

2022 Regular Session

HOUSE BILL NO. 978

BY REPRESENTATIVE MIGUEZ

CONTRACTS: Provides relative to prohibition on certain governmental entity contracts with companies that discriminate against firearm and ammunition industries

1 AN ACT

2 To enact R.S. 38:2216.1 and R.S. 39:1602.2, relative to public contracts; to prohibit certain  
3 discriminatory practices with respect to firearm associations, retailers, and  
4 manufacturers; to provide for definitions; to provide restrictions on applicability; and  
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 38:2216.1 is hereby enacted to read as follows:

8 §2216.1. Prohibition on contracts with companies that discriminate against firearm  
9 and ammunition industries

10 A. As used in this Section, the following terms shall have the following  
11 meanings unless the context clearly indicates otherwise:

12 (1) "Ammunition" shall mean a loaded cartridge case, primer, bullet, or  
13 propellant powder with or without a projectile.

14 (2) "Company" shall mean a for-profit organization, association, corporation,  
15 partnership, joint venture, limited partnership, limited liability partnership, or limited  
16 liability company that exists to make a profit. "Company" shall not mean a sole  
17 proprietorship.

18 (3)(a) "Discriminate against a firearm entity or firearm trade association"  
19 shall mean that the company:

1           (i) Refuses to engage in the trade of any goods or services with the entity or  
2           association based solely on its status as a firearm entity or firearm trade association.

3           (ii) Refrains from continuing an existing business relationship with the entity  
4           or association based solely on its status as a firearm entity or firearm trade  
5           association.

6           (iii) Terminates an existing business relationship with the entity or  
7           association based solely on its status as a firearm entity or firearm trade association.

8           (b) A company does not "discriminate against a firearm entity or firearm  
9           trade association" if it refuses to engage in the trade of any goods or services,  
10          refrains from continuing an existing business relationship, or declines to enter into,  
11          modifies, or terminates an existing business relationship for any of the following  
12          reasons:

13           (i) To comply with federal, state, or local law, policy, or regulations or a  
14           directive by a regulator.

15           (ii) For any traditional or ordinary business reason that is specific to the  
16           customer or potential customer and not based solely on an entity's or association's  
17           status as a firearm entity or firearm trade association.

18           (c) Nothing in this Paragraph shall be construed to require a company that  
19           is a merchant, retail seller, or platform to sell or list for sale ammunition, firearms,  
20           or firearm accessories.

21           (4) "Firearm" shall mean a weapon that expels a projectile by the action of  
22           explosive or expanding gases.

23           (5) "Firearm accessory" shall mean:

24           (a) A device specifically designed or adapted to enable an individual to  
25           wear, carry, store, or mount a firearm on the individual or on a conveyance.

26           (b) An item used in conjunction with or mounted on a firearm that is not  
27           essential to the basic function of the firearm, including a detachable firearm  
28           magazine.

1           (6) "Firearm entity" shall mean:

2           (a) A manufacturer, distributor, wholesaler, supplier, or retailer of firearms,  
3           firearm accessories, or ammunition.

4           (b) A business establishment, private club, or association that operates an  
5           area for the discharge or other use of firearms for silhouette, skeet, trap, black  
6           powder, target, self-defense, or similar recreational shooting, at which not fewer than  
7           twenty different individuals discharge firearms each calendar year.

8           (7) "Firearm trade association" shall mean any person, corporation,  
9           unincorporated association, federation, business league, or business organization that  
10          meets all of the following criteria:

11          (a) Is not organized or operated for profit and for which none of its net  
12          earnings inures to the benefit of any private shareholder or individual.

13          (b) Has two or more firearm entities as members.

14          (c) Is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) as  
15          an organization described by 26 U.S.C. 501(c)(6).

16          B.(1) The provisions of this Section shall apply to any contract with a value  
17          of one hundred thousand dollars or more that meets all of the following criteria:

18          (a) It is to be paid partly or wholly from public funds.

19          (b) It is between a public entity and a company with at least ten full-time  
20          employees.

21          (c) It is entered into on or after August 1, 2022.

