

SB89 INTRODUCED



1 SB89
2 29QTSII-1
3 By Senator Smitherman
4 RFD: Judiciary
5 First Read: 13-Feb-24



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SYNOPSIS:

Under existing law, it is unlawful for a person to loiter or remain on a public roadway maintained by the state or the right-of-way of a public roadway maintained by the state.

This bill would provide that it is unlawful to loiter or remain in any area within 30 feet of any interchange involving a controlled-access or limited-access highway.

This bill would also provide criminal penalties for 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 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 section. However, the bill does not require approval of a local governmental



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29 entity or enactment by a 2/3 vote to become effective
30 because it comes within one of the specified exceptions
31 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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38 Relating to crimes and offenses; to amend Section
39 13A-11-9, Code of Alabama 1975, as last amended by Act
40 2023-245 of the 2023 Regular Session; to further provide for
41 the crime of loitering; to provide criminal penalties for
42 violations; and in connection therewith would have as its
43 purpose or effect the requirement of a new or increased
44 expenditure of local funds within the meaning of Section
45 111.05 of the Constitution of Alabama of 2022.

46 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

47 Section 1. Section 13A-11-9, Code of Alabama 1975, as
48 last amended by Act 2023-245, 2023 Regular Session, is amended
49 to read as follows:

50 "§13A-11-9

51 (a) A person commits the crime of loitering if he or
52 she does any of the following:

53 (1) Loiters, remains, or wanders about in a public
54 place for the purpose of begging.

55 (2) Loiters or remains in a public place for the
56 purpose of gambling.



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57 (3) Loiters or remains in a public place for the
58 purpose of engaging or soliciting another person to engage in
59 prostitution or sodomy.

60 (4) Being masked, loiters, remains, or congregates in a
61 public place.

62 (5) Loiters or remains in or about a school, college,
63 or university building or grounds after having been told to
64 leave by any authorized official of the school, college, or
65 university, not having any reason or relationship involving
66 custody of or responsibility for a pupil or any other
67 specific, legitimate reason for being there, and not having
68 written permission from a school, college, or university
69 administrator.

70 (6) Loiters or remains in any transportation facility,
71 unless specifically authorized to do so, for the purpose of
72 soliciting or engaging in any business, trade, or commercial
73 transactions involving the sale of merchandise or services.

74 (7) Loiters or remains in any place with one or more
75 persons for the purpose of unlawfully using or possessing a
76 dangerous drug.

77 (8) Loiters or remains on a public roadway maintained
78 by the state ~~or~~, the right-of-way of a public roadway
79 maintained by the state, or any area within 30 feet of any
80 interchange involving a controlled-access or limited-access
81 highway.

82 (b) A person does not commit a crime under subdivision
83 (a) (4) if he or she is going to or from or staying at a
84 masquerade party, or is participating in a public parade or



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85 presentation of an educational, religious, or historical
86 character or in an event as defined in Section 13A-11-140.

87 (c) Sodomy in subdivision (a)(3) is defined as in
88 Section 13A-6-60.

89 (d) Dangerous drug in subdivision (a)(7) means any
90 narcotic, drug, or controlled substance as defined in Chapter
91 2 of Title 20 and any schedule incorporated therein.

92 (e) Loitering is a violation. A second or subsequent
93 violation of this section in the same jurisdiction is a Class
94 C misdemeanor.

95 (f)(1) Prior to making an arrest for a violation of
96 subdivision ~~(a)(1)~~ (a)(8), a law enforcement officer may
97 instruct any person in violation of subdivision ~~(a)(1)~~ (a)(8)
98 to immediately and peaceably exit the public roadway
99 maintained by the state or the right-of-way of the public
100 roadway maintained by the state.

101 (2)a. Prior to making an arrest for an initial
102 violation of subdivision ~~(a)(1)~~ (a)(8), a law enforcement
103 officer may offer to transport any person in violation of
104 subdivision ~~(a)(1)~~ (a)(8) to a location in the jurisdiction
105 that offers emergency housing, if applicable.

106 b. If a person accepts an offer made pursuant to
107 subdivision (1), a law enforcement officer may transport the
108 person accordingly.

109 (g) Any actions undertaken by a law enforcement officer
110 pursuant to this section shall be subject to Section 36-1-12."

111 Section 2. Although this bill would have as its purpose
112 or effect the requirement of a new or increased expenditure of



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113 local funds, the bill is excluded from further requirements
114 and application under Section 111.05 of the Constitution of
115 Alabama of 2022, because the bill defines a new crime or
116 amends the definition of an existing crime.

117 Section 3. This act shall become effective on June 1,
118 2024.