

2022 Regular Session

HOUSE BILL NO. 43

BY REPRESENTATIVES FRIEMAN, MCCORMICK, AND CHARLES OWEN

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 As used in this Part, the following terms have the following meanings:

18 (1) "Detachable firearm magazine" means an ammunition, as defined in R.S.  
19 14:95.1.3, feeding device that can be loaded or unloaded while detached from a  
20 firearm and readily inserted into a firearm.

1           (2) "Firearm" means any automatic or semiautomatic pistol, rifle, or shotgun,  
2           or any short barrel variant which is designed to fire or is capable of firing fixed  
3           cartridge ammunition or from which a shot or projectile is discharged by an  
4           explosive.

5           (3) "Firearm accessory" means an item that is used in conjunction with or  
6           mounted on a firearm that is not essential to the basic function of the firearm.  
7           Firearm accessory includes detachable magazines, suppressors, interchangeable  
8           barrels or barrel assemblies.

9           (4) "Law-abiding citizen" means a person who is not otherwise precluded  
10           under state law from possessing a firearm and shall not be construed to include  
11           anyone who is not legally present in the United States or the state of Louisiana.

12           §1815. Prohibition

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

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

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

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

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

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

5           B. All federal acts, laws, executive orders, administrative orders, court  
6           orders, rules, and regulations that infringe upon a citizen's right to keep and bear  
7           arms as guaranteed by the Second Amendment of the United States Constitution and  
8           Article I, Section 11 of the Constitution of Louisiana, if enacted after January 1,  
9           2022, shall be held invalid and of no effect in this state.

10           §1816. Application

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

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

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

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

26           §1817. Right of action; appeals

27           A. Any person or official described in Subsection A of this Section who  
28           violates R.S. 40:1815(B) or otherwise deprives a citizen of Louisiana of the rights  
29           or privileges ensured by the Second Amendment of the United States Constitution

1 or Article I, Section 11 of the Constitution of Louisiana while acting under the color  
2 of any local, state, or federal law, rule, or order shall be liable to the injured party in  
3 an action at law or other proper proceeding for redress.

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

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

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

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

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

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#### 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)]

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HB 43 Engrossed

2022 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, 2022.

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)