
DIGEST

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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.