

2021 Regular Session

HOUSE BILL NO. 118

BY REPRESENTATIVES FRIEMAN, BEAULLIEU, CREWS, DESHOTEL, DEVILLIER, EDMONSTON, EMERSON, FARNUM, FIRMENT, GADBERRY, HODGES, HORTON, IVEY, TRAVIS JOHNSON, MCCORMICK, MCFARLAND, MIGUEZ, CHARLES OWEN, ROBERT OWEN, ROMERO, SCHAMERHORN, AND SEABAUGH

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

WEAPONS/FIREARMS: Provides relative to enforcement of federal firearm laws

1 AN ACT

2 To enact Part V of Chapter 9 of Title 40 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 40:1813 through 1817, relative to enforcement of federal firearm
4 laws; to provide relative to infringements on a citizen's right to keep and bear arms;
5 to enact the Louisiana Firearm Protection Act; to prohibit enforcement of federal
6 firearm laws; to provide for definitions; to provide relative to application; to provide
7 relative to a right of action; to provide for an effective date; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Part V of Chapter 9 of Title 40 of the Louisiana Revised Statutes of 1950,
11 comprised of R.S. 40:1813 through 1817, is hereby enacted to read as follows:

12 PART V. LOUISIANA FIREARM PROTECTION ACT

13 §1813. Short title

14 This Part shall be known and may be cited as the "Louisiana Firearm
15 Protection Act".

16 §1814. Definitions

17 For purposes of this Part, the following definitions shall apply:

1 A. "Detachable firearm magazine" means an ammunition, as defined in R.S.
2 14:95.1.3, feeding device that can be loaded or unloaded while detached from a
3 firearm and readily inserted into a firearm.

4 B. "Firearm" means any automatic or semiautomatic pistol, rifle, or shotgun,
5 or any short barrel variant which is designed to fire or is capable of firing fixed
6 cartridge ammunition or from which a shot or projectile is discharged by an
7 explosive.

8 C. "Firearm accessory" means an item that is used in conjunction with or
9 mounted on a firearm that is not essential to the basic function of the firearm.
10 Firearm accessory includes detachable magazines, suppressors, interchangeable
11 barrels or barrel assemblies.

12 D. "Law-abiding citizen" means a person who is not otherwise precluded
13 under state law from possessing a firearm and shall not be construed to include
14 anyone who is not legally present in the United States or the state of Louisiana.

15 §1815. Prohibition

16 A. The following federal acts, laws, executive orders, administrative orders,
17 court orders, rules, and regulations shall be considered infringements on a citizen's
18 right to keep and bear arms as guaranteed by the Second Amendment of the United
19 States Constitution and Article I, Section 11 of the Constitution of Louisiana, within
20 the borders of this state including but not limited to:

21 (1) Any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or
22 ammunition not common to all other goods and services that may reasonably be
23 expected to create a chilling effect on the purchase or ownership of those items by
24 law-abiding citizens. Excise taxes collected pursuant to the Pittman-Robertson
25 Wildlife Restoration Act (16 U.S.C. 669 et seq.) are excluded from this prohibition.

26 (2) The registration or tracking of firearms, firearm accessories, or
27 ammunition that may reasonably be expected to create a chilling effect on the
28 purchase or ownership of those items by law-abiding citizens.

1 (3) Any registering or tracking of the owners of the firearms, firearm
2 accessories, or ammunition that may reasonably be expected to create a chilling
3 effect on the purchase or ownership of those items by law-abiding citizens.

4 (4) Any act forbidding the possession, ownership, or use or transfer of a
5 firearm, firearm accessory, or ammunition by law-abiding citizens.

6 (5) Any act ordering the confiscation of firearms, firearm accessories, or
7 ammunition from law-abiding citizens.

8 B. All federal acts, laws, executive orders, administrative orders, court
9 orders, rules, and regulations that infringe upon a citizen's right to keep and bear
10 arms as guaranteed by the Second Amendment of the United States Constitution and
11 Article I, Section 11 of the Constitution of Louisiana, if enacted after January 1,
12 2021, shall be held invalid and of no effect in this state.

13 §1816. Application

14 A. The provisions of this Part shall apply to any employee or official of the
15 state or a political subdivision.

16 B. Any employee or official described in Subsection A of this Section shall
17 not adopt a rule, order, ordinance, or policy under which the employee or official
18 explicitly or through consistent overt action enforces a federal statute, order, rule, or
19 regulation as provided by R.S. 40:1815.

20 C. Any employee or official described in Subsection A of this Section shall
21 not enforce or assist in the enforcement of any federal act, law, order, rule, or
22 regulation as provided by R.S. 40:1815.

23 D. Any employee or official described in Subsection A of this Section shall
24 not utilize any public or private funds or assets, in whole or in part, to engage in any
25 activity that aids a federal agency, federal agent, or corporation providing services
26 to the federal government in the enforcement of or any investigation pursuant to the
27 enforcement of any federal act, law, order, rule, or regulation as provided by R.S.
28 40:1815.

