

2019 Regular Session

HOUSE BILL NO. 413

BY REPRESENTATIVES MIGUEZ, ABRAHAM, AMEDEE, BACALA, TERRY BROWN, CREWS, DEVILLIER, EDMONDS, GAROFALO, GUINN, LANCE HARRIS, HODGES, HOFFMANN, HORTON, HUVAL, LEOPOLD, MCMAHEN, JAY MORRIS, PEARSON, SEABAUGH, TALBOT, AND WRIGHT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

BANKS/BANKING: Provides that it shall be unlawful discrimination for a financial institution to refuse to provide services to any party because of the party's lawful engagement in commerce of firearms and ammunition

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(2) and to enact R.S. 6:424, relative to the refusal to
3 provide financial services; to provide definitions; to prohibit the refusal of financial
4 services to a person based solely upon that person's lawful engagement in the
5 commerce of, manufacturing of, servicing of, renting of, provision of training
6 relative to, or provision of a facility designed for qualifications, training, or practice
7 relative to firearms or ammunition; to provide for penalties; to provide for public
8 records exception; to provide for exceptions; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 6:424 is hereby enacted to read as follows:

11 §424. Refusal to provide financial services; penalties

12 A. As used in this Section:

13 (1) "Financial services" means any service or product offered to the
14 consumer or business market by a bank, credit union, financial institution, payment
15 processor, savings and loan association, or trust company.

16 (2) "Payment processor" means a company that facilitates communication
17 between the bank that issued a customer's debit or credit card and the seller's bank.

1 (3) "Trade association" means any corporation, unincorporated association,
2 federation, business league, or professional or business organization not organized
3 or operated for profit and no part of the net earnings of which inures to the benefit
4 of any private shareholder or individual; that is an organization described in Section
5 501(c)(6) of Title 26 of the United States Code and exempt from tax under Section
6 501(a) of such title; and two or more members of which are manufacturers or sellers
7 of a qualified product as defined by Section 7903(4) of Title 15 of the United States
8 Code.

9 B.(1) A bank, credit union, financial institution, payment processor, savings
10 and loan association, or trust company shall not refuse to provide financial services
11 of any kind to, refrain from continuing to provide existing financial services to,
12 terminate existing financial services with, or otherwise discriminate in the provision
13 of financial services against a person or trade association solely because a person or
14 trade association is engaged in the lawful commerce, purchase, sale, or manufacture
15 of firearms or ammunition products and is licensed pursuant to Chapter 44 of Title
16 18 of the United States Code, or the servicing of, renting of, provision of training
17 relative to, or provision of a facility designed for qualifications, training, or practice
18 relative to firearms or ammunition products, or is a trade association.

19 (2) It shall not be a violation of this Section for a bank, credit union,
20 financial institution, payment processor, savings and loan association, or trust
21 company to refuse to provide, refrain from continuing to provide, or terminate
22 financial services with a customer for any business reason or due to a directive by
23 a regulator. A business reason shall not mean a policy of refusing to provide
24 financial services to entities described in Paragraph (1) of this Subsection.

25 (3) Nothing in this Section shall prohibit a bank, credit union, financial
26 institution, payment processor, savings and loan association, or trust company from
27 complying with any federal or state law or regulation that conflicts with the
28 provisions of this Section.

1 C.(1) Whenever the attorney general is presented with direct credible
2 evidence and has reason to believe that any person is engaging, has engaged, or is
3 about to engage in any act or practice declared unlawful by the Section, the attorney
4 general may, upon written request or by his own initiative, investigate and, upon
5 finding a violation of this Section, bring an action, in a court of competent
6 jurisdiction, in the name of the state against such person to:

7 (a) Obtain a declaratory judgment that the act or practice violates the
8 provisions of this Section.

9 (b) Enjoin any act or practice that violates the provisions of this Section by
10 issuance of a temporary restraining order or preliminary or permanent injunction,
11 without bond, upon the giving of appropriate notice.

12 (c) Recover civil penalties of up to ten thousand dollars per violation of this
13 Section and reasonable expenses, investigative costs, and attorney fees.

14 (2) In order for the state to prevail in its action and to obtain the remedies set
15 forth in this Subsection, a court shall find clear and convincing evidence of a
16 violation of this Section.

17 (3) Any records, writings, accounts, letters, letter books, photographs or
18 copies thereof, and the information contained therein, in the custody or control of the
19 attorney general pursuant to the provisions of this Section shall be confidential and
20 shall be exempt from the Public Records Law, R.S. 44:1 et seq.

