

2024 Regular Session

SENATE BILL NO. 234

BY SENATOR MIGUEZ

CONTRACTS. Provides relative to prohibition on certain governmental entity contracts with companies that discriminate against firearm and ammunition industries. (8/1/24)

1 AN ACT

2 To enact R.S. 38:2216.1 and R.S. 39:1602.2, relative to public contracts; to prohibit certain  
3 discriminatory practices with respect to firearm associations, retailers, and  
4 manufacturers; to provide for definitions; to provide restrictions on applicability; to  
5 authorize the attorney general to take certain legal action against a company; to  
6 provide for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 38:2216.1 is hereby enacted to read as follows:

9 **§2216.1. Prohibition on contracts with companies that discriminate against**  
10 **firearm and ammunition industries**

11 **A. As used in this Section, the following terms shall have the following**  
12 **meanings unless the context clearly indicates otherwise:**

13 **(1) "Ammunition" shall mean a loaded cartridge or shotshell, case,**  
14 **primer, projectile, wadding, or propellant powder.**

15 **(2) "Company" shall mean a for-profit organization, association,**  
16 **corporation, partnership, joint venture, limited partnership, limited liability**  
17 **partnership, or limited liability company that exists to make a profit.**

1 "Company" shall not mean a sole proprietorship.

2 (3)(a) "Discriminate against a firearm entity or firearm trade  
3 association" shall mean that the company:

4 (i) Refuses to engage in the trade of any goods or services with the entity  
5 or association based solely on its status as a firearm entity or firearm trade  
6 association. Status includes the lawful products and services provided by and  
7 lawful practices of firearm entities and firearm trade associations.

8 (ii) Refrains from continuing an existing business relationship with the  
9 entity or association based solely on its status as a firearm entity or firearm  
10 trade association. Status includes the lawful products and services provided by  
11 and lawful practices of firearm entities and firearm trade associations.

12 (iii) Terminates an existing business relationship with the entity or  
13 association based solely on its status as a firearm entity or firearm trade  
14 association. Status includes the lawful products and services provided by and  
15 lawful practices of firearm entities and firearm trade associations.

16 (b) A company does not "discriminate against a firearm entity or  
17 firearm trade association" if it refuses to engage in the trade of any goods or  
18 services, refrains from continuing an existing business relationship, or declines  
19 to enter into, modifies, or terminates an existing business relationship for any  
20 of the following reasons:

21 (i) To comply with federal, state, or local law, policy, or regulations or  
22 a directive by a regulator.

23 (ii) For any traditional or ordinary business reason that is specific to the  
24 customer or potential customer and not based solely on an entity's or  
25 association's status as a firearm entity or firearm trade association. Status  
26 includes the lawful products and services provided by and lawful practices of  
27 firearm entities and firearm trade associations.

28 (c) Nothing in this Paragraph shall be construed to require a company  
29 that is a merchant, retail seller, or platform to sell or list for sale ammunition,

1 firearms, or firearm accessories.

2 (4) "Firearm" shall mean a weapon that expels a projectile by the action  
3 of explosive or expanding gases.

4 (5) "Firearm accessory" shall mean:

5 (a) A device specifically designed or adapted to enable an individual to  
6 wear, carry, store, or mount a firearm on the individual or on a conveyance.

7 (b) An item used in conjunction with or mounted on a firearm that is not  
8 essential to the basic function of the firearm, including a detachable firearm  
9 magazine.

10 (6) "Firearm entity" shall mean:

11 (a) A manufacturer, distributor, wholesaler, supplier, or retailer of  
12 firearms, firearm accessories, or ammunition.

13 (b) A business establishment, private club, or association that operates  
14 an area for the discharge or other use of firearms for silhouette, skeet, trap,  
15 black powder, target, self-defense, or similar recreational shooting, at which not  
16 fewer than twenty different individuals discharge firearms each calendar year.

17 (7) "Firearm trade association" shall mean any person, corporation,  
18 unincorporated association, federation, business league, or business  
19 organization that meets all of the following criteria:

20 (a) Is not organized or operated for profit and for which none of its net  
21 earnings inures to the benefit of any private shareholder or individual.

22 (b) Has two or more firearm entities as members.

23 (c) Is exempt from federal income taxation pursuant to 26 U.S.C. 501(a)  
24 as an organization described by 26 U.S.C. 501(c)(6).

