

HB37 INTRODUCED



1 HB37
2 UVBMDGX-1
3 By Representative Ensler
4 RFD: Public Safety and Homeland Security
5 First Read: 06-Feb-24
6 PFD: 12-Jan-24



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SYNOPSIS:

Under existing law, certain persons may not purchase firearms in this state.

This bill would create the Voluntary Alabama Firearms Do-Not-Sell List which would allow an individual to suspend his or her ability to purchase a firearm by voluntarily adding his or her name to the list.

This bill would provide for the application for addition to and removal from the Voluntary Alabama Firearms Do-Not-Sell List.

This bill would provide certain actions that may not be taken in regard to an individual's status on or request to be added to or removed from the Voluntary Alabama Firearms Do-Not-Sell List.

This bill would also provide penalties for certain violations.

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



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29 provides a local source of revenue, to the entity for
30 the purpose.

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

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A BILL

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TO BE ENTITLED

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AN ACT

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45 Relating to firearms; to create the Voluntary Alabama
46 Firearms Do-Not-Sell List; to establish procedures for an
47 individual to be voluntarily added to and removed from the
48 list; to prohibit certain actions regarding an individual's
49 status on the list; to provide penalties for certain
50 violations; and in connection therewith would have as its
51 purpose or effect the requirement of a new or increased
52 expenditure of local funds within the meaning of Section
53 111.05 of the Constitution of Alabama of 2022.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. (a) By June 1, 2025, the Department of

56 Mental Health shall create the Voluntary Alabama Firearms



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57 Do-Not-Sell List and shall develop and distribute a paper copy
58 form to provide a method by which any individual in this state
59 may register to add his or her name to the list. The
60 department shall also develop a similar paper copy form by
61 which a registered individual may request his or her name be
62 removed from the list. The forms shall be provided at all
63 Alabama State Law Enforcement Agency offices open to the
64 public, circuit clerk's offices, and in an easily identifiable
65 location on the department's website. The forms may be
66 submitted to the department in any of the following manners:

67 (1) In person at a circuit clerk's office with a
68 government-issued photo identification. The clerk shall
69 immediately transmit any form received by him or her to the
70 department.

71 (2)a. In person at a health care provider's office with
72 a government-issued photo identification. A health care
73 provider shall immediately transmit any form received by him
74 or her to the department.

75 b. For purposes of this act, "health care provider"
76 includes any person who is licensed, certified, registered, or
77 otherwise authorized by the laws of this state to administer
78 or provide health care in the ordinary course of business or
79 in the practice of a profession.

80 (3) By mail to the department with a copy of a
81 government-issued photo identification.

82 (4) Electronically to the department by short message
83 service or multimedia messaging service with a copy of a
84 government-issued photo identification and a photographic



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85 portrait of the individual that contains exchangeable image
86 file format data proving that the photographic portrait was
87 taken within one hour prior to transmission to the department.

88 (b) (1) The department shall ensure that the
89 registration form provides each registrant with an email
90 notification option that allows registered individuals, at the
91 time of registration or thereafter, to provide one or more
92 email addresses by which to contact him or her.

93 (2) The department shall send a notification to all
94 email addresses provided if the individual subsequently seeks
95 to remove his or her name from the list.

96 (3) Providing an email address under this subsection
97 constitutes an express authorization of the use of the email
98 address for purposes of this subsection.

99 (c) (1) It shall be unlawful for an individual to
100 knowingly make a false statement or representation regarding
101 his or her identity when registering to be added to the
102 Voluntary Alabama Firearms Do-Not-Sell List.

103 (2) A violation of this subsection is a Class A
104 misdemeanor punishable by a fine of up to six thousand dollars
105 (\$6,000) or imprisonment for not more than one year, or both.

106 (d) (1) No individual registered on the Voluntary
107 Alabama Firearms Do-Not-Sell List shall knowingly possess a
108 firearm.

109 (2) A violation of this subsection shall be punishable
110 by a fine of not more than one hundred dollars (\$100) or the
111 completion of four hours of community service.

112 Section 2. (a) An individual who has registered with



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113 the Voluntary Alabama Firearms Do-Not-Sell List may
114 subsequently request that his or her name be removed from the
115 list by any one of the methods provided in subdivisions (a)(1)
116 through (a)(4) of Section 1. The department shall remove the
117 individual's name from the list 21 days after receiving the
118 request for removal.

119 (b)(1) An individual may request his or her name be
120 removed from the list in fewer than 21 days by delivering a
121 removal request form to the district court of the county in
122 which the individual requesting removal resides. The court,
123 within 48 hours of receiving a removal request, shall hold a
124 hearing and determine, by a preponderance of evidence, whether
125 the request to be removed from the list was made voluntarily,
126 knowingly, and intelligently. The individual, a public
127 official, or any otherwise interested party may present
128 evidence at the hearing.

