

Ala. Code 1975, § 13A-11-63

Possession or Sale of Short-barreled Rifle or Short-barreled Shotgun

The defendant is charged with possession or sale of short-barreled rifle or short-barreled shotgun.

A person commits the crime of possession or sale of short-barreled rifle or short-barreled shotgun if he/she possesses, obtains, receives, sells, or uses a short-barreled rifle or a short-barreled shotgun in violation of federal law.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The defendant possessed, obtained, received, sold, or used a short-barreled rifle or a short-barreled shotgun;
- (2) The defendant did so in violation of federal law, **[insert name of law]**; **(AND)**
- (3) The defendant acted **[INSERT APPROPRIATE MENS REA ELEMENT - SEE USE NOTE]**.

[Insert the applicable federal law.]

To *possess* means to have physical possession or otherwise to exercise dominion or control over tangible property. [13A-1-2(13)]

A *short-barreled rifle* is a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than 26 inches. [13A-11-62(4)]

A *rifle* is any weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each pull of the trigger. [13A-11-62(2)]

A *short-barreled shotgun* is a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches. [13A-11-62(5)]

A *shotgun* is a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger. [13A-11-62(3)]

[Read as appropriate]: This section does not apply to a peace officer who possesses, obtains, receives, sells, or uses a short-barreled rifle or a short-barreled shotgun in the course of or in connection with his or her official duties. [13A-11-63(b)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of possession or sale of short-barreled rifle or short-barreled shotgun, then you shall find the defendant guilty of possession or sale of short-barreled rifle or short-barreled shotgun.

If you find that the State has failed to prove any one or more of the elements of possession or sale of short-barreled rifle or short-barreled shotgun, then you cannot find the defendant guilty of possession or sale of short-barreled rifle or short-barreled shotgun.

Use Notes

The statute does not state a specific mens rea element. Insert the appropriate mens rea element considering the indictment and the evidence before the court. There are few, if any, strict liability offenses in the Code. See Commentary for 13A-2-3 and 13A-2-4(b). There are four mens rea elements in the Alabama Code: intentionally, knowingly, recklessly and with criminal negligence. See 13A-2-2.

1. A person acts intentionally with respect to a result or to conduct described by a statute defining an offense when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]
2. A person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]
3. A person acts recklessly with respect to a result or to a circumstance when he/she is aware of and consciously disregards a substantial and unjustifiable risk that the risk will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. [13A-2-2(3)]
4. A person acts with criminal negligence with respect to a result or to a circumstance when he/she fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. A court or jury may consider statutes or ordinances regulating the defendant's conduct as bearing upon the question of criminal negligence.[13A-2-2(4)].

The Alabama Court of Criminal Appeals has held that “this statute does not require a specific mental culpability on the part of the offender” as it is a strict liability crime. *McDaniel v. Ala.*, 589 So. 2d 767, 768-769 (Crim. App. 1991)