public Safety and the triplicate shall be preserved for six years by the authority issuing the same. The fee for issuing such license shall be one dollar (\$1) which shall be paid into the county treasury unless otherwise provided by local law. Prior to issuance of a license, the sheriff shall contact available local, state, and federal criminal history data banks to determine whether possession of a firearm by an applicant would be a violation of state or federal law. The sheriff may revoke a license upon proof that the licensee is not a proper person to be licensed.

(b) The name, address, and signature collected from an applicant or licensee under this section shall be kept confidential, shall be exempt from disclosure under Section 36-12-40, and may only be used for law enforcement purposes except when a current licensee is charged in any state with a felony involving the use of a pistol. All other information on licenses under this section including information concerning the annual number of applicants, number of licenses issued, number of licenses denied, revenue from issuance of licenses, and any other fiscal or statistical data otherwise, shall remain public writings subject to public disclosure. Except as provided above, the sheriff of a county shall redact the name, address, signature, and photograph of an applicant before releasing a copy of a license for a non-law enforcement purpose. The sheriff may charge one dollar (\$ 1) per copy of any redacted license record requested other than when requested for law enforcement purposes. To knowingly publish or release to the public in any form any information or records related to the licensing process, or the current validity of any license, except as authorized in this subsection or in response to a court order or subpoena, is a class A misdemeanor.

13A-11-76. Delivery to minors, violent felons, etc. No person shall deliver a pistol to any person under the age of 18 or to one who

he has reasonable cause to believe has been convicted of a crime of violence or is a drug addict, an habitual drunkard or of unsound mind.

13A-11-78. License to sell pistol; generally. No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer, any pistol without being licensed as hereinafter provided.

13A-11-79. License to sell pistol; granting; term; conditions; fee. The duly constituted licensing authorities of any city, town or political subdivision of this state may grant licenses in forms prescribed by the secretary of state, effective for not more than one year from date of issue, permitting the licensee to sell pistols at retail within this state subject to the following conditions, in addition to those specified in Section 13A-11-77, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in this division. The business shall be carried on only in the building designated in the license. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read. No pistol shall be sold in violation of any provisions of this division, nor shall a pistol be sold under any circumstances unless the purchaser is personally known to the seller or shall present clear evidence of his identity. A true record in triplicate shall be made of every pistol sold, in a book kept for the purpose, the form of which may be prescribed by the Secretary of State and shall be personally signed by the purchaser and by the person effecting the sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, color and place of birth of purchaser and a statement signed by the purchaser that he has never been convicted in this state or elsewhere of a crime of violence. One copy shall be sent within six hours by registered or certified mail to the chief of police of the municipality or the sheriff of the county of which the dealer is a resident; the dealer shall within seven days send the duplicate to the Secretary of State; and the dealer shall retain the triplicate for six years. No pistol or imitation thereof or placard advertising the sale thereof shall be displayed in any part of any premises where it can readily be seen from the outside. The fee for issuing said license shall be \$.50, which fee shall be paid into the State Treasury.

13A-11-80. Loaning pistols. No person shall make any loan secured by a mortgage, deposit or pledge of a pistol contrary to this division, nor shall any person lend or give a pistol to another or otherwise deliver a pistol contrary to the provisions of this division.

13A-11-81. False information or identification; purchase of pistol; application for license. No person shall, in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same, give false information or offer false evidence of his identity.

13A-11-83. Applicability; pistols as curiosities or ornaments. This division shall not apply to the purchase, possession or sale of pistols as curiosities or ornaments or to the transportation of such pistols unloaded and in a bag, box or securely wrapped package, but not concealed on the person.

13A-11-84. Penalty--Seizure of pistol--Destruction or use by law enforcement officer.

(a) Every violation of subsection (a) of Section 13A-11-72 or of Sections 13A-11-81 or 13A-11-

82 shall be punishable by imprisonment for not more than five years. Every violation of subsection (b) of Section 13A-11-72 or of Sections 13A-11-73, 13A-11-74 and 13A-11-77 through 13A-11-80 shall be punishable by imprisonment for any term less than one year or by a fine of not more than \$500.00, or both. The punishment for violating Section 13A-11-78 or 13A-11-79 may include revocation of license.

