HB595

198856-3

By Representatives Robertson, Treadaway, Ball, Estes,
Reynolds, Moore (P) and McCutcheon

RFD: Public Safety and Homeland Security

First Read: 08-MAY-19
SYNOPSIS: Under current law, pistol permits are issued by the sheriffs of each Alabama county. Each sheriff may have differing fees, forms, and processes for the issuance of a pistol permit. Further, each county may maintain separate databases of persons authorized to carry a pistol.

This bill would create a new statewide pistol permit called the Lifetime Carry Permit, and create a standardized process through which an individual may apply for a Lifetime Carry Permit. A Lifetime Carry Permit designation would be notated in a new Lifetime Carry Permit state database, linked to the driver license system so that it is viewable by law enforcement and other authorized persons, similar to other special endorsements or information as prescribed and authorized by current law, and an endorsement would be placed on the individual's driver license or nondriver identification card, at the option of the individual. The bill would allow an individual to
opt to receive a separate Lifetime Carry Permit card.

This bill would create a process by which, if a law enforcement officer or court finds probable cause to believe an individual with a Lifetime Carry Permit is, in fact, an individual prohibited from possessing a firearm under state or federal law, has a reasonable suspicion that the individual may use a weapon unlawfully or in such other manner that would endanger the individual's self or others, or believes the individual otherwise should not be issued a permit based on the factors provided in Section 13A-11-75(a)(1), the law enforcement officer or court may request a revocation hearing in district court.

This bill would also create a process by which the Alabama State Law Enforcement Agency, upon conviction of any crime which would prohibit an individual from carrying a firearm under state or federal law, and upon receiving of a notice of that conviction forwarded by the convicting court, shall enter a Pistol Permit Prohibited Status endorsement into the state Lifetime Carry Permit system. This endorsement would not appear on the individual's driver license or nondriver identification card.
This bill would also create a process by which an individual's Lifetime Carry Permit shall be reviewed by the Alabama State Law Enforcement Agency every four years from the date of issuance. This review would examine whether the individual has been convicted of a crime which would prohibit that person from possessing a firearm in the State of Alabama, whether there is a reasonable suspicion that the individual may use a weapon unlawfully or in such other manner that would endanger the individual's self or others, and whether the individual otherwise should be issued a permit based on the factors provided in Section 13A-11-75(a)(1).

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, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to 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

Relating to firearms; to provide for a statewide pistol permit called the Lifetime Carry Permit; to create a process by which these permits may be issued; 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. (a)(1) The Alabama State Law Enforcement Agency shall develop, create, maintain, and administer a Lifetime Carry Permit state system. This system shall be linked to state driver license records system so that endorsements and restrictions are viewable by law enforcement
officers and other authorized persons through an individual's driver license.

(2) The Alabama State Law Enforcement Agency may contract with a third party for the development, creation, and maintenance of a Lifetime Carry Permit state system, but the agency shall administer the system.

(b) The Alabama State Law Enforcement Agency shall create all forms and notices mentioned in this chapter, including the Lifetime Carry Permit Verification of Background Form, the Lifetime Carry Permit Denial Form, the Notice of Revocation of Lifetime Carry Permit, and the Notice of Pistol Permit Prohibited Status.

(c) The Secretary of the Alabama State Law Enforcement Agency may adopt rules to implement this act.

Section 2. (a)(1) Any provision of law to the contrary notwithstanding, a holder of a Lifetime Carry Permit shall be entitled to the same rights and privileges as a holder of a pistol permit issued under Section 13A-10-75, Code of Alabama 1975, and shall also be subject to the same restrictions as a holder of that pistol permit, except as otherwise provided in this act.

(2) Any provision of law to the contrary notwithstanding, a pistol permit issued under this section shall be valid for the carrying of a pistol in a motor vehicle or concealed on the permittee's person throughout the state, unless prohibited by this act.
(b) This act shall not be construed to limit or place and conditions upon a person's right to carry a pistol that is not in a motor vehicle or not concealed.

