

Regular Session, 2013

HOUSE BILL NO. 686

BY REPRESENTATIVE GAROFALO

TAX CREDITS: Establishes the Firearm and Ammunitions Manufacturer Tax Credit

1 AN ACT

2 To enact Chapter 48 of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised  
3 of R.S. 51:3025 through 3029, relative to tax credits; to establish the Firearm and  
4 Ammunition Manufacturers Tax Credit Program; to authorize contracts with certain  
5 businesses that establish or relocate a headquarters or manufacturing facility in the  
6 state; to provide for the content and approval of contracts; to authorize tax credits;  
7 to provide for administrative authority of the Department of Economic Development  
8 for purposes of the program; to provide for an effective date; and to provide for  
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 48 of Title 51 of the Louisiana Revised Statutes of 1950,  
12 comprised of R.S. 51:3025 through 3029, is hereby enacted to read as follows:

13 CHAPTER 48. FIREARM AND AMMUNITION MANUFACTURERS

14 TAX CREDIT PROGRAM

15 §3025. Definitions

16 The following words or terms as used in this Chapter shall have the following  
17 meaning, unless a different meaning appears from the context:

18 (1) "Ammunition" and "ammunition components" means propellants,  
19 primers, cartridge cases, and black powder designed for use in any firearm.

20 (2) "Black powder" means a propellant made from potassium or sodium  
21 nitrate, charcoal, and sulfur which is used for a firearm.

22 (3) "Board" means the Board of Commerce and Industry.

1           (4) "Business" means any individual, firm, joint venture, association,  
2           corporation, estate, partnership, business trust, receiver, syndicate, or any other legal  
3           business entity engaged in the manufacture of firearms, firearm components, firearm  
4           accessories, ammunition, or ammunition components.

5           (5) "Department" means the Department of Economic Development unless  
6           otherwise designated.

7           (6) "Establishment costs" means actual, direct, and substantiated costs  
8           incurred by a qualified business to establish a headquarters or manufacturing facility  
9           in Louisiana, including capital expenditures and leasing costs for a facility and  
10          equipment. Qualifying establishment costs shall be limited to the maximum amount  
11          provided by a contract executed pursuant to this Chapter.

12          (7) "Firearm" means pistol, revolver, rifle, shotgun, and other similar device  
13          that is portable by one person and the possession of which is protected by Article I,  
14          Section 11 of the Constitution of Louisiana.

15          (8) "Firearm accessories" means items that connect to a small arm or are  
16          used to carry or load small arms ammunition, including but not limited to  
17          handguards, scopes, magazines, clips, slings, and speed loaders.

18          (9) "Firearm components" means items which are used in the manufacture  
19          of small arms, including but not limited to barrels, frames, cylinders, chokes, stocks,  
20          grips, and fore-ends.

21          (10) "Headquarters" means a principal or regional corporate office located  
22          or to be located in Louisiana, in which are based the principal or regional executive  
23          officers normally constituting a principal or regional headquarters providing  
24          corporate governance. Such officers include but are not limited to chief executive  
25          officer, chief operating officer, and other senior level officers or appropriate regional  
26          equivalents.

27          (11) "Manufacturing facility" means a facility where a business performs the  
28          manufacture of firearms, firearm components, firearm accessories, ammunition, and  
29          ammunition components.

1           (12) "Program" means the Firearm and Ammunition Manufacturers Tax  
2           Credit Program established pursuant to this Chapter.

3           (13) "Qualified business" means a business that (a) the secretary has  
4           determined meets the eligibility requirements of R.S. 51:3026, (b) has been approved  
5           by the board to participate in the program, and (c) has executed a contract with the  
6           department governing its participation in the program.

7           (14) "Relocation costs" means actual, direct, and substantiated costs incurred  
8           by a qualified business to relocate a headquarters or manufacturing facility to  
9           Louisiana, including capital expenditures and leasing costs for a facility and  
10           equipment, and personnel relocation costs. Personnel relocation costs shall be  
11           limited to costs associated with no more than sixty percent of headquarters or  
12           manufacturing jobs, whichever is greater. Qualifying relocation costs shall be  
13           limited to the maximum amount provided by a contract executed pursuant to this  
14           Chapter.

