

Regular Session, 2009

HOUSE BILL NO. 387

BY REPRESENTATIVE RICHMOND

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

WEAPONS/FIREARMS: Bans possession of certain assault weapons

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AN ACT

To enact Part V of Chapter 9 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1821 through 1834, relative to weapons; to enact the Louisiana Assault Weapons Protection Act; to provide for legislative findings; to provide for definitions; to prohibit the possession of assault weapons; to provide for the registration of assault weapons owned prior to January 1, 2010; to provide for the issuance of a license to possess assault weapons owned prior to January 1, 2010; to provide for fees; to create the Assault Weapon Registration and Licensing Fund; to provide for deposit and use of monies in the fund; to provide for rulemaking; to provide for exceptions; to provide for penalties; to provide for the duties of the office of state police; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part V of Chapter 9 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1821 through 1834, is hereby enacted to read as follows:

PART V. LOUISIANA ASSAULT WEAPONS PROTECTION ACT

§1821. Title

This Part shall be known as the "Louisiana Assault Weapons Protection Act".

§1822. Legislative findings

The legislature hereby finds and declares that:

1 (1) Semiautomatic assault weapons are military style guns designed to
2 quickly kill large numbers of people. The shooter can simply point, rather than
3 carefully aim, the weapon to quickly spray a wide area with a hail of bullets.

4 (2) According to Federal Bureau of Investigation (FBI) data, between 1998
5 and 2001, one in five law enforcement officers slain in the line of duty was killed
6 with an assault weapon.

7 (3) Gun manufacturers have for many years made, marketed, and sold to
8 civilians semiautomatic versions of military assault weapons designed with features
9 specifically intended to increase lethality for military applications.

10 (4) Assault weapons have been used in some of America's most notorious
11 murders, including the 1999 massacre at Columbine High School and the 2002
12 Washington, D.C., area sniper shootings.

13 (5) The state has regulated the sale and possession of machine guns and
14 explosive devices because of the danger they present to the citizens of the state of
15 Louisiana. Assault weapons are equally as dangerous as machine guns or explosive
16 devices and should be prohibited.

17 §1823. Definitions

18 For the purposes of this Part, the following terms shall have the following
19 meanings:

20 (1) "Assault weapon" means any weapon as defined in R.S. 40:1824.

21 (2) "Assault weapon conversion kit" means a kit, any part, or combination
22 of parts from which an assault weapon can be assembled or which can be used in
23 converting a firearm into an assault weapon.

24 (3) "Large-capacity detachable magazine" means a magazine, the function
25 of which is to deliver one or more ammunition cartridges into the firing chamber,
26 which can be removed from the firearm without the use of any tool, and which has
27 the capacity to hold more than ten rounds of ammunition.

28 (4) "State police" means the Louisiana Department of Public Safety and
29 Corrections, office of state police.

1 §1824. Assault weapons; defined

2 "Assault weapon" means any of the weapons, or copies or duplicates of the
3 weapons, of any caliber, known as:

4 (1) AA Arms AP-9 semiautomatic pistol;

5 (2) Bushmaster semiautomatic pistol;

6 (3) Claridge HI-TEC semiautomatic pistol;

7 (4) D Max Industries semiautomatic pistol;

8 (5) Encom MK-IV, MP-9, or MP-45 semiautomatic pistol;

9 (6) Heckler and Koch semiautomatic SP-89 pistol;

10 (7) Holmes MP-83 semiautomatic pistol;

11 (8) Ingram MAC 10/11 semiautomatic pistol and variations including the
12 Partisan Avenger and the SWD Cobray;

13 (9) Intratec TEC-9/DC-9 semiautomatic pistol in any centerfire variation;

14 (10) P.A.W.S. type semiautomatic pistol;

15 (11) Skorpion semiautomatic pistol;

16 (12) Spectre double action semiautomatic pistol (Sile, F.I.E., Mitchell);

17 (13) UZI semiautomatic pistol;

