





OPS

**Office of Prosecution
Services**

**Alabama Sheriffs
Association**





Analysis of Act 2013-283



- On May 22, 2013, Governor Bentley signed Senate Bill 286, the omnibus gun bill originally introduced by Senator Scott Beason.
- The bill became Act 2013-283 and was effective on August 1, 2013.
- The Act contains 13 Sections. Many Sections are significantly impacted by other Sections in the Act.

“You might see a few more people open carry. Some people might do it for a few days or a few weeks and then go back to concealed carry because that is kind of the societal norm,”







Analysis of Act 2013-283



NOTICE

- If you are a law enforcement officer and you have questions regarding your obligations, duties, responsibilities or rights as they may relate to Act 2013-283 or any other Act of Alabama, you are encouraged to consult your Sheriff or Chief of Police or your local District Attorney for assistance.
- If you are a private citizen, business owner, private property owner or other entity that may have questions or concerns regarding this legislation you are encouraged to consult your attorney or other legal professional.
- This document is not a substitute for your own legal research. Statements within this document are merely an analysis of Act 2013-283 and opinions may vary as to the application of the Act or portions thereof.

Act 2013-283

Section 1



Analysis of Act 2013-283



Section 1

- Repeals most of § 11-80-11, Code of Alabama 1975, so that those sections could be consolidated in one place under the Act, now Section 7.

Act 2013-283

Section 2



Analysis of Act 2013-283



Section 2

- Amended multiple code sections in Title 13A.
- **§ 13A-11-7, Code of Alabama 1975**, regarding **disorderly conduct** was amended to include a **rebuttable presumption** that an individual is not in violation of that section if that person is merely carrying a visible pistol, holstered or secured, in a public place.
- Public place is not defined in the Act, but is defined in the article in which disorderly conduct is contained.



Analysis of Act 2013-283



Section 2

Premises Not Your Own

- § 13A-11-52, Code of Alabama 1975, was amended to expand the location an individual could carry a pistol.
- This section formerly prohibited a person from carrying a pistol on premises not his own or under his control. It was amended to allow a person who possesses a valid permit or has consent of the owner to carry a pistol on private property.
- This is interpreted by some as placing the burden on the business owners/operators to take the initiative to prevent individuals from carrying a concealed pistol pursuant to the provisions of Section 6(b). Failure to do so may waive that owner's/operator's right to exclude a person carrying a concealed weapon with a valid permit on their private property.
- This likely does not apply to homes and real property associated with the home since there are different degrees of visitors and the home is not open to the public like a private business. The amendment also allows open carry on public property



Analysis of Act 2013-283



Section 2

Certain Persons Forbidden

- § 13A-11-70, Code of Alabama 1975, expands the definition of “**crime of violence**” to include Class A and B felonies that have an element of serious physical injury, the distribution or manufacture of a controlled substance, or is of a sexual nature involving a child less than 12.



Analysis of Act 2013-283



Section 2

Motor Vehicles

- § 13A-11-73 Code of Alabama 1975, added subsection (b) that allows a person without a permit to carry a pistol in their vehicle if it is **locked** away out of the reach of the driver and unloaded.



Analysis of Act 2013-283



Section 2

Motor Vehicles

- Definition of a motor vehicle includes motorcycles pursuant to § 32-18-1, and was again defined as a motor vehicle in *Peachtree Casualty Insur. Co. v. Sharpton*, 768 So.2d 368, 372 (Ala. 2000).



Analysis of Act 2013-283



Section 2

Motor Vehicles





Analysis of Act 2013-283



Section 2

Motor Vehicles





Analysis of Act 2013-283



Section 2

PISTOL PERMIT

- § 13A-11-75, Code of Alabama 1975, requires that a sheriff shall issue a permit to an applicant unless the sheriff determines the applicant is prohibited from possessing a pistol.
- The process of notification and appeal are set out.
- Permits are now in 1 to 5 year increments, pursuant to the request of the applicant. The statute sets out what is to be done with the records, where the permit is valid, and when it expires.
- A permit may be revoked.



Analysis of Act 2013-283



Section 2

PISTOL PERMIT

- § 13A-11-85, Code of Alabama 1975, allows for anyone with a valid permit from another state to carry a concealed pistol in Alabama pursuant to that out of state permit as long as that person is not a resident of Alabama.
- The Section also allows the Attorney General to enter into reciprocal agreements with other states so that Alabama permits are recognized by other states.

Act 2013-283

Section 3



Analysis of Act 2013-283



Section 3

GUN SHOWS & LICENSE

- Amended Section § 40-12-143, Code of Alabama 1975, regarding gun shows and business license taxes.
- It requires records of sales to be kept permanently.
- Failure to do so allows the District Attorney to file a request with the probate judge to revoke the person's license.

Act 2013-283

Section 4



Analysis of Act 2013-283



Section 4

EMPLOYEE WORKPLACE

- Allows employers to prohibit employees from carrying firearms while on the employer's property and while engaged in work duties, despite having a permit.
- This Section also allows an employer to restrict the possession of a pistol and/or firearm in the employee's personal vehicle under certain circumstances.
- This section does not appear to set out conduct that may be charged criminally, but could allow for charges pursuant to § 13A-11-7, § 13A-11-73, or other state or federal law.
- This section further sets out how issues may be resolved between employer and employee.

Act 2013-283

Section 5



Analysis of Act 2013-283



Section 5

EMPLOYER DUTIES AND IMMUNITY

- Grants immunity to the employer in regards to firearms on the employer's property.
- Sets out where an employer does not have a duty.

