

2023 Regular Session

HOUSE BILL NO. 331

BY REPRESENTATIVE CARRIER

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

WEAPONS/FIREARMS: Provides relative to automatic weapons

1 AN ACT

2 To amend and reenact R.S. 40:1751, 1752, 1755, and 1781(3) and (5) and to repeal R.S.
3 40:1753 and 1754, relative to automatic weapons; to provide for definitions; to
4 provide for penalties and exceptions relative to the manufacture, transfer, or
5 possession of automatic weapons; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:1751, 1752, 1755, and 1781(3) and (5) are hereby amended and
8 reenacted to read as follows:

9 §1751. Definitions

10 For purposes of this Part, "machine gun" ~~includes all firearms of any calibre,~~
11 ~~commonly known as machine rifles, machine guns, and sub-machine guns, capable~~
12 ~~of automatically discharging more than eight cartridges successively without~~
13 ~~reloading, in which the ammunition is fed to the gun from or by means of clips,~~
14 ~~disks, belts, or some other separable mechanical device. "Manufacturer" includes~~
15 ~~all persons manufacturing machine guns; "Merchant" includes all persons dealing~~
16 ~~with machine guns as merchandise.~~ means any weapon which shoots, is designed to
17 shoot, or can be readily restored to shoot, automatically more than one shot without
18 manual reloading, by a single function of the trigger. The term shall also include the
19 frame or receiver of any such weapon, and any part designed and intended solely and
20 exclusively, or combination of parts designed and intended, for use in converting a

1 weapon into a machine gun. The term shall not include items that are not required
2 to be registered in the National Firearms Registration and Transfer Record
3 maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives.

4 §1752. Handling Manufacture, transfer, or possession of machine guns unlawful;
5 exceptions

6 ~~No person shall sell, keep or offer for sale, loan or give away, purchase,~~
7 ~~possess, carry, or transport any machine gun within this state, except that:~~

8 (1) ~~All duly appointed peace officers may purchase, possess, carry, and~~
9 ~~transport machine guns.~~

10 (2) ~~This Part does not apply to the Army, Navy, or Marine Corps of the~~
11 ~~United States, the National Guard, and organizations authorized by law to purchase~~
12 ~~or receive machine guns from the United States or from this state. The members of~~
13 ~~such Corps, National Guard, and organizations may possess, carry, and transport~~
14 ~~machine guns while on duty.~~

15 (3) ~~Persons possessing war relics may purchase and possess machine guns~~
16 ~~which are relics of any war in which the United States was involved, may exhibit and~~
17 ~~carry the machine guns in the parades of any military organization, and may sell,~~
18 ~~offer to sell, loan, or give the machine guns to other persons possessing war relics.~~

19 (4) ~~Guards or messengers employed by common carriers, banks, and trust~~
20 ~~companies, and pay-roll guards or messengers may possess and carry machine guns~~
21 ~~while actually employed in and about the shipment, transportation, or delivery, or in~~
22 ~~the guarding of any money, treasure, bullion, bonds, or other thing of value. Their~~
23 ~~employers may purchase or receive machine guns and keep them in their possession~~
24 ~~when the guns are not being used by their guards or messengers.~~

25 (5) ~~Manufacturers and merchants may sell, keep or offer for sale, loan or~~
26 ~~give away, purchase, possess, and transport machine guns in the same manner as~~
27 ~~other merchandise except as otherwise provided in this Part. Common carriers may~~
28 ~~possess and transport unloaded machine guns as other merchandise.~~

1 §1781. Definitions

2 For the purpose of this Part, the following terms have the meanings ascribed
3 to them in this Section:

4 * * *

5 (3) "Firearm" means a shotgun having a barrel of less than eighteen inches
6 in length; a rifle having a barrel of less than sixteen inches in length; any weapon
7 made from either a rifle or a shotgun if said weapon has been modified to have an
8 overall length of less than twenty-six inches; any other firearm, pistol, revolver, or
9 shotgun from which the serial number or mark of identification has been obliterated,
10 from which a shot is discharged by an explosive, if that weapon is capable of being
11 concealed on the person; or a machine gun, grenade launcher, ~~flame thrower,~~
12 bazooka, rocket launcher, excluding black powder weapons, or gas grenade; and
13 includes a muffler or silencer for any firearm, whether or not the firearm is included
14 within this definition. Pistols and revolvers and those rifles and shotguns which have
15 not previously been defined in this Paragraph as firearms from which serial numbers
16 or marks of identification have not been obliterated are specifically exempt from this
17 definition.