21 D. The provisions of this Section shall not apply to any bank, credit union,
22 financial institution, payment processor, savings and loan association, or trust
23 company that is chartered under the laws of this state, or any other state, to the extent
24 that federal law precludes or preempts, or has been determined to preclude or
25 preempt, the application of the provisions of this Section to any federally chartered
26 bank, credit union, financial institution, payment processor, savings and loan
27 association, or trust company.

1 Section 2. R.S. 44:4.1(B)(2) is hereby amended and reenacted to read as follows:

2 §4.1. Exceptions

3 * * *

4 B. The legislature further recognizes that there exist exceptions, exemptions,
5 and limitations to the laws pertaining to public records throughout the revised
6 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
7 limitations are hereby continued in effect by incorporation into this Chapter by
8 citation:

9 * * *

10 (2) R.S. 6:103, 122, 135, 424, 1308

11 * * *

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 413 Reengrossed

2019 Regular Session

Miguez

Abstract: Prohibits a bank, credit union, financial institution, payment processor, savings and loan association, or trust company from refusing to provide financial services to a person or trade association solely because the person or trade association is involved in the lawful commerce of firearms or ammunition.

Proposed law defines "financial services", "payment processor", and "trade association" as used in proposed law.

Proposed law prohibits a bank, credit union, financial institution, payment processor, savings and loan association, or trust company from refusing to provide financial services to, refrain from continuing to provide existing financial services, terminate existing financial services with, or otherwise discriminate in the provision of financial services against a person or trade association solely because the person or association is engaged in the lawful commerce, buying, selling, or manufacturing of firearms or ammunition and is licensed pursuant to present law.

Proposed law prohibits a bank, credit union, financial institution, payment processor, savings and loan association, or trust company from refusing to provide financial services to, refrain from continuing to provide existing financial services, terminate existing financial services with, or otherwise discriminate in the provision of financial services against a person solely because that person is engaged in the lawful servicing of, renting of, provision of training relative to, or provision of a facility designed for qualifications, training, or practice relative to firearms or ammunition.

Proposed law provides that it shall not be a violation of proposed law for a bank, credit union, financial institution, payment processor, savings and loan association, or trust company to refuse to provide financial services to a customer for any business reason or due

to a directive by a regulator. Proposed law provides that a business reason shall not mean a policy of refusing to provide financial services to entities described in proposed law.

Proposed law shall not prohibit a bank, credit union, financial institution, payment processor, savings and loan association, or trust company from complying with present law.

Proposed law authorizes the attorney general, when presented with direct credible evidence and having reason to believe there is a violation of proposed law, to investigate, and upon finding a violation of proposed law to bring an action in the name of the state.

Proposed law allows the attorney general to seek a declaratory judgment, preliminary or permanent injunction, and penalties of up to \$10,000 per violation of proposed law as well as expenses, investigative costs, and attorney fees.

Proposed law requires the state, in order to prevail in its action and to obtain the remedies set forth in proposed law, to find clear and convincing evidence of a violation of proposed law.

Proposed law provides that certain documents, and the information contained therein, in the custody or control of the attorney general pursuant to proposed law shall be confidential and be exempt from public records provisions contained in present law.

Proposed law provides that the provisions of proposed law shall not apply to any bank, credit union, financial institution, payment processor, savings and loan association, or trust company that is chartered under present law to the extent present law has been determined to preclude or preempt, the application of proposed law to any federally chartered bank, credit union, financial institution, payment processor, savings and loan association, or trust company.

(Amends R.S. 44:4.1(B)(2) and Adds R.S. 6:424)

Summary of Amendments Adopted by House

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

1. Expand the protection to persons who manufacture, service, rent, provide training relative to, or provide a facility designed for qualification, training, or practice relative to firearms or ammunition.
2. Add a provision mandating that the withholding of financial services for any business reason or directive by a regulator not be considered a violation.
3. Allow a bank, credit union, financial institution, payment processor, savings and loan association, or trust company to comply with any conflicting law or regulation.
4. Require the attorney general to be presented with direct credible evidence of a violation before initiating an investigation.
5. Remove the requirement that the attorney general investigate a violation, and instead, authorizes him to act if he chooses.
6. Remove the requirement that the violation be considered probable before an investigation can be initiated.
7. Require a court to find clear and convincing evidence of a violation, in order for the state to prevail in an action.

8. Create an exception for any bank, credit union, financial institution, payment processor, savings and loan association, or trust company that is chartered under present law, to the extent that federal law precludes or preempts, the application of proposed law to any federally chartered bank, credit union, financial institution, payment processor, savings and loan association, or trust company.

The House Floor Amendments to the engrossed bill:

1. Add a public records exemption.
2. Make technical changes.