129 (2) No later than 24 hours following the hearing, the
130 court shall issue an order determining whether the individual
131 is likely to act in a manner dangerous to public safety or to
132 himself or herself. The court shall immediately provide the
133 department with its determination.

134 (c) At the time of removal the department shall do all
135 of the following:

136 (1) Remove the individual from the list.

137 (2) Remove all department records of the individual
138 regarding the list.

139 (3) Notify the Federal Bureau of Investigation that the
140 individual's eligibility to purchase a firearm has been



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141 restored for purposes of updating the National Instant
142 Criminal Background Check System accordingly.

143 (d) The department shall continuously forward registry
144 information to the Federal Bureau of Investigation to be
145 entered into the National Instant Criminal Background Check
146 System.

147 Section 3. (a) An insurer as defined in Section 27-1-2,
148 Code of Alabama 1975, may not inquire as to whether an
149 individual is on the Voluntary Alabama Firearms Do-Not-Sell
150 List. An insurer may not modify the terms of any insurance
151 policy of any individual due to that individual being on the
152 list or having requested to be added to or removed from the
153 list.

154 (b) An employer may not inquire whether an employee or
155 applicant is on the list unless possession of a firearm is a
156 requirement of the employment position. An employer may not
157 dismiss, discharge, demote, deny employment, or otherwise
158 alter the terms of employment of any employee or applicant due
159 to the employee or applicant being on the list or having
160 requested to be added to or removed from the list, unless
161 possession of a firearm is a requirement of the employment
162 position.

163 (c) (1) A person may not conduct any unlawful
164 discriminatory housing practice as provided in the Alabama
165 Fair Housing Law, Chapter 8 of Title 24, Code of Alabama 1975,
166 against any individual who is on the list or has requested to
167 be added to or removed from the list.

168 (2) For purposes of this subdivision, an individual



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169 being on the list or having requested to be added to or
170 removed from the list shall be considered a handicap as
171 defined in Section 24-8-3, Code of Alabama 1975.

172 (d) No agency, department, board, or commission of the
173 state, or any political subdivision thereof may condition or
174 alter any governmental benefit because of an individual's
175 status on the list or request to be added to or removed from
176 the list.

177 (e) An educational institution or state educational
178 institution as defined in Section 16-17-1, Code of Alabama
179 1975, may not inquire whether an individual is on the list
180 unless the institution is acting as an employer and is in
181 compliance with subsection (b).

182 (f) A health care provider may not deny any service to
183 an individual because of the individual's status on the list
184 or request to be added to or removed from the list.

185 (g) A violation of this subsection is a Class A
186 misdemeanor punishable by a fine of up to six thousand dollars
187 (\$6,000).

188 Section 4. (a) (1) It shall be unlawful for any person
189 or entity that is required to perform a background check prior
190 to transferring a firearm to transfer a firearm either
191 knowingly or due to a failure to perform a background check to
192 an individual registered on the Voluntary Alabama Firearms
193 Do-Not-Sell List.

194 (2) A violation of this subsection is a Class A
195 misdemeanor punishable by a fine of up to six thousand dollars
196 (\$6,000) per violation or imprisonment for not more than one



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197 year, or both.

198 (b)(1) It shall be unlawful for any person who learns
199 the identity of an individual registered on the Voluntary
200 Alabama Firearms Do-Not-Sell List, or who has requested to be
201 added to or removed from the list, to disclose that
202 information to another unless the person receives prior
203 written authorization from the individual to share that
204 information.

205 (2) A violation of this subsection shall be a Class C
206 misdemeanor punishable by a fine of up to five hundred dollars
207 (\$500).

208 Section 5. The Board of Examiners in Counseling,
209 Board of Medical Examiners, Board of Nursing, and Board of
210 Examiners in Psychology shall adopt rules to encourage
211 licensees to inform the public about the Voluntary Alabama
212 Firearms Do-Not-Sell List created by this act.

213 Section 6. Information relating to the Voluntary
214 Alabama Firearms Do-Not-Sell List shall not be subject to
215 state open public records laws, including Article 3 of Chapter
216 12 of Title 36, Code of Alabama 1975.

217 Section 7. The Department of Mental Health may adopt
218 rules to implement this act.

219 Section 8. Although this bill would have as its purpose
220 or effect the requirement of a new or increased expenditure of
221 local funds, the bill is excluded from further requirements
222 and application under Section 111.05 of the Constitution of
223 Alabama of 2022, because the bill defines a new crime or
224 amends the definition of an existing crime.



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225 Section 9. This act shall become effective on
226 October 1, 2024.