

2024 Regular Session

HOUSE BILL NO. 62

BY REPRESENTATIVE MCCORMICK

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 1819, relative to enforcement of federal firearm
4 laws; to enact the "Second Amendment Preservation Act"; to provide for a statement
5 of legislative intent; to provide for definitions; to provide relative to infringements
6 on a citizen's right to keep and bear arms; to prohibit enforcement of federal firearm
7 laws; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part V of Chapter 9 of Title 40 of the Louisiana Revised Statutes of 1950,
10 comprised of R.S. 40:1813 through 1819, is hereby enacted to read as follows:

11 PART V. SECOND AMENDMENT PRESERVATION ACT

12 §1813. Short title

13 This Part shall be known and may be cited as the "Second Amendment
14 Preservation Act".

15 §1814. Legislative intent

16 The legislature finds and declares all of the following:

17 (1) The Louisiana Legislature is firmly resolved to support and defend the
18 United States Constitution against every aggression, whether foreign or domestic,
19 and is duty bound to oppose every infraction of those principles that constitute the

1 basis of the union of the states because only a faithful observance of those principles
2 can secure the nation's existence and the public happiness.

3 (2) The people of the original thirteen states, acting through the United States
4 Constitution, created the federal government to be their agent in the exercise of a few
5 defined powers, while reserving to the state governments the power to legislate on
6 matters that concern the lives, liberties, and properties of citizens in the ordinary
7 course of affairs.

8 (3) The limitation of the federal government's power is affirmed under the
9 Tenth Amendment to the United States Constitution, which defines the total scope
10 of federal power as being that which has been delegated by the people of the several
11 states to the federal government. All power not delegated to the federal government
12 in the United States Constitution is reserved to the states respectively, or to the
13 people themselves.

14 (4) If the federal government assumes powers that the people did not grant
15 it in the United States Constitution, its acts are unauthoritative and have no force.

16 (5) The several states of the United States of America respect the proper role
17 of the federal government, but reject the proposition that such respect requires
18 unlimited submission. If the government, created by a compact among the states,
19 was the exclusive or final judge of the extent of the powers granted to it by the states
20 through the United States Constitution, the federal government's discretion, and not
21 the United States Constitution, would necessarily become the measure of those
22 powers. To the contrary, as in all other cases of compacts among powers having no
23 common judge, each party has an equal right to judge for itself as to whether
24 infractions of the compact have occurred, as well as to determine the mode and
25 measure of redress. Although the several states have granted supremacy to laws and
26 treaties made under the powers granted in the United States Constitution, such
27 supremacy does not extend to various federal statutes, executive orders,
28 administrative orders, court orders, rules, regulations, or other actions which restrict
29 or prohibit the manufacture, ownership, and use of firearms, firearm accessories, or

1 ammunition exclusively within the borders of Louisiana. All such statutes, executive
2 orders, administrative orders, court orders, rules, regulations, and other actions
3 exceed the powers granted to the federal government except to the extent they are
4 necessary and proper for governing and regulating land and naval forces of the
5 United States or for organizing, arming, and disciplining of militia forces actively
6 employed in the service of the armed forces of the United States.

7 (6) The people of the original thirteen states gave congress the power to
8 regulate commerce with foreign nations, and among the several states, but regulation
9 of commerce does not include the power to limit the right of citizens to keep and
10 bear arms in defense of their families, neighbors, persons, or property, or to dictate
11 as to what sort of arms and accessories law-abiding Louisianans may buy, sell,
12 exchange, or otherwise possess within the borders of this state.

13 (7) The people of the original thirteen states also granted congress the power
14 to lay and collect taxes, duties, imports, and excises, to pay the debts, and provide
15 for the common defense and general welfare of the United States and to make all
16 laws which shall be necessary and proper for carrying into execution the powers
17 vested by the United States Constitution in the government of the United States, or
18 in any department or office thereof. These constitutional provisions merely identify
19 the means by which the federal government may execute its limited powers and shall
20 not be so construed to grant unlimited power because to do so would be to destroy
21 the carefully constructed equilibrium between the federal and state governments.
22 Consequently, the legislature rejects any claim that the taxing and spending powers
23 of congress can be used to diminish in any way the right of the people to keep and
24 bear arms.

25 (8) The Louisiana Legislature finds that the federal excise tax rate on arms
26 and ammunition in effect prior to January 1, 2024, which funds programs under the
27 Pittman-Robertson Wildlife Restoration Act as provided in 16 U.S.C. §669 et seq,
28 does not have a chilling effect on the purchase or ownership of such arms and
29 ammunition.