22          (2) Notwithstanding the provisions of Paragraph (1) of this Subsection, the  
23          provisions of this Section shall not apply if either of the following conditions are  
24          met:

25          (a) The contract is with a sole-source provider.

26          (b) The public entity does not receive any bids from companies that are able  
27          to provide the written verification required by this Section.

1           C. A public entity may not enter into a contract with a company for the  
2           purchase of goods or services unless the contract contains a written verification from  
3           the company of both of the following:

4                   (1) The company does not have a practice, policy, guidance, or directive that  
5                   discriminates against a firearm entity or firearm trade association based solely on the  
6                   entity's or association's status as a firearm entity or firearm trade association.

7                   (2) The company will not discriminate against a firearm entity or firearm  
8                   trade association during the term of the contract based solely on the entity's or  
9                   association's status as a firearm entity or firearm trade association.

10           Section 2. R.S. 39:1602.2 is hereby enacted to read as follows:

11           §1602.2. Prohibition on contracts with companies that discriminate against firearm  
12           and ammunition industries

13                   A. As used in this Section, the following terms shall have the following  
14                   meanings unless the context clearly indicates otherwise:

15                           (1) "Ammunition" shall mean a loaded cartridge case, primer, bullet, or  
16                           propellant powder with or without a projectile.

17                           (2) "Company" shall mean a for-profit organization, association, corporation,  
18                           partnership, joint venture, limited partnership, limited liability partnership, or limited  
19                           liability company that exists to make a profit. "Company" shall not mean a sole  
20                           proprietorship.

21                           (3)(a) "Discriminate against a firearm entity or firearm trade association"  
22                           shall mean the company:

23                                   (i) Refuses to engage in the trade of any goods or services with the entity or  
24                                   association based solely on its status as a firearm entity or firearm trade association.

25                                   (ii) Refrains from continuing an existing business relationship with the entity  
26                                   or association based solely on its status as a firearm entity or firearm trade  
27                                   association.

28                                   (iii) Terminates an existing business relationship with the entity or  
29                                   association based solely on its status as a firearm entity or firearm trade association.

1           (b) A company does not "discriminate against a firearm entity or firearm  
2           trade association" if it refuses to engage in the trade of any goods or services,  
3           refrains from continuing an existing business relationship, or declines to enter into,  
4           modifies, or terminates an existing business relationship for any of the following  
5           reasons:

6           (i) To comply with federal, state, or local law, policy, or regulations or a  
7           directive by a regulator.

8           (ii) For any traditional or ordinary business reason that is specific to the  
9           customer or potential customer and not based solely on an entity's or association's  
10          status as a firearm entity or firearm trade association.

11          (c) Nothing in this Paragraph shall be construed to require a company that  
12          is a merchant, retail seller, or platform to sell or list for sale ammunition, firearms,  
13          or firearm accessories.

14          (4) "Firearm" shall mean a weapon that expels a projectile by the action of  
15          explosive or expanding gases.

16          (5) "Firearm accessory" shall mean:

17          (a) A device specifically designed or adapted to enable an individual to  
18          wear, carry, store, or mount a firearm on the individual or on a conveyance.

19          (b) An item used in conjunction with or mounted on a firearm that is not  
20          essential to the basic function of the firearm, including a detachable firearm  
21          magazine.

22          (6) "Firearm entity" shall mean:

23          (a) A manufacturer, distributor, wholesaler, supplier, or retailer of firearms,  
24          firearm accessories, or ammunition.

25          (b) A business establishment, private club, or association that operates an  
26          area for the discharge or other use of firearms for silhouette, skeet, trap, black  
27          powder, target, self-defense, or similar recreational shooting, at which not fewer than  
28          twenty different individuals discharge firearms each calendar year.

1           (7) "Firearm trade association" shall mean any person, corporation,  
2           unincorporated association, federation, business league, or business organization that  
3           meets all of the following criteria:

4           (a) Is not organized or operated for profit and for which none of its net  
5           earnings inures to the benefit of any private shareholder or individual.

6           (b) Has two or more firearm entities as members.

7           (c) Is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) as  
8           an organization described by 26 U.S.C. 501(c)(6).

