

2018 Regular Session

HOUSE BILL NO. 357

BY REPRESENTATIVE MARCELLE

WEAPONS/FIREARMS: Prohibits a person convicted of a hate crime from possessing a firearm or carrying a concealed weapon

1 AN ACT

2 To enact R.S. 14:95.11, relative to the illegal carrying of weapons; to prohibit persons
3 convicted of a hate crime under certain circumstances from possessing a firearm or
4 carrying a concealed weapon; to provide criminal penalties; to provide for
5 exceptions; to define "firearm"; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:95.11 is hereby enacted to read as follows:

8 §95.11. Possession of a firearm or carrying of a concealed weapon by a person
9 convicted of a hate crime

10 A. It is unlawful for any person who has been convicted of a hate crime in
11 violation of R.S. 14:107.2, if the underlying offense for the hate crime is a felony,
12 to possess a firearm or carry a concealed weapon.

13 B. Whoever is found guilty of violating the provisions of this Section shall
14 be imprisoned with or without hard labor for not less than one year nor more than
15 five years and shall be fined not less than five hundred dollars nor more than one
16 thousand dollars.

17 C. A person shall not be considered to have been convicted of a hate crime
18 for purposes of this Section unless the person was represented by counsel in the case,
19 or knowingly and intelligently waived the right to counsel in the case; and in the case
20 of a prosecution for an offense described in this Section for which a person was

1 entitled to a jury trial in the jurisdiction in which the case was tried, either the case
 2 was tried by a jury, or the person knowingly and intelligently waived the right to
 3 have the case tried by a jury, by guilty plea or otherwise. A person shall not be
 4 considered convicted of a hate crime in violation of R.S. 14:107.2 for the purposes
 5 of this Section if the conviction has been expunged, set aside, or is an offense for
 6 which the person has been pardoned or had civil rights restored unless the pardon,
 7 expungement, or restoration of civil rights expressly provides that the person may
 8 not ship, possess, or receive firearms.

9 D. The provisions of this Section prohibiting the possession of firearms and
 10 carrying concealed weapons by persons who have been convicted of a hate crime in
 11 violation of R.S. 14:107.2 shall not apply to any person who has not been convicted
 12 of a hate crime in violation of R.S. 14:107.2 for a period of ten years from the date
 13 of completion of sentence, probation, parole, or suspension of sentence.

14 E. For the purposes of this Section, "firearm" means any pistol, revolver,
 15 rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle
 16 which is designed to fire or is capable of firing fixed cartridge ammunition or from
 17 which a shot or projectile is discharged by an explosive.

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 357 Engrossed

2018 Regular Session

Marcelle

Abstract: Prohibits persons convicted of a hate crime, the underlying offense for which is a felony, from possessing a firearm or carrying a concealed weapon, provides certain exceptions, and provides criminal penalties.

Present law (R.S. 14:107.2) prohibits any person who engages in certain enumerated offenses from selecting the victim of the offense because of that person's actual or perceived race, age, gender, color, religion, ancestry, national origin, disability, creed, sexual orientation, or organizational affiliation, or if the victim is selected based upon their actual or perceived employment as a law enforcement officer, firefighter, or emergency medical services personnel. For persons who violate this prohibition, also known as a "hate crime", present law provides criminal penalties.

Proposed law retains present law and prohibits persons convicted of a hate crime under present law (R.S. 14:107.2), if the underlying offense for the hate crime is a felony, from possessing a firearm as defined by proposed law or from carrying a concealed weapon for

a period of ten years from the date of completion of sentence, probation, parole, or suspension of sentence.

Further provides that persons who violate these provisions of proposed law shall be imprisoned with or without hard labor for not less than one year nor more than five years and shall be fined not less than \$500 nor more than \$1,000.

Proposed law provides that a person shall not be considered to have been convicted of a hate crime unless the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and in the case of a prosecution for an offense for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either the case was tried by a jury, or the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

In addition, proposed law provides that a person shall not be considered convicted of a hate crime if the conviction has been expunged, set aside, or is an offense for which the person has been pardoned or had civil rights restored unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, possess, or receive firearms.

(Adds R.S. 14:95.11)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Limit the application of proposed law to persons convicted of a hate crime whose underlying offense for the hate crime is a felony.