
DIGEST

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HB 299 Original

2023 Regular Session

McCormick

Abstract: Creates the "Defense of the Second Amendment Act" and provides relative to infringements on the right of a citizen to keep and bear arms.

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

Proposed law provides for a statement of legislative intent.

Proposed law provides for definitions for the terms "elected state official", "federal employee", "federal law enforcement officer", "law-abiding citizen", "law enforcement officer", "state employee", and "supervisor".

Proposed law provides that it shall be considered an infringement on the right of the people to keep and bear arms, as guaranteed by the Second Amendment of the Constitution of the United States and present constitution (Art. I, Sec. 11) if any federal act, law, executive order, administrative order, court order, rule, or regulation is enforced within the borders of this state that effectuates any of the following actions:

- (1) Any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or ammunition not common to all other goods and services which might reasonably be expected to create a chilling effect on the purchase or ownership of those items by law-abiding citizens.
- (2) Any registering or tracking of firearms, firearm accessories, or ammunition which might 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 firearms, firearm accessories, or ammunition which might 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 any federal act, law, executive order, administrative order, court order,

rule, or regulation shall be invalid and have no effect in this state if the rule or regulation meets both of the following criteria:

- (1) It was enacted after Jan. 20, 2021.
- (2) It infringes on the right of the people to keep and bear arms as guaranteed by the Second Amendment to the Constitution of the United States and present constitution (Art. I, Sec. 11).

Proposed law provides that the courts and law enforcement agencies of this state have an affirmative duty to protect the rights of law-abiding citizens to keep and bear arms within the borders of this state and to protect these rights from the infringements as provided in proposed law.

Proposed law provides that no state employee, elected state official, or law enforcement officer shall have the authority to enforce or attempt to enforce within the borders of this state any federal act, law, executive order, administrative order, court order, rule, or regulation that infringes on the right to keep and bear arms as provided in proposed law.

Proposed law provides that whoever violates proposed law shall be imprisoned at hard labor for not more than five years and shall be permanently ineligible to serve as a law enforcement officer or to supervise law enforcement officers for the state or any political subdivision of the state.

Proposed law provides that neither the state nor any political subdivision of the state shall employ any person as a law enforcement officer or supervisor if he is found to be ineligible to serve in such capacity under proposed law.

Proposed law provides that any state employee, elected state official, or law enforcement officer who violates the provisions of proposed law or otherwise deprives a citizen of La. of the rights or privileges ensured by the Second Amendment of the Constitution of the United States or present constitution (Art. I, Sec. 11) while acting under the color of any state or federal law shall be civilly liable for deprivation of these rights or privileges.

Proposed law provides that in such civil actions, the court may award the prevailing party, other than the state or any political subdivision of the state, reasonable attorney fees and costs. Further provides that sovereign, official, or qualified immunity shall not be allowed as an affirmative defense in such civil actions.

Proposed law provides that a person shall have standing to pursue an action for declaratory judgment against a law enforcement officer or supervisor regarding the law enforcement officer or supervisor's employment eligibility when a person believes that a violation of proposed law has occurred and the person resides within or conducts business within a jurisdiction where the violation occurs.

Proposed law provides that such action for declaratory judgment shall be filed in the district court of the parish where the action allegedly occurred or in the 19th Judicial District.

Proposed law provides that if the court determines that a law enforcement officer or supervisor has

taken any action that would render him ineligible to serve in that capacity under proposed law, then the court shall order both of the following:

- (1) The law enforcement officer or supervisor shall immediately be terminated from his position.
- (2) The agency or political subdivision that employed the ineligible law enforcement officer or supervisor shall be required to pay the court costs and attorney fees associated with the action for declaratory judgment that resulted in the finding of ineligibility.

Proposed law provides that nothing in proposed law shall preclude a person's right of appeal, grievance, or remediation otherwise provided by applicable law.

Proposed law provides that no federal employee or federal law enforcement officer shall enforce or attempt to enforce within the borders of this state any federal act, law, executive order, administrative order, court order, rule, or regulation that infringes on the right to keep and bear arms as provided in proposed law.

Proposed law provides that no federal employee or federal law enforcement officer shall give or attempt to give material aid or support to enforce within the borders of this state any federal act, law, executive order, administrative order, court order, rule, or regulation that infringes on the right to keep and bear arms as provided in proposed law.

Proposed law provides that whoever violates the provisions of proposed law shall be imprisoned at hard labor for not more than one year.

Proposed law provides that any federal employee or federal law enforcement officer who violates the provisions of proposed law or otherwise deprives a citizen of La. of the rights or privileges ensured by the Second Amendment of the Constitution of the United States or present constitution (Art. I, Sec. 11) while acting under the color of any state or federal law shall be civilly liable for deprivation of these rights or privileges.

Proposed law provides that in such civil actions, the court may award the prevailing party, other than the state or any political subdivision of the state, reasonable attorney fees and costs. Further provides that sovereign, official, or qualified immunity shall not be allowed as an affirmative defense in such civil actions.

Proposed law provides that nothing in proposed law shall preclude a person's right of appeal, grievance, or remediation otherwise provided by applicable law.

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