9           (8) "Public entity" shall mean:

10          (a) Any department, office division, commission, council, board, bureau,  
11          committee, institution, agency, government corporation, or other establishment or  
12          official of the executive branch of state government.

13          (b) Any parish, city, town, governmental body, and any other subdivision of  
14          the state or public agency thereof, public authority, public educational, health, or  
15          other institution, and to the extent provided by law, any other entity which expends  
16          public funds for the acquisition or leasing of supplies, services, major repairs, and  
17          construction, and any nonprofit corporation operating a charitable hospital.

18          B.(1) The provisions of this Section shall apply to any contract with a value  
19          of one hundred thousand dollars or more that meets all of the following criteria:

20          (a) It is to be paid partly or wholly from public funds.

21          (b) It is between a public entity and a company with at least ten full-time  
22          employees.

23          (c) It is entered into on or after August 1, 2022.

24          (2) Notwithstanding the provisions of Paragraph (1) of this Subsection, the  
25          provisions of this Section shall not apply if either of the following conditions are  
26          met:

27          (a) The contract is with a sole-source provider.

28          (b) The public entity does not receive any bids from companies that are able  
29          to provide the written verification required by this Section.

1           C. A public entity may not enter into a contract with a company for the  
 2           purchase of goods or services unless the contract contains a written verification from  
 3           the company of both of the following:

4           (1) The company does not have a practice, policy, guidance, or directive that  
 5           discriminates against a firearm entity or firearm trade association based solely on the  
 6           entity's or association's status as a firearm entity or firearm trade association.

7           (2) The company will not discriminate against a firearm entity or firearm  
 8           trade association during the term of the contract based solely on the entity's or  
 9           association's status as a firearm entity or firearm trade association.

#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 978 Reengrossed

2022 Regular Session

Miguez

**Abstract:**

Prohibits state agencies and political subdivisions from entering into public works or procurement contracts with companies that discriminate against firearm entities or trade associations.

Proposed law creates certain restrictions with respect to the ability of the state and its political subdivisions to contract pursuant to the Public Bid Law (R.S. 38:2181 et seq.) and the La. Procurement Code (R.S. 39:1551 et seq.).

#### PUBLIC BID LAW

Present law establishes the Public Bid Law to govern the letting of contracts for materials and supplies necessary to conduct public business and for the erection, construction, alteration, improvement, or repair of any public facility or land owned, used, or leased by a public entity. Defines "public entity" to mean the state of La., or any agency, board, commission, department, or public corporation of the state, or any political subdivision of the state, and any public housing authority, public school board, or any public officer whether or not an officer of a public corporation or political subdivision. (Pursuant to present law, the term does not include a public body or officer where the particular transaction of the public body or officer is governed by the provisions of the model procurement code.)

Proposed law adds an additional restriction to contracts let by public entities pursuant to present law. Prohibits a public entity from entering into a contract with a company for the purchase of goods or services unless the contract contains a written verification from the company of both of the following:

(1) The company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association based solely on the entity's or association's status as a firearm entity or firearm trade association.

- (2) The company will not discriminate against a firearm entity or firearm trade association during the term of the contract based solely on the entity's or association's status as a firearm entity or firearm trade association.

Further provides that proposed law applies only to a contract with a value of \$100,000 or more that meets all of the following criteria:

- (1) It is to be paid partly or wholly from public funds.
- (2) It is between a public entity and a company with at least 10 full-time employees.
- (3) It is entered into on or after Aug. 1, 2022.

Further establishes exceptions to proposed law for sole-source provider contracts and circumstances where the public entity does not receive any bids from companies that are able to provide the written verification required by proposed law.

Proposed law provides that "discriminate against a firearm entity or firearm trade association" shall mean that a company:

- (1) Refuses to engage in the trade of any goods or services with the entity or association based solely on the entity's or association's status as a firearm entity or firearm trade association.
- (2) Refrains from continuing an existing business relationship with the entity or association based solely on the entity's or association's status as a firearm entity or firearm trade association.
- (3) Terminates an existing business relationship with the entity or association based solely on the entity or association's status as a firearm entity or firearm trade association.