18 (14) Weaver Arms semiautomatic Nighthawk pistol;

19 (15) Wilkinson semiautomatic "Linda" pistol;

20 (16) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikov (AK)

21 (all models);

22 (17) Action Arms Israeli Military Industries UZI and Galil;

23 (18) Beretta Ar70 (SC-70);

24 (19) Colt AR-15;

25 (20) Fabrique National FN/FAL, FN/LAR and FNC;

26 (21) SWD M-10, M-11, M-11/9 and M-12;

27 (22) Steyr AUG; or

28 (23) INTRATEC TEC-9, TEC-DC9, and TEC-22.

1 §1825. Possession, manufacture, sale of assault weapons or conversion kits
2 prohibited

3 On or after January 1, 2010, assault weapons are banned in the state of
4 Louisiana, and no person shall:

5 (1) Possess an assault weapon except as provided for in R.S. 40:1826.

6 (2) Possess an assault weapon conversion kit.

7 (3) Manufacture, purchase, sell, or otherwise transfer an assault weapon, or
8 assault weapon conversion kit.

9 (4) Possess a large-capacity detachable magazine capable of use with an
10 assault weapon.

11 §1826. Registration of assault weapons possessed prior to January 1, 2010;
12 conditions of registration; license to possess an assault weapon; conditions
13 for licensing; license term

14 A. A person possessing an assault weapon prior to January 1, 2010, shall
15 either surrender the assault weapon to state police as provided for in R.S. 40:1828
16 or register the assault weapon and apply for a license to possess an assault weapon
17 as provided for in this Section.

18 B. A person desiring to register an assault weapon and apply for a license to
19 possess an assault weapon shall:

20 (1) Submit to a criminal background check identical to the background check
21 conducted in connection with the purchase of a firearm from a licensed gun dealer.

22 (2) Pay the registration and licensing fee as provided for in R.S. 40:1827.

23 (3) Complete all registration and licensing forms as prescribed by state
24 police.

25 C. The registration of the assault weapon shall contain the following
26 information:

27 (1) The name, address, and birth date of the person possessing the assault
28 weapon.

1 (2) A detailed description of the assault weapon which shall include but not
2 be limited to the make, model, manufacturer, and serial number of the assault
3 weapon.

4 D. The registration and application for license provided for by this Section
5 shall be submitted to state police by December 1, 2009.

6 E. If the person is not prohibited from possessing a firearm under state or
7 federal law, the state police shall issue a license to possess an assault weapon.

8 F. The license shall have a term of one year and shall be renewed annually.

9 G. If the person is prohibited from possessing a firearm under state or federal
10 law, the state police shall not issue a license to possess an assault weapon, and the
11 person shall surrender the assault weapon to the state police as provided for in R.S.
12 40:1828.

13 §1827. Conditions for lawful possession of an assault weapon by the holder of a
14 license to possess an assault weapon

15 A. The holder of a license to possess an assault weapon issued pursuant to
16 the provisions of R.S. 40:1826 shall only be authorized to possess the assault weapon
17 under the following conditions:

18 (1) The licensee possesses the assault weapon only on property owned or
19 immediately controlled by the person, or while engaged in the legal use of the assault
20 weapon at a duly licensed firing range, or while traveling to or from either of these
21 locations for the purpose of engaging in the legal use of the assault weapon, provided
22 that the assault weapon is stored unloaded and in a separate locked container during
23 transport.

24 (2) The licensee possesses the assault weapon while lawfully engaged in
25 shooting at a duly licensed, lawfully operated shooting range.

26 (3) The licensee possesses the assault weapon while lawfully participating
27 in a sporting event officially sanctioned by a club or organization established in
28 whole or in part for the purpose of sponsoring sport shooting events.

1 (4) The licensee shall have in his immediate possession the license to possess
2 an assault weapon at all times while in possession of the assault weapon.

