

Legislative Preemption of Firearm Regulation

Political subdivisions may regulate firearms, ammunition, and firearm accessories only to the extent they have authority under “a duly enacted state law that specifically mentions firearms, a particular type of firearm, ammunition, or a particular type of ammunition.” Ala. Code 13A-11-61.3 (b)(2). A political subdivision is a “county, incorporated city, unincorporated city, public local entity, public-private partnership, and any other public entity of a county or city commonly considered to be a political subdivision of the state.” Ala. Code 13A-11-61.3 (b)(6)

Political subdivisions can regulate firearms when state law allows it

- Can regulate its law enforcement agency. Ala. Code 13A-11-61.3(g)(1)
- Can regulate its employees during their duties. Ala. Code 13A-11-61.3(g)(2)
- Can regulate firearms businesses through zoning laws that apply to businesses generally. Ala. Code 13A-11-61.3(g)(4)
- Can regulate its own firearms range. Ala. Code 13A-11-61.3(g)(5)
- Can enforce state law and ordinance that make the violation of a state firearm law a violation of an ordinance. Ala. Code 13A-11-61.3(g)(7) & (10).
- Can regulate the discharge of firearms. Ala. Code 13A-11-61.3(g)(5)
- Can collect generally applicable taxes. Ala. Code 13A-11-61.3(g)(12)

Political subdivisions can prohibit weapons in the following buildings

- Police/sheriff office. Ala. Code § 13A-11-61.2(a)(1)
- Prison, jail, halfway house, community corrections facility, or other detention facility for those who have been charged with or convicted of a criminal or juvenile offense. Ala. Code § 13A-11-61.2(a)(2)
- Facility that provides inpatient or custodial care of those with psychiatric, mental, or emotional disorders. Ala. Code § 13A-11-61.2(a)(3)
- Courthouse, courthouse annex, a building in which a District Attorney's office is located, or a building in which a county commission or city council is currently having a regularly scheduled or specially called meeting. Ala. Code § 13A-11-61.2(a)(4)
- Any school or professional athletic event, except for pistol permit holders. Ala. Code § 13A-11-61.2(a)(5)&(6)
- Inside any building “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.” Ala. Code § 13A-11-61.2(a)(b)

The role of the Attorney General's Office

Any person who is “adversely affected by any order, ordinance, or rule promulgated in violation” of the State’s preemption of firearms’ regulation “may file a petition with the Attorney General requesting that he or she bring an action in circuit court for declarative and injunctive relief” against the political subdivision that promulgated the “order, ordinance, or rule.” Ala. Code 13A-11-61.3 (b)(6). Upon such a complaint, the Attorney General must either decide to sue or give “written justification” for declining to sue with 90 days of the complaint.

Steps of a complaint

- The Office will make sure the complaint complies with the statute.
- The Office will notify the local government and ask for a response.
- The Office may independently investigate the allegations in the complaint before or after notifying the local government.
- Upon receiving the local government’s response, the Office will determine whether it is obligated to file suit under Ala. Code 13A-11-61.3.
- If the Office determines not to file suit, it will post “written justification” for its decision on its website within 90 days of receiving the complaint.
- If the Office determines that it is required to file suit, it will give the political subdivision 60 days notice.