R57WNN-1

By Representative Wood (R)

RFD: Judiciary

First Read: 04-Apr-23
SYNOPSIS:

Under existing state law, a person who possesses, obtains, receives, sells, or uses a short-barreled rifle or short-barreled shotgun is guilty of a Class C felony. A person may only lawfully possess or use these prohibited firearms if the person meets certain federal requirements.

This bill would prohibit the possession, sale, or use of a trigger activator that is designed or intended to allow a firearm to shoot more than one shot with a single pull of the trigger, and would provide criminal penalties for a violation.

This bill would further provide for the duties of a law enforcement officer during an investigatory stop, to provide that when the officer takes a firearm, or part or component of a firearm, into temporary custody, in addition to other requirements provided by law, the officer may only return the firearm or parts or components thereof that are lawful.

Section 111.05 of the Constitution of Alabama of 2022, 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 crimes and offenses; to amend Section 13A-11-62, as last amended by Act 2022-133 and Act 2022-438, 2022 Regular Session, and 13A-11-63, Code of Alabama 1975, to prohibit the possession and use of a trigger activator and provide criminal penalties for a violation; to amend Section 5 of Act 2022-133, 2022 Regular Session, now appearing as Section 13A-11-97, Code of Alabama 1975, to further provide for the duties of a law enforcement officer during an investigatory stop involving a firearm; 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 Section 111.05 of the Constitution of Alabama of
2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
Section 1. Section 13A-11-62, as last amended by Act
2022-133 and Act 2022-438, 2022 Regular Session, and Section
13A-11-63, Code of Alabama 1975, are amended to read as
follows:
"§13A-11-62
For purposes of this division, the following terms
shall have the following meanings, unless the context clearly
indicates otherwise:
(1) FIREARM. As defined under Section 13A-8-1.
(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) 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 the
weapon, as modified, has an overall length of less
than 26 inches.
(4) 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 the weapon, as modified, has an overall
length of less than 26 inches.

(5) 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.

(6) TRIGGER ACTIVATOR. A device, part, component, or
combination of parts specifically designed or intended to
allow an otherwise semi-automatic firearm to automatically
shoot more than one shot with a single function of the trigger
of the firearm to which the trigger is affixed so that the
trigger rests and continues firing without additional physical
manipulation of the trigger by the shooter."

"§13A-11-63

(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) A person who possesses, obtains, receives, sells,
uses, manufactures, assembles, imports, or transports a
trigger activator is guilty of a Class B felony.

(c) A person has a duty to inspect a firearm, including
any device, part, component, or combination of parts attached
to the firearm, before purchasing, selling, possessing, or
using the firearm, to ensure the firearm, or device, part,
component, or combination thereof, is not prohibited under
subsection (a) or (b). A person who possesses, obtains,
receives, sells, purchases, or uses a firearm or trigger activator prohibited under subsection (a) or (b) violates the duty prescribed in this subsection to inspect and shall be deemed to have possessed the firearm or trigger activator knowingly.

(b)(d) 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 law enforcement officer in the course of or in connection with his or her official duties.

(e) Nothing in this section shall be construed to prohibit a person from manufacturing, importing, selling, offering for sale, possessing, receiving, transferring, or transporting any item for which the person is in compliance with the National Firearms Act, 26 U.S.C. § 5801, et seq., or other applicable federal law."

Section 2. Section 5 of Act 2022-133, 2022 Regular Session, now appearing as Section 13A-11-97, Code of Alabama 1975, is amended to read as follows:

"§13A-11-97

(a) If at any time during an investigation a law enforcement officer acting in the lawful discharge of the officer's official duties has a reasonable suspicion that an individual is engaged or is about to be engaged in criminal conduct, or the officer determines that a reasonable person would believe that it is necessary for the protection of the officer, individual, or any other individual, the officer may temporarily take into custody the firearm that could be used
to engage in criminal conduct or to cause harm to the officer, individual, or any other individual.

(b) While the firearm is in the law enforcement officer's possession, and if the officer has a reasonable suspicion that an individual is engaged or is about to be engaged in criminal conduct, the law enforcement officer may conduct a search of any available local, state, or federal criminal history and weapons databases to determine whether the individual is prohibited from possessing the firearm or whether the firearm should not be returned to the individual pursuant to state or federal law.

(c) The law enforcement officer shall return the firearm to the individual before discharging the individual from the scene if the officer determines that both all of the following are fulfilled:

(1) The individual is not an immediate threat to the officer, individual, or any other individual.

(2) The individual has not committed a violation that results in the arrest of the individual.

(3) The firearm is not prohibited under Section 13A-11-63 and is not a trigger activator, as defined under Section 13A-11-62.

(d) If the law enforcement officer is unable to determine whether the firearm or components or parts are prohibited under Section 13A-11-63, the officer may retain custody of the firearm or parts or components for not more than 48 hours to make the determination."

Section 3. 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 Section 111.05 of the Constitution of Alabama of 2022, because the bill defines a new crime or amends the definition of an existing crime.

Section 4. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.