Section 3. (a)(1) In addition to a pistol permit issued by a sheriff pursuant to Section 13A-11-75, Code of Alabama 1975, any resident of this state who is at least 21 years of age may apply to the sheriff of any county for a statewide pistol permit to carry a pistol in a vehicle or concealed on or about his or her person, to be called a Lifetime Carry Permit.

(2) Any person who at least 18 years of age and is a service member as defined by Section 35-10-70 or a retired military veteran as defined by Section 13A-10-75.1, Code of Alabama 1975, may apply for a permit under this section.

(b)(1) Upon receipt of an application, the sheriff shall complete a criminal background check, including the National Instant Criminal Background Check System, to determine whether possession of a pistol or firearm by an applicant would be a violation of state or federal law, whether there is reasonable suspicion that the person may use a weapon unlawfully or in such other manner that would endanger the person's self or others, and whether the individual should otherwise not be issued a permit based on the factors provided in Section 13A-11-75(a)(1), Code of Alabama 1975.

(2) If a person who is not a United States citizen applies for a permit under this section, the sheriff shall
conduct an Immigration Alien Query through U.S. Immigration and Customs Enforcement, or any successor agency, and the application form shall require information relating to the applicant's country of citizenship, place of birth, and any alien or admission number issued by U.S. Immigration and Customs Enforcement, or any successor agency. The sheriff shall review the results of these inquiries before making a determination of whether to issue a permit or renewal permit. A person who is unlawfully present in this state may not be issued a permit under this section.

(c) Within 30 days from receipt of a completed application, the sheriff shall issue to the applicant a Lifetime Carry Permit Verification of Background Form confirming the completion of a favorable background check, unless the sheriff determines that the individual is prohibited from the possession of a pistol or firearm under state or federal law, has a reasonable suspicion that the individual may use a weapon unlawfully or in such other manner that would endanger the person's self or others, or that the individual should otherwise not be issued a permit based upon the factors provided in Section 13A-11-75(a)(1), Code of Alabama 1975.

(1) The Lifetime Carry Permit Verification of Background Form shall include all of the following:

a. The date of completion of the background check.

b. The name of the employee or official who conducted the background check.
c. The name and signature of the sheriff of the county in which the background check was completed.

d. An expiration date of 30 days from the date of completion of the background check.

(2) If the sheriff determines that the applicant is an individual prohibited by federal or state law from possessing a pistol or firearm, that there is reasonable suspicion that the individual may use a weapon unlawfully or in such other manner that would endanger the individual's self or others, or that the individual should otherwise not be issued a permit based on the factors provided in Section 13A-11-75(a)(1), Code of Alabama 1975, the sheriff shall issue the applicant a Lifetime Carry Permit Denial Form and a Notice of Pistol Permit Prohibited Status. This form shall state the specific reason for denial, shall include the date of completion of the background check and the name and signature of the sheriff, and shall describe to the applicant the process for appealing a denial or revocation as provided in this act.

(3)a. The sheriff shall immediately forward the Lifetime Carry Permit Denial Form to the Alabama State Law Enforcement Agency.

b. The individual shall deliver the Lifetime Carry Permit Denial Form and the Notice of Pistol Permit Prohibited Status to the Alabama State Law Enforcement within 10 days of issuance of that form.
(4) Upon receipt of a Lifetime Carry Permit Denial Form and a Notice of Pistol Permit Prohibited Status, the Alabama State Law Enforcement Agency shall enter a Pistol Permit Prohibited Status restriction into the state system.

(d) Upon submission of a favorable Lifetime Carry Permit Verification of Background Form and a fee in the amount of one hundred fifty dollars ($150) to any state office authorized to issue a driver license or nondriver identification card, the agency shall enter the Lifetime Carry Permit endorsement into the state system and add a Lifetime Carry Permit endorsement to the individual's driver license or nondriver identification card.

(1) If an applicant meets the requirements for an indigent identification card, then the endorsement shall be added to the driver license or nondriver identification card without any fees or cost.

(2) If an applicant requests a Lifetime Carry Permit endorsement, but is ineligible to be issued a driver license or official identification card, or otherwise request that the endorsement not appear on his or her driver license or nondriver identification card, the Alabama State Law Enforcement Agency shall enter a Lifetime Carry Permit endorsement into the state Lifetime Carry Permit system and issue the individual a separate Lifetime Carry Permit.

