SLS 16RS-415 **ORIGINAL**

2016 Regular Session

SENATE BILL NO. 153

BY SENATOR CLAITOR

WEAPONS. Removes certain provisions regarding prosecution of the possession of a firearm with obliterated, removed, changed or altered number or mark which were declared unconstitutional. (8/1/16)

AN ACT

To amend and reenact R.S. 40:1788(B), relative to firearms; to provide regarding an identification number or other mark on a firearm; to delete provisions relative to a presumption of guilt against a defendant in possession of a firearm with an identification number or mark that has been removed or altered; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1788(B) is hereby amended and reenacted to read as follows:

§1788. Identification with number or other mark; obliteration or alteration of number or mark

* * *

B. No one shall obliterate, remove, change, or alter this number or mark. ~~Whenever, in a trial for a violation of this Sub-section, the defendant is shown to have or to have had possession of any firearm upon which the number or mark was obliterated, removed, changed, or altered, that possession is sufficient evidence to authorize conviction unless the defendant explains it to the satisfaction of the court.~~

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Dawn Romero Watson.

DIGEST

SB 153 Original 2016 Regular Session Claitor

Present law requires each manufacturer, importer, and dealer in any firearm to identify it with a number or other identification mark approved by the DPS&C (Public Safety Services) and to mark or stamp or otherwise place the number or mark on the firearm in a manner approved by DPS&C (Public Safety Services).

Proposed law retains present law.

Present law prohibits the obliteration, removal, change or alteration of the number or mark.

Proposed law retains present law.

Present law provides that whenever, in a trial for a violation of present law, the defendant is shown to have or to have had possession of any firearm upon which the number or mark was obliterated, removed, changed, or altered, that possession is sufficient evidence to authorize a conviction unless the defendant explains it to the satisfaction of the court. However, in the case of *State v Taylor*, 396 So.2d 1278, 1281 (La. 1981), the Louisiana Supreme Court held that the presumption of guilt in present law was unconstitutional.

Proposed law deletes the portion of present law that was held unconstitutional.

Effective August 1, 2016.

(Amends R.S. 40:1788(B))

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.