Act 2013-283

Section 6



Analysis of Act 2013-283



Section 6

RESTRICTIONS & OBLIGATIONS

- Restricts where a firearm may be carried and under what circumstances it may be carried. Individuals may not carry a firearm in some facilities even with a valid permit.
- Due to [§ 13A-11-52, Code of Alabama 1975](#), allowing for individuals to carry a pistol on private property as long as they possess a valid permit, subsection (b) sets out how private businesses may prohibit all firearms from being carried on that private property.



Analysis of Act 2013-283



Section 6

RESTRICTIONS & OBLIGATIONS

- (b) Notwithstanding the provisions of subsection (a), a person, including a person with a permit issued under Section 13A-11-75(a)(1) or recognized under Section 13A-11-85, Code of Alabama 1975, may not, without the express permission of a person or entity with authority over the premises, knowingly possess or carry a firearm inside any building or facility to which access of unauthorized persons and prohibited articles is limited during normal hours of operation by the continuous posting of guards and the use of other security features, including, but not limited to, magnetometers, key cards, biometric screening devices, or turnstiles or other physical barriers.



Analysis of Act 2013-283



Section 6

RESTRICTIONS & OBLIGATIONS

(c) The person or entity with authority over the premises set forth in subsections (a)(1)-(6) and subsection (b) shall place a notice at the public entrances of such premises or buildings alerting those entering that firearms are prohibited.



Analysis of Act 2013-283



Section 6

RESTRICTIONS & OBLIGATIONS

- (e) A violation of subsections (a) or (d) is a Class C misdemeanor.
- (f) This section shall not prohibit any person from possessing a firearm within the person's residence or during ingress or egress thereto.

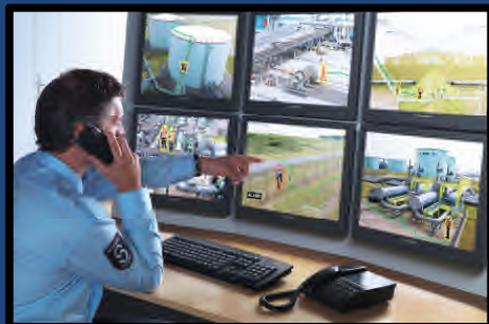


Analysis of Act 2013-283



Section 6

BARRIER / SECURITY FEATURES?



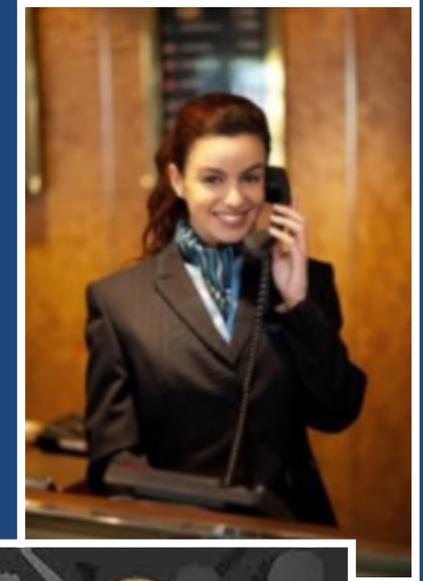


Analysis of Act 2013-283



Section 6

GUARD?

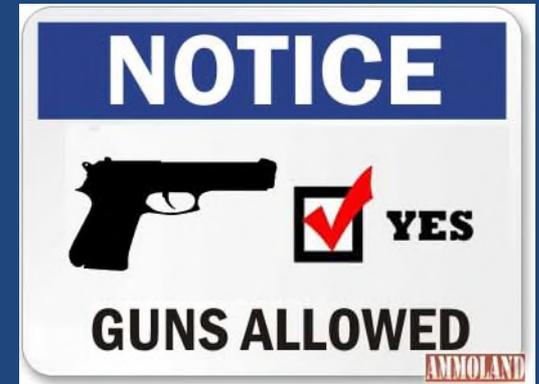




Analysis of Act 2013-283

Section 6

SIGN?



Act 2013-283

Section 7



Analysis of Act 2013-283



Section 7

REGULATION, CONTROL & GRIEVANCES

- Establishes with the Legislature complete control over the regulation and policy regarding firearms. The repeals in Section 1 are by and large adopted again in this Section in order to consolidate the law.
- This Section also defines a “person adversely affected,” and sets out the grievance process through the Attorney General’s Office for such an individual or organization. It requires that only state firearm violations may be adopted by municipalities and counties.
- They must be adopted element for element, and the penalties cannot be greater than the state offense.
- Municipalities and counties may pass ordinances prohibiting the discharge of a firearm, with the caveat that discharging a firearm in defense of one’s self, family, or property cannot be a violation of the law.

Act 2013-283

Section 8



Analysis of Act 2013-283



Section 8

SELF DEFENSE

- Expands § 13A-3-23, Code of Alabama 1975, to allow the use of force on business property in regards to self-defense.

Act 2013-283

Section 9



Analysis of Act 2013-283



Section 9

PREMPTION

- Repealed § 11-45-1.1, Code of Alabama 1975, which was subsumed into Section 7. § 11-45-1.1, Code of Alabama 1975, prohibited municipalities from enacting laws related to handguns, generally.

Act 2013-283

Section 10



Analysis of Act 2013-283



Section 10

KEEP THE PEACE & PUBLIC SAFETY, LE

- Law enforcement may always act to prevent a **breach of the peace** and to **preserve public safety**.
- This Section applies to all sections of the Act.

Act 2013-283

Section 11 - 13



Analysis of Act 2013-283



Sections 11-13

- **Section 11:** Deals with the Act being exempted from increased expenditure issues because it sets out a new crime or amends an existing crime.
- **Section 12:** The provisions of the Act are severable, and those not declared invalid remain in effect if any other parts are invalidated.
- **Section 13:** The Act becomes law August 1, 2013.



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THANK YOU

Be Safe!



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