(b) It shall be the duty of any sheriff, policeman or other peace officer of the State of Alabama, arresting any person charged with violating Sections 13A-11-71 through 13A-11-73, or any one or more of said sections, to seize the pistol or pistols in the possession or under the control of the person or persons charged with violating said section or sections, and to deliver said pistol or pistols to one of the following named persons: if a municipal officer makes the arrest, to the city clerk or custodian of stolen property of the municipality employing the arresting officer; if a county, state or other peace officer makes the arrest, to the sheriff of the county in which the arrest is made. The person receiving the pistol or pistols from the arresting officer shall keep it in a safe place in as good condition as received until disposed of as hereinafter provided. Within five days after the final conviction of any person arrested for violating any of the above-numbered sections, the person receiving possession of the pistol or pistols, seized as aforesaid, shall report the seizure and detention of said pistol or pistols to the district attorney within the county where the pistol or pistols are seized, giving a full description thereof, the number, make and model thereof, the name of the person in whose possession it was found when seized, the person making claim to same or any interest therein, if the name can be ascertained or is known, and the date of the seizure. Upon receipt of the report from the person receiving possession of the pistol or pistols as aforesaid, it shall be the duty of the district attorney within the county wherein the pistol or pistols were seized to forthwith file a complaint in the circuit court of the proper county, praying that such seized pistol or pistols be declared contraband, be forfeited to the state and be destroyed. Any person, firm or corporation or association of persons in whose possession said pistol or pistols may be seized or who claim to own the same or any interest therein shall be made a party defendant to said complaint, and thereupon such matter shall proceed and be determined in the circuit court of the proper county in the same form and manner, as near as may be, as in the forfeiture and destruction of gaming devices, except as herein otherwise provided. When any judgment of condemnation and forfeiture is made in any case filed under the provisions of this section, the judge making such judgment shall direct therein the destruction of the pistol or pistols by the person receiving possession of said pistol or pistols from the arresting officer in the presence of the clerk or register of the court, unless the judge is of the opinion that the nondestruction thereof is necessary or proper in the ends of justice, in which event and upon recommendation of the district attorney, the judge shall award the pistol or pistols to the sheriff of the county or to the chief of police of the municipality to be used exclusively by the sheriff or the chief of police in the enforcement of law, and the sheriff of the county and the chiefs of police of the municipalities shall keep a permanent record of all pistols awarded to them as provided for herein, to be accounted for as other public property, and said order, in the

event that no appeal is taken within 15 days from the rendition thereof, shall be carried out and executed before the expiration of 20 days from the date of the judgment. The court, at its discretion, shall direct in said judgment that the costs of the proceedings be paid by the person in whose possession said pistol or pistols were found when seized, or by any party or parties who claim to own said pistol or pistols, or any interest therein, and who contested the condemnation and forfeiture thereof.

13A-11-85. Out-of-state license; reciprocity.

(a) A person licensed to carry a handgun in any state whose laws recognize and give effect in that state to a license issued under the laws of the State of Alabama shall be authorized to carry a handgun in this state. This section shall apply to a licenseholder from another state only while the licenseholder is not a resident of this state. A licenseholder from another state shall carry the handgun in compliance with the laws of this state.

(b) The Attorney General shall periodically publish a list of states which meet the requirements of subsection (a).

13A-11-224. Keeping gunpowder or explosives in city or town. Any person who keeps on hand, at any one time, within the limits of any incorporated city or town, for sale or for use, more than 50 pounds of gunpowder or other explosives shall, on conviction, be fined not less than \$100.00.

Title 40. Revenue and Taxation

Chapter 12. Licenses

40-12-143. Weapons dealers. Persons dealing in pistols, revolvers, maxim silencers, bowie knives, dirk knives, brass knucks or knucks of like kind, whether principal stock in trade or not shall pay the following license tax: in cities and towns of 35,000 inhabitants and over, \$150; and in all other places, \$100. All persons dealing in pistols, revolvers and maxim silencers shall be required to keep a permanent record of the sale of every pistol, revolver or maxim silencer, showing the date of sale, serial number or other identification marks, manufacturer's name, caliber and type, and also the name and address of the purchaser, which record shall always be open for inspection by any peace officer of the State of Alabama or any municipality thereof. The failure to keep such record shall subject such person to having his license revoked by the probate judge of the county where such license was issued on motion of any district attorney of the State of Alabama.

40-12-158. Shotgun sales.

(a) Each person dealing in shotguns, rifles of .22 caliber or over, metallic ammunition or shotgun shells shall pay a license tax of \$25 in cities of 100,000 inhabitants or over; \$10 in cities or towns of 7,000 and less than 100,000 inhabitants; and \$3 in all other places, whether incorporated or not.

(b) Regularly licensed rolling stores selling any or all of the articles enumerated in this section shall, in addition to the license provided in Section 40-12-174, pay a license tax of \$5 to the state and \$5 to the county in each county in which they sell or offer such articles for sale.

Title 41 State Government

Chapter 9 Boards and Commissions

41-9-649. Firearm purchase background check -- Mims-Russell Law Enforcement Protection Act.

All transfers or purchases of firearms conducted by a licensed importer, licensed manufacturer, or licensed dealer shall be subject to the National Instant Criminal Background Check System (NICS) created by the federal "Brady Handgun Violence Prevention Act" (P.L. No. 103-159), the relevant portion of which is codified at 18 U.S.C.S. § 922(t). To the extent

possible, all information from any state or local government agency that is necessary to complete an NICS check shall be provided to the Criminal Justice Information Center. The Criminal Justice Information Center Commission shall promulgate rules and regulations necessary to implement a complete NICS check. The commission shall also ensure that all information received shall be used solely for the purposes of compliance with NICS and every effort is made to protect the privacy of this

information. All proposed rules shall go through the privacy and security committee of the commission which shall seek consultation from the President of the Probate Judges' Association and the Commissioner of the Department of Mental Health and consumer advocates as recommended by the commissioner.

[Current through End of 2010 First Special Session]