1 (9) The people of Louisiana vested the legislature with the authority to
2 regulate the manufacture, possession, exchange, and use of firearms within the
3 borders of this state, subject only to the limits imposed by the Second Amendment
4 to the Constitution of the United States and by Article I, Section 11 of the
5 Constitution of Louisiana.

6 (10) The Louisiana Legislature strongly promotes responsible gun
7 ownership, including parental supervision of minors in the proper use, storage, and
8 ownership of all firearms, the prompt reporting of stolen firearms, and the proper
9 enforcement of all state gun laws. The Louisiana Legislature hereby condemns any
10 unlawful transfer of firearms and the use of any firearm in any criminal or unlawful
11 activity.

12 §1815. Definitions

13 For the purposes of this Part, the following terms shall have the following
14 meanings:

15 (1) "Law-abiding citizen" shall mean any person who is not otherwise
16 precluded under state law from possessing a firearm and shall not be construed to
17 include anyone who is not legally present in the United States or the state of
18 Louisiana.

19 (2) "Material aid" shall mean any assistance that allows a person to make use
20 of lodging, communications equipment or services, social media accounts, facilities,
21 weapons, personnel, transportation, clothing, or other physical assets. This term shall
22 not include the provision or allowance of the use of medicine or other materials
23 necessary to treat physical injuries or assistance to aid the escape of a serious,
24 present risk of life-threatening injury.

25 (3) "Political subdivision" shall mean any municipality, town, village,
26 district, parish, special service district, school board, school district, or other public
27 body, the state or any agency thereof created under state law.

28 (4) "Public office" shall mean any state agency, public institution, political
29 subdivision, or other organized body, office, agency, institution, or entity established
30 by the laws of this state for the exercise of any function of government.

1 (5) "Public officer" shall mean any officer, employee, or duly authorized
2 representative or agent of a public office in this state.

3 §1816. Prohibitions

4 No public office, public officer, employee, or political subdivision of this
5 state shall enforce or attempt to enforce, give or attempt to give material aid to, or
6 participate in the enforcement of any federal acts, executive orders, administrative
7 orders, rules, regulations, statutes, or ordinances regarding firearms, firearm
8 accessories, or ammunition against any law-abiding citizen.

9 §1817. Right of action; liability of political subdivision or law enforcement agency

10 A. Any political subdivision or law enforcement agency that employs a law
11 enforcement officer who knowingly violates the provisions of R.S. 40:1816 while
12 acting under the color of any state or federal law, shall be civilly liable to the injured
13 party and subject to a civil penalty of fifty thousand dollars per occurrence.

14 B. Any law-abiding citizen who is injured under this Section shall have
15 standing to bring an action for injunctive relief in the district court of the parish
16 where the political subdivision or law enforcement agency is located. The district
17 court shall hold a preliminary injunction hearing within thirty days of service of the
18 petition on the political subdivision or law enforcement agency.

19 C. In any action brought pursuant to this Section, the court may award the
20 prevailing party, other than the state or any political subdivision of the state,
21 reasonable attorney fees and costs.

22 D. Sovereign, official, or qualified immunity shall not be an affirmative
23 defense in any action brought pursuant to this Section.

24 §1818. Prohibition; knowledge of previous violations

25 A. A political subdivision or law enforcement agency shall be subject to a
26 civil penalty of fifty thousand dollars per employee hired if it knowingly employs an
27 individual who is acting or who has previously acted as an official, agent, employee,
28 or deputy of the government of the United States, or otherwise if that individual
29 acted under the color of federal law within the United States and knowingly commits
30 any of the following acts on or after July 1, 2024:

1 (a) The enforcement, attempt to enforce, or participation in the enforcement
2 or implementation of any federal acts, executive orders, administrative orders, rules,
3 regulations, statutes, or ordinances regarding firearms, firearm accessories, or
4 ammunition against a law-abiding citizen.

5 (b) The giving or providing, or attempts to give or provide, material aid or
6 support to the efforts of another in the enforcement or implementation of any federal
7 acts, executive orders, administrative orders, rules, regulations, statutes, or
8 ordinances regarding firearms, firearm accessories, or ammunition against a law-
9 abiding citizen.

10 B. Any law-abiding citizen who resides or conducts business in a political
11 subdivision of this state who believes that an individual has taken action that would
12 violate the provisions of this Section shall have standing to bring an action for
13 injunctive relief in the district court of the parish where the political subdivision or
14 law enforcement agency is located.

15 C. The district court shall hold a preliminary injunction hearing within thirty
16 days of service of the petition on the political subdivision or law enforcement
17 agency.

18 D. In any action brought pursuant to this Section, the court may award the
19 prevailing party, other than the state or any political subdivision of the state,
20 reasonable attorney fees and costs.