(e) Once an applicant has completed the process to add a Lifetime Carry Permit endorsement, it shall remain valid for the duration of the applicant's life, except as otherwise
provided in this act. No state official or state entity may require renewal of or otherwise invalidate a Lifetime Carry Permit except as otherwise provided in this act.

(f) A sheriff shall keep and maintain a copy of any application for a Lifetime Carry Permit processed by the sheriff, as well as a copy of any Lifetime Carry Permit Verification of Background Form and any Lifetime Carry Permit Denial Form issued by the sheriff.

(g) The fee collected from each individual by the Alabama State Law Enforcement Agency under this section shall be duly accounted for and shall be distributed as follows:

(1) Sixty percent to the Alabama State Law Enforcement Agency, to be used for the administration of the Lifetime Carry Permit.

(2) Forty percent to the sheriff of the county of residence of each individual, to be used for the administration of the Lifetime Carry Permit and other law enforcement purposes.

Section 4. (a) Upon conviction of a state or federal crime which would prohibit an individual with a Lifetime Carry Permit from possessing a pistol or firearm under state or federal law, the court rendering that verdict shall immediately send a Notice of Pistol Permit Prohibited Status and a Notice of Revocation of Lifetime Carry Permit to the Alabama State Law Enforcement Agency and the managing entity for the National Instant Criminal Background Check System.
(b) A Notice of Revocation of Lifetime Carry Permit shall include all of the following:

(1) The name of the individual whose Lifetime Carry Permit is to be revoked.

(2) The specific reason for revocation of the Lifetime Carry Permit, including citation to relevant law.

(3) The date of conviction or other event on which the revocation is based.

(c) The court shall also provide a copy of the Notice of Revocation of Lifetime Carry Permit to the individual along with instructions that the individual shall, within 10 days, deliver the notice to the sheriff of the county of residence of the individual, who shall then forward the notice to the Alabama State Law Enforcement Agency.

(d) Upon receipt of a Notice of Revocation of Lifetime Carry Permit, the Alabama State Law Enforcement Agency shall remove the individual's Lifetime Carry Permit endorsement from the state Lifetime Carry Permit system and shall enter a Pistol Permit Prohibited Status restriction into the state Lifetime Carry Permit system. This Pistol Permit Prohibited Status restriction shall not be printed on the individual's driver license or nondriver identification card.

(e) Any conviction subject to this section shall be accompanied by court costs in the amount of fifty dollars ($50), to be distributed as follows:

(1) Ninety percent to the sheriff of the county of residence of the individual whose Lifetime Carry Permit was
revoked, to be used for the administration of the Lifetime Carry Permit.

(2) Ten percent to the court of conviction.

Section 5. (a) The Alabama State Law Enforcement Agency shall review each individual's Lifetime Carry Permit at least once every four years from the date of issuance to ensure that the individual has not been convicted of any crime which would prohibit that individual from possessing a pistol or firearm under state or federal law and that the individual has remained eligible for a permit based on the factors provided in Section 13A-11-75(a)(1), Code of Alabama 1975.

(b) If the review conducted pursuant to this section reveals a conviction which would prohibit an individual from possessing a pistol or firearm under state or federal law or otherwise concludes that the individual should not be issued a permit based on the factors provided in Section 13A-11-75(a)(1), the Alabama State Law Enforcement Agency shall immediately request a Lifetime Carry Permit revocation hearing pursuant to this act.

(c) The Alabama State Law Enforcement Agency may conduct a review under this section at any time, and may request a Lifetime Carry Permit revocation hearing for any reason that would lead to denial of a pistol permit under Section 13A-11-75(a)(1), Code of Alabama 1975.

Section 6. (a) The Alabama State Law Enforcement Agency or any law enforcement officer that finds probable cause to believe that an individual with a Lifetime Carry
Permit is an individual prohibited from possessing a pistol under state or federal law, that there is reasonable suspicion that the person may use a weapon unlawfully or in such other manner that would endanger the person's self or others, or that the individual should otherwise not be issued a permit based on the factors provided in Section 13A-11-75(a)(1), Code of Alabama 1975, may request a Lifetime Carry Permit revocation hearing in district court.