18 * * *

19 (5) "Machine gun" means any weapon, ~~including a submachine gun, which~~
20 ~~shoots or is designed to shoot automatically more than one shot without manual~~
21 ~~reloading, by a single function of the trigger.~~ which shoots, is designed to shoot, or
22 can be readily restored to shoot, automatically more than one shot, without manual
23 reloading by a single function of the trigger. The term shall also include the frame
24 or receiver of any such weapon, and any part designed and intended solely and
25 exclusively, or combination of parts designed and intended, for use in converting a
26 weapon into a machine gun. The term shall not include items that are not required
27 to be registered in the National Firearms Registration and Transfer Record
28 maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives.

29 * * *

1 Section 2. R.S. 40:1753 and 1754 are hereby repealed in their entirety.

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 331 Engrossed

2023 Regular Session

Carrier

Abstract: Provides relative to the manufacture, transfer, or possession of automatic weapons.

Present law (R.S. 40:1751) provides for the definition of the term "machine gun" and defines the term to mean all firearms of any calibre, commonly known as machine rifles, machine guns, and sub-machine guns, capable of automatically discharging more than eight cartridges successively without reloading, in which the ammunition is fed to the gun from or by means of clips, disks, belts, or some other separable mechanical device.

Proposed law amends present law to define the term "machine gun" to mean any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot without manual reloading, by a single function of the trigger.

Proposed law further provides that the term shall also include the frame or receiver of any such weapon, and any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun.

Proposed law further provides that the term shall not include items that are not required to be registered in the National Firearms Registration and Transfer Record maintained by the ATF.

Present law (R.S. 40:1752) provides for the unlawful handling of machine guns and further provides that no person shall sell, keep or offer for sale, loan or give away, purchase, possess, carry, or transport any machine gun within La.

Present law further provides for exceptions to this prohibition.

Proposed law amends present law to prohibit the manufacture, transfer, or possession of machine guns. Further provides that no person shall manufacture, transfer, or possess a machine gun within La.

Proposed law does not apply to any of the following:

- (1) A transfer to or from, or possession by or under the authority of, the U.S. or any department or agency thereof.
- (2) A transfer to or from, or possession by or under the authority of, any state of the U.S. or a department, agency, or political subdivision thereof.
- (3) Any machine gun that is lawfully manufactured, transferred, or possessed under federal law.

Present law (R.S. 40:1753) provides for the transfer of machine guns in certain cases.

Proposed law repeals present law.

Present law (R.S. 40:1754) provides for registers of machine guns and inspections of those registers.

Proposed law repeals present law.

Present law (R.S. 40:1755(A) and (B)) provides for a penalty of imprisonment at hard labor for not less than one year nor more than 10 years for any manufacturer who:

- (1) Passes possession of or delivers a machine gun to any person in violation of present law. (R.S. 40:1753).
- (2) Fails to keep an accurate register, as required in present law (R.S. 40:1754).
- (3) Fails to produce or account for a sheriff's permit for each machine gun sold by him for which a permit is necessary under the provisions of present law (R.S. 40:1753).

Proposed law repeals present law (R.S. 40:1755(A)), but retains present law (R.S. 40:1755(B)) which provides a penalty of imprisonment at hard labor for not less than one year nor more than 10 years.

Present law (R.S. 40:1755(C)) provides that whoever, having been convicted of murder, armed or simple robbery, aggravated or simple burglary, or aggravated battery, or an attempt to commit any one of those crimes, thereafter violates any of the provisions of present law shall be imprisoned at hard labor for not less than three years nor more than 10 years.

Proposed law retains present law regarding the penalty, but amends present law to provide that any person who has been convicted of, or found not guilty by reason of insanity for, a crime of violence as defined in present law (R.S. 14:2(B)) which is a felony, or an attempt to commit any crime of violence as defined in present law (R.S. 14:2(B)) which is a felony, who thereafter violates any of the provisions of present law (R.S. 40:1752) shall be imprisoned at hard labor for not less than three nor more than 10 years.

Present law (R.S. 40:1781) provides for definitions for various terms, including "firearm" and "machine gun".

Proposed law amends the present law definition of "firearm" to remove flame throwers.

Proposed law amends the present law definition of "machine gun" to mean any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading by a single function of the trigger.

Proposed law further provides that the term shall also include the frame or receiver of any such weapon, and any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun.

Proposed law further provides that the term shall not include items that are not required to be registered in the National Firearms Registration and Transfer Record maintained by the ATF.

(Amends R.S. 40:1751, 1752, 1755, and 1781(3) and (5); Repeals R.S. 40:1753 and 1754)