3 B. The person authorized to possess an assault weapon as provided for by
4 this Section shall safely and securely store the assault weapon pursuant to rules
5 adopted for such purpose by the state police.

6 §1828. Surrender of an assault weapon possessed prior to January 1, 2010

7 A. A person possessing an assault weapon prior to January 1, 2010, shall
8 surrender the assault weapon to state police when either of the following occur:

9 (1) The person does not register the assault weapon and obtain a license for
10 the possession of an assault weapon as provided for in R.S. 40:1826.

11 (2) The person is prohibited from possessing a firearm under state or federal
12 law and has applied for a license to possess an assault weapon as provided for in R.S.
13 40:1826(G).

14 B. An assault weapon surrendered as provided for by this Section shall be
15 disposed of as provided for in R.S. 40:1798.

16 §1829. Assault weapon received through inheritance or succession

17 The provisions of this Part shall apply to any person who received an assault
18 weapon by inheritance or succession as long as the person complies with the
19 provisions of R.S. 40:1826 or 1828 within thirty days of receipt of the assault
20 weapon.

21 §1830. Fee for registration of assault weapons and license to possess an assault
22 weapon

23 A fee of twenty-five dollars shall be collected by state police from the
24 licensee for the registration of an assault weapon and the issuance of a license to
25 possess an assault weapon.

26 §1831. Powers and duties of state police; rulemaking

27 A. The state police shall:

28 (1) Forward all fees received pursuant to the provisions of R.S. 40:1830 to
29 the treasurer for immediate deposit in the state treasury.

1 (2) Prescribe procedures to be used in the registration of assault weapons as
2 provided by this Part.

3 (3) Prescribe procedures to be used in the issuance of licenses to possess
4 firearms.

5 (4) Conduct periodic inspections to ensure compliance with the provisions
6 of this Part.

7 B. The office of state police shall adopt rules to provide for the
8 implementation of the provisions of this Part, which shall at a minimum provide for
9 the following:

10 (1) Forms for the registration of assault weapons.

11 (2) Forms for the issuance of licenses to possess assault weapons.

12 (3) Procedures for the secure storage of assault weapons.

13 C. All rules shall be adopted pursuant to the provisions of the Administrative
14 Procedure Act.

15 §1832. Assault Weapon Registration and Licensing Fund

16 A. There is hereby created as a special fund in the state treasury the "Assault
17 Weapon Registration and Licensing Fund", hereinafter referred to as the "fund".
18 After compliance with the requirements of Article VII, Section 9(B) of the
19 Constitution of Louisiana relative to the Bond Security and Redemption Fund, and
20 after a sufficient amount is allocated from that fund to pay all of the obligations
21 secured by the full faith and credit of the state which become due and payable within
22 any fiscal year, the state treasurer shall annually deposit to the fund an amount equal
23 to the fees collected pursuant to the provisions of R.S. 40:1826. The monies in this
24 fund shall be used solely as provided by this Section and only in the amounts
25 appropriated by the legislature.

26 B. All unexpended and unencumbered monies in this fund at the end of the
27 fiscal year shall remain in the fund. The monies in the fund shall be invested by the
28 state treasurer in the same manner as monies in the state general fund, and all
29 earnings on investment of the fund shall be deposited into the fund.

1 C. Monies in the Assault Weapon Registration and Licensing Fund shall be
2 withdrawn only pursuant to appropriation by the legislature and shall be used solely
3 for the expenses of the office of state police related to the registration of assault
4 weapons and the issuance of licenses to possess assault weapons.

5 §1833. Exemptions

6 The provisions of this Part shall not apply to:

7 (1) A federal, state, or local law enforcement officer in the performance of
8 his official duties.

9 (2) Any person licensed under 18 U.S.C. 923 for the purpose of selling an
10 assault weapon or large capacity detachable magazine to a law enforcement agency.

11 (3) An assault weapon that has been permanently disabled so that it is
12 incapable of discharging a projectile.