15           (15) "Secretary" means the secretary of the Department of Economic  
16           Development.

17           (16) "Significant positive economic benefit" means that net positive tax  
18           revenues are to be generated as a result of the project. This shall be determined by  
19           taking into account direct, indirect, and induced impacts based on a standard  
20           economic impact methodology utilized by the department, the value of the tax credit,  
21           and any other state tax and financial incentives that are used by the department to  
22           secure the qualified business.

23           §3026. Eligibility requirements

24           A business shall be eligible to participate in the program if the secretary  
25           determines all of the following requirements are met:

26           (1) The business is establishing or relocating a headquarters or  
27           manufacturing facility in Louisiana.

28           (2) Participation in the program will be a significant factor in a site selection  
29           situation to encourage the business to establish or relocate in Louisiana.

1           (3) Securing the project will result in a significant positive economic benefit  
2           to the state.

3           (4) Establishment or relocation of a headquarters will create a minimum of  
4           ten jobs and establishment or relocation of a manufacturing plan will create a  
5           minimum of twenty-five manufacturing jobs.

6           §3027. Application; recommendation; contract approval

7           A. At the invitation of the secretary, a business may apply for participation  
8           in the program by submitting to the department certified statements and  
9           substantiating documents as the department may require.

10           B. Upon determining the business meets the eligibility requirements of R.S.  
11           51:3026, the secretary may request board approval of a contract providing for such  
12           participation on terms and conditions specified by the secretary.

13           §3028. Contract administration; tax credit

14           A. Upon approval by the board, the secretary shall execute a contract with  
15           the qualified business, and provide a copy of the contract to the Department of  
16           Revenue prior to the certification of expenses necessary to receive a tax credit which  
17           may be claimed against Louisiana income or corporation franchise taxes.

18           B. The contract shall provide for a tax credit for the qualified business which  
19           is equal to thirty percent of establishment or relocation costs of a headquarters or a  
20           manufacturing facility, or both, and shall include all of the following provisions:

21           (1) The maximum amount of qualifying establishment or relocation costs.

22           (2) The number of headquarters or manufacturing jobs and associated payroll  
23           to be created and maintained and any other performance obligations deemed  
24           appropriate by the secretary.

25           (3) The denial of certification for issuance of tax credits if performance  
26           obligations are not met.

27           C. The qualified business shall submit to the department, at least annually  
28           but no more often than monthly, a certified cost report reasonably documenting its

1 establishment or relocation costs, including supporting documentation as required  
2 by the department.

3 D. The department may obtain, at the expense of the qualified business, a  
4 certified limited scope audit by an independent certified public accountant, in  
5 accordance with applicable auditing standards generally accepted in the United  
6 States, of all books and records of the business relating to its eligibility and  
7 performance obligations under the program.

8 E.(1) A tax credit certificate may be issued by the secretary after the  
9 qualified business files an annual certification of performance and the department  
10 determines the extent of compliance with contractual obligations. The tax credit  
11 certificate, unless rescinded by the department, shall be accepted by the Department  
12 of Revenue as proof of the credit. The department shall maintain a list of the tax  
13 credit certificates issued.

14 (2)(a) The tax credit authorized pursuant to this Chapter may be taken  
15 against Louisiana income and corporate franchise taxes. A copy of the tax credit  
16 certificate shall be attached to the Louisiana tax return upon which it is taken.

17 (b)(i) All entities taxed as corporations for Louisiana income or corporate  
18 franchise tax purposes shall claim any credit allowed under this Chapter on their  
19 corporation income and corporate franchise tax return.

20 (ii) Individuals shall claim any credit allowed under this Chapter on their  
21 individual income tax return.

22 (iii) Estates or trusts shall claim any credit allowed under this Chapter on  
23 their fiduciary income tax returns.

24 (iv) Entities not taxed as corporations shall claim any credit allowed under  
25 this Chapter on the returns of the partners or members as follows:

26 (aa) Corporate partners or members shall claim their share of the credit on  
27 their corporation income or corporation franchise tax returns.