25 (8) "Public entity" means and includes the state of Louisiana, or any  
26 agency, board, commission, department, or public corporation of the state,  
27 created by the constitution or statute or pursuant thereto, or any political  
28 subdivision of the state, including but not limited to any political subdivision as  
29 defined in Article VI Section 44 of the Constitution of Louisiana, and any public

1 housing authority, public school board, or any public officer whether or not an  
2 officer of a public corporation or political subdivision.

3 B.(1) The provisions of this Section shall apply to any contract with a  
4 value of one hundred thousand dollars or more that meets all of the following  
5 criteria:

6 (a) It is to be paid primarily from public funds.

7 (b) It is between a public entity and a company with at least fifty  
8 full-time employees.

9 (c) It is renewed or entered into on or after August 1, 2024.

10 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection,  
11 the provisions of this Section shall not apply if either of the following conditions  
12 are met:

13 (a) The contract is with a sole-source provider.

14 (b) The public entity does not receive any bids from companies that are  
15 able to provide the written verification required by this Section.

16 (3) Notwithstanding the provisions of Paragraph (1) of this Subsection,  
17 the provisions of this Section shall not apply to a company in a multiple party  
18 contract that will receive less than one hundred thousand dollars over the term  
19 of the contract.

20 C. A public entity may not enter into a contract with a company for the  
21 purchase of goods or services unless the contract contains a written verification  
22 from the company of both of the following:

23 (1) The company does not have a practice, policy, guidance, or directive  
24 that discriminates against a firearm entity or firearm trade association based  
25 solely on the entity's or association's status as a firearm entity or firearm trade  
26 association.

27 (2) The company will not discriminate against a firearm entity or  
28 firearm trade association during the term of the contract based solely on the  
29 entity's or association's status as a firearm entity or firearm trade association.

1           **D. The attorney general shall have authority to enforce the requirements**  
2           **of this Section, and if legal action is taken in which he prevails, then he shall be**  
3           **entitled to recover all reasonable costs and reasonable attorney fees incurred.**

4           Section 2. R.S. 39:1602.2 is hereby enacted to read as follows:

5           **§1602.2. Prohibition on contracts with companies that discriminate against**  
6           **firearm and ammunition industries**

7           **A. As used in this Section, the following terms shall have the following**  
8           **meanings unless the context clearly indicates otherwise:**

9           **(1) "Ammunition" shall mean a loaded cartridge or shotshell, case,**  
10           **primer, projectile, wadding, or propellant powder.**

11           **(2) "Company" shall mean a for-profit organization, association,**  
12           **corporation, partnership, joint venture, limited partnership, limited liability**  
13           **partnership, or limited liability company that exists to make a profit.**

14           **"Company" shall not mean a sole proprietorship.**

15           **(3)(a) "Discriminate against a firearm entity or firearm trade**  
16           **association" shall mean the company:**

17           **(i) Refuses to engage in the trade of any goods or services with the entity**  
18           **or association based solely on its status as a firearm entity or firearm trade**  
19           **association. Status includes the lawful products and services provided by and**  
20           **lawful practices of firearm entities and firearm trade associations.**

21           **(ii) Refrains from continuing an existing business relationship with the**  
22           **entity or association based solely on its status as a firearm entity or firearm**  
23           **trade association. Status includes the lawful products and services provided by**  
24           **and lawful practices of firearm entities and firearm trade associations.**

25           **(iii) Terminates an existing business relationship with the entity or**  
26           **association based solely on its status as a firearm entity or firearm trade**  
27           **association. Status includes the lawful products and services provided by and**  
28           **lawful practices of firearm entities and firearm trade associations.**

29           **(b) A company does not "discriminate against a firearm entity or**

1 firearm trade association" if it refuses to engage in the trade of any goods or  
2 services, refrains from continuing an existing business relationship, or declines  
3 to enter into, modifies, or terminates an existing business relationship for any  
4 of the following reasons:

5 (i) To comply with federal, state, or local law, policy, or regulations or  
6 a directive by a regulator.

7 (ii) For any traditional or ordinary business reason that is specific to the  
8 customer or potential customer and not based solely on an entity's or  
9 association's status as a firearm entity or firearm trade association. Status  
10 includes the lawful products and services provided by and lawful practices of  
11 firearm entities and firearm trade associations.