21 E. Sovereign, official, or qualified immunity shall not be an affirmative
22 defense in such actions.

23 §1819. Exceptions

24 A. Nothing in this Part shall prohibit any of the following:

25 (1) Accepting federal assistance for the enforcement of the laws of this state.

26 (2) Assisting federal officials who are in pursuit of a suspect when there is
27 a demonstrable criminal nexus with another state or country and such suspect is
28 neither a citizen of this state nor is present in this state.

29 (3) Providing material aid for the federal prosecution of any felony violations
30 of Part II of Chapter 1 of Title 14 of the Revised Louisiana Statutes of 1950 or any

1 felony violations of Part X of Chapter 4 of this Title pertaining to Schedule I or
2 Schedule II controlled dangerous substances, provided that such weapons violations
3 are ancillary to prosecution.

4 Section 2. This Act shall become effective on July 1, 2024, and shall be applicable
5 to offenses committed on and after such date.

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 62 Original

2024 Regular Session

McCormick

Abstract: Creates the "Second Amendment Preservation Act" and provides relative to infringements on the right to keep and bear arms.

Proposed law shall be known and may be cited as the "Second Amendment Preservation Act".

Proposed law provides for a statement of legislative intent.

Proposed law provides for definitions for the terms "law-abiding citizen", "material aid", "political subdivision", "public office", and "public officer".

Proposed law provides that no public office, public officer, employee, or political subdivision of La. shall enforce or attempt to enforce, give or attempt to give material aid to, or participate in the enforcement of any federal acts, executive orders, administrative orders, rules, regulations, statutes, or ordinances regarding firearms, firearm accessories, or ammunition against any law-abiding citizen.

Proposed law provides that any political subdivision or law enforcement agency that employs a law enforcement officer who knowingly violates the provisions of proposed law while acting under the color of any state or federal law, shall be civilly liable to the injured party and subject to a civil penalty of \$50,000 per occurrence.

Proposed law provides that any law-abiding citizen who is injured under proposed law shall have standing to bring an action for injunctive relief in the district court of the parish where the political subdivision or law enforcement agency is located. Further provides that the district court shall hold a preliminary injunction hearing within 30 days of service of the petition on the political subdivision or law enforcement agency.

Proposed law provides that In any action brought pursuant to proposed law, the court may award the prevailing party, other than the state or any political subdivision of the state, reasonable attorney fees and costs.

Proposed law provides that sovereign, official, or qualified immunity shall not be an affirmative defense in any action brought pursuant to proposed law.

Proposed law provides that a political subdivision or law enforcement agency shall be subject to a civil penalty of \$50,000 per employee hired if it knowingly employs an individual who is acting or who has previously acted as an official, agent, employee, or deputy of the government of the United States, or otherwise if that individual acted under

the color of federal law within the United States and knowingly commits any of the following acts against a law-abiding citizen on or after July 1, 2024:

- (1) The enforcement, attempt to enforce, or participation in the enforcement or implementation of any federal acts, executive orders, administrative orders, rules, regulations, statutes, or ordinances regarding firearms, firearm accessories, or ammunition.
- (2) The giving or providing, or attempts to give or provide, material aid or support to the efforts of another in the enforcement or implementation of any federal acts, executive orders, administrative orders, rules, regulations, statutes, or ordinances regarding firearms, firearm accessories, or ammunition.

Proposed law provides that any law-abiding citizen who resides or conducts business in a political subdivision of La. who believes that an individual has taken action that would violate the provisions of proposed law shall have standing to bring an action for injunctive relief in the district court of the parish where the political subdivision or law enforcement agency is located.

Proposed law provides that the district court shall hold a preliminary injunction hearing within 30 days of service of the petition on the political subdivision or law enforcement agency.

Proposed law provides that in any action brought pursuant to proposed law, the court may award the prevailing party, other than the state or any political subdivision of the state, reasonable attorney fees and costs.

Proposed law provides that sovereign, official, or qualified immunity shall not be an affirmative defense in such actions.

Proposed law provides for the following exceptions to proposed law:

- (1) Accepting federal assistance for the enforcement of the laws of La.
- (2) Assisting federal officials who are in pursuit of a suspect when there is a demonstrable criminal nexus with another state or country and such suspect is neither a citizen of La. nor is present in La.
- (3) Providing material aid for the federal prosecution of any felony violations of present law (Part II of Ch. 1 of Title 14 of the Revised La. Statutes of 1950) or any felony violations of present law (Part X of Ch. 4 of Title 40 of the Revised La. Statutes of 1950) pertaining to Schedule I or Schedule II controlled dangerous substances, provided that such weapons violations are ancillary to prosecution.

Proposed law provides for an effective date of July 1, 2024, and shall be applicable to offenses committed on and after such date.

(Adds R.S. 40:1813-1819)