28 (bb) Individual partners or members shall claim their share of the credit on  
29 their individual income tax returns.

1            (cc) Partners or members that are estates or trusts shall claim their share of  
2            the credit on their fiduciary income tax returns.

3            §3029. Rules

4            The department may promulgate rules and regulations in accordance with the  
5            Administrative Procedure Act for implementation of the program. Legislative  
6            oversight of such rules for purposes of the Administrative Procedure Act shall be  
7            conducted by the House Committee on Ways and Means and the Senate Committee  
8            on Revenue and Fiscal Affairs.

9            Section 2. This Act shall become effective on July 1, 2013; if vetoed by the governor  
10          and subsequently approved by the legislature, this Act shall become effective on July 1,  
11          2013, or on the day following such approval by the legislature, whichever is later.

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)]

Garofalo

HB No. 686

**Abstract:** Establishes the Firearm and Ammunition Manufacturers Tax Credit Program for La. income and corporation franchise tax credits equal to 30% of establishment or relocation costs for firearm and ammunition manufacturers which establish or relocate a headquarters or manufacturing facility, or both, in La.

Proposed law establishes the Firearm and Ammunition Manufacturers Tax Credit Program under which a qualified business may contract with the Dept. of Economic Development (DED) to receive a tax credit equal to 30% of the establishment or relocation costs involved in establishing or relocating its headquarters or manufacturing facility, or both, in La.

Proposed law provides for definitions, which include:

- (1) "Business" means a manufacturer of firearms, firearms components, firearms accessories, ammunition, or ammunition components.
- (2) "Establishment costs" means actual costs incurred by a business for the establishment of a headquarters or manufacturing facility in La. Costs may include capital expenditures and leases of facility and equipment.
- (3) "Headquarters" means a principal or regional corporate office located in La., in which are based the principal or regional executive officers which provide corporate governance for the business.
- (4) "Manufacturing facility" means the facility where a business performs the manufacture of firearms, firearm components, firearm accessories, ammunition, and ammunition components.

- (5) "Relocation costs" means actual costs incurred by a business for the relocation of a headquarters or manufacturing facility to La. Costs may include capital expenditures, leases of facility and equipment, and personnel relocation costs.

Proposed law establishes eligibility requirements for the program which include:

- (1) The business is establishing or relocating a headquarters or manufacturing facility in La.
- (2) The secretary of DED (secretary) determines that participation in the program will be a significant factor in a site selection situation to encourage the business to establish or relocate in La.
- (3) The secretary determines that securing the project will result in a significant positive economic benefit to the state.
- (4) Establishment or relocation of the headquarters will create a minimum of 10 headquarters jobs, or establishment or relocation of the manufacturing facility will create a minimum of 25 manufacturing jobs.

Proposed law authorizes the secretary to invite potential businesses to apply for participation in the program. If DED determines that the business meets the eligibility requirements, the secretary may request the Board of Commerce and Industry to approve a contract to provide for tax credits for the business.

Proposed law authorizes the secretary to enter into a contract with a qualified business and requires that the Dept. of Revenue be notified of the contract.

Proposed law provides requirements for the contract, which include the maximum amount of qualifying establishment or relocation costs, the relevant number of headquarters or manufacturing facility jobs, and provisions for reductions in tax credits if performance obligations are not met.

Proposed law requires the submission of certain reports by the qualified business and authorizes DED to obtain audits at the expense of the business.

Proposed law establishes the procedure for the issuance of tax credit certificates. The tax credit certificate, unless rescinded by DED, shall be accepted by the Dept. of Revenue as proof of a tax credit. DED shall maintain a list of the tax credit certificates issued.

Proposed law provides that the tax credit authorized pursuant to proposed law may be taken against La. income and corporation franchise taxes. A copy of the tax credit certificate shall be attached to the La. tax return upon which it is taken.

Proposed law authorizes DED to promulgate rules and regulations in accordance with the Administrative Procedure Act. Legislative oversight of such rules shall be conducted by the House Committee on Ways and Means and Senate Committee on Revenue and Fiscal Affairs.

Effective July 1, 2013.

(Adds R.S. 51:3025-3029)