12 (c) Nothing in this Paragraph shall be construed to require a company  
13 that is a merchant, retail seller, or platform to sell or list for sale ammunition,  
14 firearms, or firearm accessories.

15 (4) "Firearm" shall mean a weapon that expels a projectile by the action  
16 of explosive or expanding gases.

17 (5) "Firearm accessory" shall mean:

18 (a) A device specifically designed or adapted to enable an individual to  
19 wear, carry, store, or mount a firearm on the individual or on a conveyance.

20 (b) An item used in conjunction with or mounted on a firearm that is not  
21 essential to the basic function of the firearm, including a detachable firearm  
22 magazine.

23 (6) "Firearm entity" shall mean:

24 (a) A manufacturer, distributor, wholesaler, supplier, or retailer of  
25 firearms, firearm accessories, or ammunition.

26 (b) A business establishment, private club, or association that operates  
27 an area for the discharge or other use of firearms for silhouette, skeet, trap,  
28 black powder, target, self-defense, or similar recreational shooting, at which not  
29 fewer than twenty different individuals discharge firearms each calendar year.

1           (7) "Firearm trade association" shall mean any person, corporation,  
2           unincorporated association, federation, business league, or business  
3           organization that meets all of the following criteria:

4           (a) Is not organized or operated for profit and for which none of its net  
5           earnings inures to the benefit of any private shareholder or individual.

6           (b) Has two or more firearm entities as members.

7           (c) Is exempt from federal income taxation pursuant to 26 U.S.C. 501(a)  
8           as an organization described by 26 U.S.C. 501(c)(6).

9           (8) "Governmental entity" shall mean:

10           (a) Any department, office division, commission, council, board, bureau,  
11           committee, institution, agency, government corporation, or other establishment  
12           or official of the executive branch of state government.

13           (b) Any parish, city, town, governmental body, and any other subdivision  
14           of the state or public agency thereof, public authority, public educational,  
15           health, or other institution, and to the extent provided by law, any other entity  
16           which expends public funds for the acquisition or leasing of supplies, services,  
17           major repairs, and construction, and any nonprofit corporation operating a  
18           charitable hospital.

19           B.(1) The provisions of this Section shall apply to any contract with a  
20           value of one hundred thousand dollars or more that meets all of the following  
21           criteria:

22           (a) It is to be paid primarily from public funds.

23           (b) It is between a public entity and a company with at least fifty  
24           full-time employees.

25           (c) It is renewed or entered into on or after August 1, 2024.

26           (2) Notwithstanding the provisions of Paragraph (1) of this Subsection,  
27           the provisions of this Section shall not apply if either of the following conditions  
28           are met:

29           (a) The contract is with a sole-source provider.

1                   **(b) The government entity does not receive any bids from companies that**  
2                   **are able to provide the written verification required by this Section.**

3                   **(3) Notwithstanding the provisions of Paragraph (1) of this Subsection,**  
4                   **the provisions of this Section shall not apply to a company in a multiple party**  
5                   **contract that will receive less than one hundred thousand dollars over the term**  
6                   **of the contract.**

7                   **C. A governmental entity may not enter into a contract with a company**  
8                   **for the purchase of goods or services unless the contract contains a written**  
9                   **verification from the company of both of the following:**

10                   **(1) The company does not have a practice, policy, guidance, or directive**  
11                   **that discriminates against a firearm entity or firearm trade association based**  
12                   **solely on the entity's or association's status as a firearm entity or firearm trade**  
13                   **association.**

14                   **(2) The company will not discriminate against a firearm entity or**  
15                   **firearm trade association during the term of the contract based solely on the**  
16                   **entity's or association's status as a firearm entity or firearm trade association.**

17                   **D. The attorney general shall have authority to enforce the requirements**  
18                   **of this Section, and if legal action is taken in which he prevails, then he shall be**  
19                   **entitled to recover all reasonable costs and reasonable attorney fees incurred.**

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Emily Toler.

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DIGEST

SB 234 Engrossed

2024 Regular Session

Miguez

Proposed law creates certain restrictions with respect to the ability of the state and its political subdivisions to contract pursuant to the Public Bid Law and the La. Procurement Code.

