

SENATE BILL NO. 139

BY SENATOR HARRIS

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

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AN ACT

To amend and reenact Code of Criminal Procedure Art. 893.2, relative to the sentence imposed when a firearm is discharged, used, or actually possessed during the commission of certain offenses; to provide relative to the procedure for such determinations; to provide relative to the court's authority to consider certain evidence and hold a contradictory hearing in this regard; to provide that the determination of whether a firearm was discharged, used, or actually possessed during the commission of an offense is a specific finding of fact to be submitted to the jury; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 893.2 is hereby amended and reenacted to read as follows:

Art. 893.2. Discharge, use, or possession of firearm in commission of a felony or a specifically enumerated misdemeanor; submission to jury

If a motion was filed by the state in compliance with Article 893.1, a determination shall be made as to whether a firearm was discharged, or used during the commission of the felony or specifically enumerated misdemeanor, or actually possessed during the commission of a felony which is a crime of violence as defined by R.S. 14:2(B), felony theft, simple burglary, simple burglary of an inhabited dwelling, unauthorized entry of an inhabited dwelling, production, manufacturing, distribution, dispensing, or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Law, or specifically enumerated misdemeanor and whether the mandatory minimum sentencing provisions of Article

1           893.3 have been shown to be applicable. Such determination is a specific finding of  
2           fact to be submitted to the jury and proven by the state beyond a reasonable doubt.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_