(b)(1) If the law enforcement officer or court proves that the person is prohibited from possessing a pistol or firearm under state or federal law, that there is reasonable suspicion that the person may use a weapon unlawfully or in such other manner that would endanger the person's self or others, or that the individual should otherwise not be issued a permit based on the factors provided in Section 13A-11-75(a)(1), Code of Alabama 1975, the judge of the district court shall immediately send a Notice of Revocation of Lifetime Carry Permit and a Notice of Pistol Permit Prohibited Status to the Alabama State Law Enforcement Agency and the managing entity for the National Instant Criminal Background Check System.

(2) The court shall issue a copy of the Notice of Revocation of Lifetime Carry Permit and the Notice of Pistol Permit Prohibited Status to the individual, who shall deliver those notices to the Alabama State Law Enforcement Agency within 10 days.
(3) A Notice of Revocation of Lifetime Carry Permit shall include all of the following:

a. The name of the individual whose Lifetime Carry Permit is to be revoked.

b. The specific reason for revocation of the Lifetime Carry Permit, including citation to relevant law.

c. The date of conviction or other event on which the revocation is based.

(c) The Alabama State Law Enforcement Agency, upon receipt of the Notice of Pistol Permit Prohibited Status, shall enter a Pistol Permit Prohibited Status endorsement into the state Lifetime Carry Permit system and viewable by law enforcement and other authorized persons, similar to other special endorsements or information as prescribed and authorized by current law. This Pistol Permit Prohibited Status restriction shall not be printed on the individual's driver license or nondriver identification card.

(d) In addition to any court costs and fees now or hereafter authorized, additional court costs amounting to fifty dollars ($50) shall be assessed and taxed as costs on each Lifetime Carry Permit revocation hearing that results in a revocation. These costs shall be distributed as follows:

   (1) Ninety percent to the sheriff of the county of residence of the individual whose Lifetime Carry Permit was revoked, to be used for the administration of the Lifetime Carry Permit.
(2) Ten percent to the court which conducted the hearing.

Section 7. An individual who is issued a Lifetime Carry Permit Denial Form or a Notice of Revocation of Lifetime Carry Permit, within 30 days of receipt of that form, may appeal the decision of the Alabama State Law Enforcement Agency to the district court of the county where the individual resides. Upon the court's review of the decision, the agency shall have the burden of proving by clear and convincing evidence that the person is prohibited from possession of a pistol or other firearm pursuant to state or federal law or, based on any of the considerations enumerated in Section 13A-11-75, Code of Alabama 1975, that the person may use a weapon unlawfully or in such other manner as would endanger the person's self or others.

Section 8. Any individual who knowingly violates the portions of this act relating to the mandatory delivery to the Alabama State Law Enforcement Agency of a Lifetime Carry Permit Denial Form, Notice of Revocation of Lifetime Carry Permit, or Notice of Pistol Permit Prohibited Status shall be guilty of a Class C felony. This section shall not apply to an individual who did not deliver a form or notice due to incarceration.

Section 9. The name, address, signature, photograph, and any other personally identifying information collected from an applicant or permittee under this section shall be kept confidential, shall be exempt from disclosure under
Section 36-12-40, Code of Alabama 1975, and may only be used for law enforcement purposes except when a current permittee is charged in any state with a felony involving the use of a pistol. All other information on permits under this section, including information concerning the annual number of applicants, number of permits issued, number of permits denied or revoked, revenue from issuance of permits, 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, photograph, and any other personally identifying information of a permit holder before releasing a copy of a permit for a non-law enforcement purpose. The sheriff may charge a reasonable fee not to exceed five dollars ($5) per copy of any redacted permit 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 permit, except as authorized in this section or in response to a court order or subpoena, is a Class A misdemeanor.

Section 10. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, because the
bill defines a new crime or amends the definition of an existing crime.

Section 11. This act shall become effective on January 20, 2020, following its passage and approval by the Governor, or its otherwise becoming law.