1 §1817. Right of action; appeals

2 A. Any person or official described in Subsection A of this Section who
3 violates R.S. 40:1815(B) or otherwise deprives a citizen of Louisiana of the rights
4 or privileges ensured by the Second Amendment of the United States Constitution
5 or Article I, Section 11 of the Constitution of Louisiana while acting under the color
6 of any local, state, or federal law, rule, or order shall be liable to the injured party in
7 an action at law or other proper proceeding for redress.

8 (1) In such actions, the court may award the prevailing party, other than the
9 state of Louisiana or any political subdivision of the state, reasonable attorney fees
10 and costs.

11 (2) Sovereign, official, or qualified immunity shall not be an affirmative
12 defense in such actions.

13 B. A political subdivision of this state shall be ineligible to receive state
14 funding distribution of which is not required by the Constitution of Louisiana if the
15 political subdivision violates R.S. 40:1815(B). State grant funds for the political
16 subdivision shall be denied for the fiscal year following the year in which the final
17 judicial determination has been made in an action brought under this Section
18 determining that the political subdivision has violated this Part.

19 C. An appeal of a suit brought under this Section is governed by the
20 procedures for expedited appeals in civil cases pursuant to Rule 2-11.2 of the
21 Uniform Rules of Louisiana Courts of Appeals. The appellate court shall render its
22 final order or judgment with the least possible delay.

23 Section 2. This Act shall become effective upon signature by the governor or, if not
24 signed by the governor, upon expiration of the time for bills to become law without signature
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become
27 effective on the day following such approval.

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 118 Reengrossed

2021 Regular Session

Frieman

Abstract: Creates the Louisiana Firearm Protection Act; provides for definitions; provides relative to infringements on a citizen's right to keep and bear arms; provides for application of the Act; and specifies who has a right of action.

Proposed law provides definitions for the following terms: "detachable firearm magazine", "firearm", "firearm accessory", and "law-abiding citizen".

Proposed law provides that federal regulation infringes on a citizen's right to keep and bear arms when the following occurs, but is not limited to:

- (1) Any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or ammunition not common to all other goods and services that may reasonably be expected to create a chilling effect on the purchase or ownership of those items by law-abiding citizens. Excise taxes collected pursuant to the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.) are excluded from this prohibition.
- (2) Any registering or tracking of firearms, firearm accessories, or ammunition that may reasonably be expected to create a chilling effect on the purchase or ownership of those items by law-abiding citizens.
- (3) Any registering or tracking of the owners of the firearms, firearm accessories, or ammunition that may reasonably be expected to create a chilling effect on the purchase or ownership of those items by law-abiding citizens.
- (4) Any act forbidding the possession, ownership, or use or transfer of a firearm, firearm accessory, or ammunition by law-abiding citizens.
- (5) Any act ordering the confiscation of firearms, firearm accessories, or ammunition from law-abiding citizens.

Proposed law provides that a federal action infringing upon a citizen's right to keep and bear arms shall be held invalid and of no effect in this state, regardless if enacted after Jan. 1, 2021.

Proposed law specifies that proposed law is applicable to any employee or official of the state or a political subdivision.

Proposed law prohibits any employee or official described in proposed law from the following when such regulation does not exist under La. law:

- (1) Adopting a rule, order, ordinance, or policy under which the entity explicitly or through consistent overt action enforces a federal regulation that purports to regulate a firearm, firearm accessory, or ammunition.
- (2) Enforcing or assisting in the enforcement of any federal act, law, order, rule, or regulation as provided by proposed law.

- (3) Utilizing any assets, state funds, or funds allocated by the state to local entities to engage in any activity that aids in federal regulation regarding a firearm, firearm accessory, or ammunition.

Proposed law provides that an employee or official who violates proposed law shall be liable to the injured party in an action at law or other proceeding for redress, and proposed law allows the court to award the prevailing party, other than the state or any political subdivision, reasonable attorney fees and costs.

Proposed law prohibits a political subdivision from receiving grant funds from the state if the political subdivision violates proposed law.

Proposed law further specifies that grant funds shall be denied for the fiscal year following the year in which the final judicial determination has been made in an action brought under proposed law determining that the entity has violated proposed law.

Proposed law specifies that an appeal of a suit brought under proposed law is governed by procedures for expedited appeals in civil cases pursuant to Rule 2-11.2 of the Uniform Rules of La. Courts of Appeals.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 40:1813-1817)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make technical changes.
2. Specify that a law-abiding citizen shall not be construed to include anyone who is not legally present in the U.S. or La.
3. Provide that all federal acts, laws, executive orders, administrative orders, court rules, and regulations enacted after Jan. 1, 2021, shall be held invalid and of no effect.

The House Floor Amendments to the engrossed bill:

1. Amend the definitions of "firearm" and "firearm accessory".
2. Make technical changes.
3. Provide that proposed law shall be applicable to any employee or official of the state or political subdivision.
4. Make grammatical changes to reflect the change made to applicability of proposed law.
5. Specify that if the political subdivision violates proposed law, the political subdivision shall be ineligible to receive certain state funding.