Further provides that a company does not "discriminate against a firearm entity or firearm trade association" if it refuses to engage in the trade of any goods or services, refrains from continuing an existing business relationship, or declines to enter into, modifies, or terminates an existing business relationship for any of the following reasons:

- (1) To comply with federal, state, or local law, policy or regulations or a directive by a regulator.
- (2) For any traditional or ordinary business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

Further provides that nothing in proposed law shall be construed to require a company that is a merchant, retail seller, or platform to sell or list for sale ammunition, firearms, or firearm accessories.

### **LOUISIANA PROCUREMENT CODE**

Present law establishes the La. Procurement Code to govern buying, purchasing, renting, leasing, or otherwise obtaining supplies, services, or major repairs by any governmental body of the state. Present law defines "governmental body" as any department, office, division, commission, council, board, bureau, committee, institution, agency, government corporation, or other establishment or official of the executive branch of state government. Present law further authorizes political subdivisions to participate in certain contracts let pursuant to present law.

Present law (R.S. 39:2191, et seq.) establishes restrictions on contracting that apply to any bid or award resulting from present law (the La. Procurement Code). Proposed law adds an additional restriction for contracts let public entities pursuant to the La. Procurement Code. Defines "public entity" as:

- (1) Any department, office division, commission, council, board, bureau, committee, institution, agency, government corporation, or other establishment or official of the executive branch of state government.
- (2) Any parish, city, town, governmental body, and any other subdivision of the state or public agency thereof, public authority, public educational, health, or other institution, and to the extent provided by law, any other entity which expends public funds for the acquisition or leasing of supplies, services, major repairs, and construction, and any nonprofit corporation operating a charitable hospital.

Proposed law prohibits a public entity from entering into a contract with a company for the purchase of goods or services unless the contract contains a written verification from the company of both of the following:

- (1) The company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association based solely on the entity's or association's status as a firearm entity or firearm trade association.
- (2) The company will not discriminate against a firearm entity or firearm trade association during the term of the contract based solely on the entity's or association's status as a firearm entity or firearm trade association.

Further provides that proposed law only applies to a contract with a value of \$100,000 or more that meets all of the following criteria:

- (1) It is to be paid partly or wholly from public funds.
- (2) It is between a public entity and a company with at least 10 full-time employees.
- (3) It is entered into on or after Aug. 1, 2022.

Further establishes exceptions to proposed law for sole-source provider contracts and circumstances where the public entity does not receive any bids from companies that are able to provide the written verification required by proposed law.

Proposed law provides that "discriminate against a firearm entity or firearm trade association" shall mean that a company:

- (1) Refuses to engage in the trade of any goods or services with the entity or association based solely on the entity's or association's status as a firearm entity or firearm trade association.
- (2) Refrains from continuing an existing business relationship with the entity or association based solely on the entity's or association's status as a firearm entity or firearm trade association.
- (3) Terminates an existing business relationship with the entity or association based solely on the entity's or association's status as a firearm entity or firearm trade association.

Further provides that a company does not "discriminate against a firearm entity or firearm trade association" if it refuses to engage in the trade of any goods or services, refrains from

continuing an existing business relationship, or declines to enter into, modifies, or terminates an existing business relationship for any of the following reasons:

- (1) To comply with federal, state, or local law, policy, or regulations or a directive by a regulator.
- (2) For any traditional or ordinary business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

Further provides that nothing in proposed law shall be construed to require a company that is a merchant, retail seller, or platform to sell or list for sale ammunition, firearms, or firearm accessories.

(Adds R.S. 38:2216.1 and R.S. 39:1602.2)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Appropriations to the original bill:

1. Remove wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or associations from the definition of "company" in proposed law.
2. Provide that a company does not "discriminate against a firearm entity or firearm trade association" if it refuses to engage in business with, refrains from continuing an existing business relationship with, or alters or terminates an existing business relationship for any ordinary business reason that is specific to the customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

The House Floor Amendments to the engrossed bill:

1. Change a defined term in proposed law from "governmental entity" to "public entity".
2. Make technical changes.