Present law establishes the Public Bid Law to govern the letting of contracts for the erection, construction, alteration, improvement, or repair of any public facility or land owned, used, or leased by a public entity. Defines "public entity" to mean the state of La., or any agency, board, commission, department, or public corporation of the state, or any political subdivision of the state, and any public housing authority, public school board, or any public officer whether or not an officer of a public corporation or political subdivision. (Pursuant to present law, the term does not include a public body or officer where the particular transaction of the public body or officer is governed by the provisions of the model procurement code.)



Present law establishes the La. Procurement Code to govern buying, purchasing, renting, leasing, or otherwise obtaining supplies, services, or major repairs by any governmental body of the state. Present law defines "governmental body" as any department, office, division, commission, council, board, bureau, committee, institution, agency, government corporation, or other establishment or official of the executive branch of state government. Present law further authorizes political subdivisions to participate in certain contracts let pursuant to present law.

The provisions hereafter in proposed law will apply to both Public Bid Law and the La. Procurement Code.

Proposed law adds to both Public Bid Law and the La. Procurement Code an additional restriction to contracts let by public entities pursuant to present law. Prohibits a public entity from entering into a contract with a company for the purchase of goods or services unless the contract contains a written verification from the company of both of the following:

- (1) The company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association based solely on the entity's or association's status as a firearm entity or firearm trade association.
- (2) The company will not discriminate against a firearm entity or firearm trade association during the term of the contract based solely on the entity's or association's status as a firearm entity or firearm trade association.

Further provides in both Public Bid Law and the La. Procurement Code that proposed law only applies to a contract with a value of \$100,000 or more that meets all of the following criteria:

- (1) It is to be paid primarily from public funds.
- (2) It is between a public entity and a company with at least 50 full-time employees.
- (3) It is entered into on or after Aug. 1, 2024.

Further establishes exceptions in both Public Bid Law and the La. Procurement Code to proposed law for sole-source provider contracts and circumstances where the public entity does not receive any bids from companies that are able to provide the written verification required by proposed law. Proposed law does not apply to a company in a multiple party contract that will receive less than \$100,000 over the term of the contract.

Proposed law provides in both Public Bid Law and the La. Procurement Code that "discriminate against a firearm entity or firearm trade association" shall mean that a company:

- (1) Refuses to engage in the trade of any goods or services with the entity or association based solely on the entity's or association's status as a firearm entity or firearm trade association.
- (2) Refrains from continuing an existing business relationship with the entity or association based solely on the entity's or association's status as a firearm entity or firearm trade association.
- (3) Terminates an existing business relationship with the entity or association based solely on the entity's or association's status as a firearm entity or firearm trade association.

Proposed law further provides in both Public Bid Law and the La. Procurement Code that a company does not "discriminate against a firearm entity or firearm trade association" if it

refuses to engage in the trade of any goods or services, refrains from continuing an existing business relationship, or declines to enter into, modifies, or terminates an existing business relationship for any of the following reasons:

- (1) To comply with federal, state, or local law, policy, or regulations or a directive by a regulator.
- (2) For any traditional or ordinary business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

Further provides in both Public Bid Law and the La. Procurement Code that nothing in proposed law shall be construed to require a company that is a merchant, retail seller, or platform to sell or list for sale ammunition, firearms, or firearm accessories.

Proposed law provides that status includes lawful products and services provided by and lawful practices of firearm entities and firearm trade associations.

Proposed law defines a public entity as the state of Louisiana, or any agency, board, commission, department, or public corporation of the state, created by the constitution or statute, or any political subdivision of the state, including any political subdivision as defined in the present constitution and any public housing authority, public school board, or any public officer.

Proposed law mandates in both Public Bid Law and the La. Procurement Code that the attorney general shall have enforcement authority of proposed law and shall be entitled to recover all reasonable costs and reasonable attorney fees incurred in a prevailing lawsuit.

Effective August 1, 2024.

(Adds R.S. 38:2216.1 and R.S. 39:1602.2)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Finance to the original bill

1. Defines "status" to include lawful products and services provided by and lawful practices of firearm entities and firearm trade associations.
2. Defines the term "public entity".
3. Increases the proposed law requirement for the minimum number of employees from 10 to 50 in a contract valued at \$100,000 or more between a public entity and a company.
4. Adds provision that proposed law does not apply to a company in a multiple party contract that will receive less than \$100,000 over the term of the contract.
5. Mandates that the attorney general has enforcement authority over proposed law and is entitled to recover all reasonable costs and reasonable attorney fees incurred if he prevails in a legal action.
6. Makes technical amendments.