13 (4) Any assault weapon which is a relic of any war in which the United
14 States was involved, which is exhibited or carried in the parades of any military
15 organization.

16 §1834. Penalties

17 A. A person who possesses an assault weapon with an expired assault
18 weapon license as provided for in R.S. 40:1826 shall be fined not more than five
19 hundred dollars or imprisoned for not more than six months, or both.

20 B. A person who possesses an assault weapon which has not been registered
21 as provided for in R.S. 40:1826 shall be fined not more than two thousand dollars,
22 or imprisoned, with or without hard labor for not more than two years, or both.

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)]

Richmond

HB No. 387

Abstract: Enumerates assault weapons and bans their possession except under limited circumstances.

Proposed law provides that on or after Jan. 1, 2010, assault weapons are banned in the state of La. and no person shall:

- (1) Possess an assault weapon except as provided for in proposed law.
- (2) Possess an assault weapon conversion kit.
- (3) Manufacture, purchase, sell, or otherwise transfer an assault weapon, or assault weapon conversion kit.
- (4) Possess a large-capacity detachable magazine capable of use with an assault weapon.

Proposed law provides that a person possessing an assault weapon prior to Jan. 1, 2010, shall either surrender the assault weapon to state police or register the assault weapon and apply for a license to possess an assault weapon. Requires registration, criminal background check, and payment of a \$25 registration and licensing fee.

Proposed law requires the registration and application be submitted to state police by Dec. 1, 2009. The license has a term of one year.

Proposed law defines assault weapons (R.S. 40:1824).

Proposed law provides that the holder of a license to possess an assault weapon issued pursuant to the provisions of proposed law shall only be authorized to possess the assault weapon under the following conditions:

- (1) The licensee possesses the assault weapon only on property owned or immediately controlled by the person, or while engaged in the legal use of the assault weapon at a duly licensed firing range, or while traveling to or from either of these locations for the purpose of engaging in the legal use of the assault weapon, provided that the assault weapon is stored unloaded and in a separate locked container during transport.
- (2) The licensee possesses the assault weapon while lawfully engaged in shooting at a duly licensed, lawfully operated shooting range.
- (3) The licensee possesses the assault weapon while lawfully participating in a sporting event officially sanctioned by a club or organization established in whole or in part for the purpose of sponsoring sport shooting events.
- (4) The licensee shall have in his immediate possession the license to possess an assault weapon at all times while in possession of the assault weapon.

Proposed law provides that a person possessing an assault weapon prior to Jan. 1, 2010, shall surrender the assault weapon to state police when either of the following occur:

- (1) The person does not register the assault weapon and obtain a license for its possession.
- (2) The person is prohibited from possessing a firearm under state or federal law and has applied for a license to possess an assault weapon.

Proposed law provides that a fee of \$25 shall be collected by state police for the registration of an assault weapon and the issuance of a license to possess an assault weapon.

Proposed law provides for the creation of the Assault Weapon Registration and Licensing Fund and provides that monies from the fund shall be withdrawn only pursuant to appropriation by the legislature and shall be used solely for the expenses of the office of state police related to the registration of assault weapons and the issuance of licenses to possess assault weapons.

Proposed law provides that proposed law shall not apply to:

- (1) A federal, state, or local law enforcement officer in the performance of his official duties.
- (2) Any person licensed under 18 U.S.C. 923 for the purpose of selling an assault weapon or large capacity detachable magazine to a law enforcement agency.
- (3) An assault weapon that has been permanently disabled so that it is incapable of discharging a projectile.
- (4) Any assault weapon which is a relic of any war in which the U.S. was involved, which is exhibited or carried in the parades of any military organization.

Proposed law provides that a person who possesses an assault weapon with an expired assault weapon license shall be fined not more than \$500 or imprisoned for not more than six months, or both.

Proposed law provides that a person who possesses an assault weapon which has not been registered shall be fined not more than \$2,000 or imprisoned with or without hard labor for not more than two years, or both.

(Adds R.S. 40:1821-1834)