

THE OPEN CARRY OF A FIREARM IS LEGAL IN ALABAMA

(www.alabamaopencarry.com)

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1. Everything is legal until a law is passed making it illegal. There is no law making the Open Carry of a firearm illegal in the Alabama Criminal Code.
2. According to the Alabama Supreme Court, the State Legislature can not make laws restricting Open Carry because the State Constitution recognizes the right to bear arms for defense of self and the state. (ref. State v Reid (1840); Art1 Sec 26 AL Constitution)
3. The Open Carry of a firearm does not fit the criteria of Disorderly Conduct found in § 13A-11-7 of the Criminal Code (Title 13A).
4. § 13A-11-55 further defines § 13A-11-52 as the only illegal carry of a pistol on "premises not your own" as concealed carry without a permit.
5. Laws regarding the carry of firearms can only be enacted by the State Legislature. (§ 11-45-1.1) Therefore, it would be illegal for any municipality or county to make the open carry of firearms illegal.
6. The State's Attorneys General have overwhelmingly stated that Open Carry is legal, unrestricted and unlicensed. (AG Quarterly Report Vol. 79, 1955 pgs. 31-35; AG Opinion 1984-205; AG Opinion 2007-054) See the Documents and Tools page for these opinions.
7. Court cases that support Open Carry as legal, unrestricted and unlicensed. [State v Reid (1840).; KJ v State (1997); Morris v State (1977); Looney v State (1962)]. These cases and others are available on our Documents and Tool page.
8. You only need a permit to carry a pistol concealed or to carry one in a vehicle. (§ 13A-11-73)

STATE v REID (1840)

"Under the provision of our constitution, we incline to the opinion that the Legislature cannot inhibit the citizen from bearing arms openly, because it authorizes him to bear them for the purposes of defending himself and the State, and it is only when carried openly, that they can be efficiently used for defence."

QUARTERLY REPORT ATTORNEY GENERAL VOL.79 (1955) pgs. 31-35

***it is my opinion that a person may carry an unconcealed and unlicensed pistol anywhere, either on his own property, ***, on the public highways, public property or the land of another person without violating either Section 163 (now codified as § 13A-11-52) or Section 175 (now codified as § 13A-11-73)."[This AG opinion is also referenced in Looney v State (1962)]

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***this court held that § 13A-11-73 does not prohibit carrying an unlicensed pistol if the pistol is unconcealed and the person is on foot."

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"It is to be observed that this law prohibits carrying a pistol (concealed or not) in any vehicle or "concealed on or about his person, except . . . without a license therefor . . . "[**4] . ." It does not prohibit an unconcealed pistol. Acts 1956, 2d Session, No. 43, p. 336. It is immaterial that defendant did or did not have a pistol permit. He had a right to carry the pistol unconcealed at the time and place of arrest. Defendant was under no duty to submit to any other than a lawful arrest.

§ Section 15-5-30 Authority of Peace Officer To Stop and Question.

A sheriff or other officer acting as sheriff, his deputy or any constable, acting within their respective counties, any marshal, deputy marshal or policeman of any incorporated city or town within the limits of the county or any highway patrolman or state trooper may stop any person abroad in a public place whom he reasonably suspects is committing, has committed or is about to commit a felony or other public offense and may demand of him his name, address and an explanation of his actions.

§ 11-45-1.1. Subject matter of handguns reserved to State Legislature;

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.

§ Section 13A-11-7 Disorderly Conduct

a) A person commits the crime of disorderly conduct if, with the intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof:

- 1) Engages in fighting or in violent, tumultuous or threatening behavior; or
- 2) Makes an unreasonable noise; or
- 3) In a public place uses abusive language or makes an obscene gesture; or
- 4) Without lawful authority, disturbs any lawful assembly or meeting of persons; or
- 5) Obstructs vehicular or pedestrian traffic, or a transportation facility; or
- 6) Congregates with other person in a public place and refuses to comply with a lawful order of the police to disperse.

§ Section 13A-11-52 Carrying A Pistol On Premises Not Their Own - Who May Carry A Pistol

Except as otherwise provided in this article, no person shall carry a pistol about his person on premises not his own or under his control; but this section shall not apply to any sheriff or his deputy or police officer of an incorporated town or city in the lawful discharge of the duties of his office, or to United States marshal or his deputies, rural free delivery mail carriers in the discharge of their duties as such, bonded constables in the discharge of their duties as such, conductors, railways mail clerks and express messengers in the discharge of their duties.

§ Section 13A-11-55 Indictment For Carrying Weapons Unlawfully: Proof

In a indictment for carrying weapons unlawfully, it is sufficient to charge that the defendant carried concealed about his person a pistol, or other description of firearms, on premises not his own, or a bowie knife, or other knife or instrument of the like kind or description, or other forbidden weapon, describing it, as the case may be; and the excuse, if any, must be proved by the defendant on the trial, to the satisfaction of the jury; and if the evidence offered to excuse the charge raises a reasonable doubt of the defendant guilt, the jury must acquit him.

§ Section 13A-11-59 Possession of Firearms By Persons Participating In, Attending, Etc., Demonstrations At Public Places

[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. [Public places is further defined as all public property – check this law for further info.]

(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.

§ 13A-11-73. License to carry pistol in vehicle or concealed on person – Required.

No person shall carry a pistol in any vehicle or concealed on or about his person, exception his land, in his own abode or fixed place of business, without a license therefor as hereinafter provided.

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