

2023 Regular Session

SENATE BILL NO. 165

BY SENATOR HARRIS

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

WEAPONS. Prohibits the possession of an unidentifiable firearm. (8/1/23)

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AN ACT

To amend and reenact R.S. 40:1781(3) through (8) and 1792(B) through (F), and to enact R.S. 40:1781(9) and 1792(G) and (H), relative to weapons registration; to prohibit the possession of an unidentifiable firearm; to provide for definitions; to provide for elements of the crime of possession of an unidentifiable firearm; to provide for penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1781(3) through (8) and 1792 (B) through (F) are hereby amended and reenacted and R.S. 40:1781(9) and 1792(G) and (H) are hereby enacted to read as follows:

§1781. Definitions

For the purpose of this Part, the following terms have the meanings ascribed to them in this Section:

* * *

(3) "Disguised" means designed to appear to be a toy, with intent to deceive, where the barrel tip has been painted or wrapped in red or orange color.

1 ~~(3)~~**(4)** "Firearm" means a shotgun having a barrel of less than eighteen inches
2 in length; a rifle having a barrel of less than sixteen inches in length; any weapon
3 made from either a rifle or a shotgun if said weapon has been modified to have an
4 overall length of less than twenty-six inches; any other firearm, pistol, revolver, or
5 shotgun from which the serial number or mark of identification has been obliterated,
6 from which a shot is discharged by an explosive, if that weapon is capable of being
7 concealed on the person; or a machine gun, grenade launcher, flame thrower,
8 bazooka, rocket launcher, excluding black powder weapons, or gas grenade; and
9 includes a muffler or silencer for any firearm, whether or not the firearm is included
10 within this definition. Pistols and revolvers and those rifles and shotguns which have
11 not previously been defined in this Paragraph as firearms from which serial numbers
12 or marks of identification have not been obliterated are specifically exempt from this
13 definition.

14 ~~(4)~~**(5)** "Importer" means any person who imports or brings into the state any
15 firearm.

16 ~~(5)~~**(6)** "Machine gun" means any weapon, including a submachine gun, which
17 shoots or is designed to shoot automatically more than one shot without manual
18 reloading, by a single function of the trigger.

19 ~~(6)~~**(7)** "Manufacturer" means any person who is engaged in this state in the
20 manufacture, assembling, alteration, or repair of any firearm.

21 ~~(7)~~**(8)** "Muffler" or "silencer" includes any device for silencing or
22 diminishing the report of any portable weapon such as a rifle, carbine, pistol,
23 revolver, machine gun, submachine gun, shotgun, fowling piece, or other device
24 from which a shot, bullet, or projectile may be discharged by an explosive and is not
25 limited to mufflers and silencers for firearms as defined in this Section.

26 ~~(8)~~**(9)** "Transfer" includes the sale, assignment, pledge, lease, loan, gift, or
27 other disposition of any firearm.

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29 §1792. Possession of unidentifiable firearm; particular penalties; identification of

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source of firearm

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B. No person shall intentionally receive, possess, carry, conceal, buy, sell, or transport any firearm which has been disguised.

BC. The provisions of this Section shall not apply to any firearm **which is legally owned and possessed pursuant to Title 26, Section 5801 et seq. of the United States Code,** which is an antique or war relic and is inoperable or for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade, or which was originally manufactured without ~~such~~ a **serial** number.

CD. Except as otherwise provided in this Section, whoever violates the provisions of **Subsection A of** this Section may be fined not more than one thousand dollars and shall be imprisoned at hard labor for five years without benefit of probation, parole, or suspension of sentence.

DE. Prior to sentencing for a conviction under **Subsection A of** this Section, the defendant shall be given the opportunity to identify the source of the firearm upon which the conviction was based. If the defendant reveals the identity of the source of the weapon and the identity of the source is confirmed by the prosecutor or the court, the defendant shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

F. Except as otherwise provided in this Section, whoever violates the provisions of Subsection B of this Section may be fined not less than one thousand dollars nor more than five thousand dollars and shall be imprisoned at hard labor for not less than two nor more than twenty years without benefit of probation, parole, or suspension of sentence.

EG. Nothing in this Section shall be construed to prevent the prosecution of an individual who obtained the firearm by theft, robbery, deception, or by other unlawful means from the lawful owner of the firearm.

FH. Any illegally obtained firearm or a firearm from which the serial

1 number or identifying mark required by R.S. 40:1788 has been obliterated or altered
2 is hereby declared to be contraband and shall be seized by the law enforcement
3 agency of jurisdiction. If it is determined that a person other than the owner was
4 responsible for removing, altering, or obliterating the serial number or identifying
5 mark, the firearm shall be returned to its lawful owner or may be disposed of
6 according to law but only after a new serial number has been permanently fixed on
7 the firearm. If a new serial number is not so affixed, the firearm shall be destroyed
8 by the law enforcement agency in possession of the firearm.

9 Section 2. The provisions of this Act shall be known and cited as the "Marcus
10 McNeil Act" in honor of the New Orleans Police Officer who died in the line of duty.

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

DIGEST

SB 165 Original 2023 Regular Session Harris

Present law provides for the following definitions:

- (1) "Dealer" means any person not a manufacturer or importer engaged in this state in the business of selling any firearm. The term includes wholesalers, pawnbrokers, and other persons dealing in used firearms.
- (2) "Department" means the Department of Public Safety.
- (3) "Firearm" means a shotgun having a barrel of less than 18 inches in length; a rifle having a barrel of less than 16 inches in length; any weapon made from either a rifle or a shotgun if said weapon has been modified to have an overall length of less than 26 inches; any other firearm, pistol, revolver, or shotgun from which the serial number or mark of identification has been obliterated, from which a shot is discharged by an explosive, if that weapon is capable of being concealed on the person; or a machine gun, grenade launcher, flame thrower, bazooka, rocket launcher, excluding black powder weapons, or gas grenade; and includes a muffler or silencer for any firearm, whether or not the firearm is included within this definition. Pistols and revolvers and those rifles and shotguns which have not previously been defined in this Paragraph as firearms from which serial numbers or marks of identification have not been obliterated are specifically exempt from this definition.
- (4) "Importer" means any person who imports or brings into the state any firearm.
- (5) "Machine gun" means any weapon, including a submachine gun, which shoots or is designed to shoot automatically more than one shot without manual reloading, by a single function of the trigger.
- (6) "Manufacturer" means any person who is engaged in this state in the manufacture, assembling, alteration, or repair of any firearm.

- (7) "Muffler" or "silencer" includes any device for silencing or diminishing the report of any portable weapon such as a rifle, carbine, pistol, revolver, machine gun, submachine gun, shotgun, fowling piece, or other device from which a shot, bullet, or projectile may be discharged by an explosive and is not limited to mufflers and silencers for firearms as defined in present law.
- (8) "Transfer" includes the sale, assignment, pledge, lease, loan, gift, or other disposition of any firearm.

Proposed law retains present law and defines "disguised" as designed to appear to be a toy, with intent to deceive, where the barrel tip has been painted or wrapped in a red or orange color.

Present law provides for elements of the crime of possession of unidentifiable firearm, particular penalties, and identification of source of firearm.

Proposed law retains present law and prohibits a person from intentionally receiving, possessing, carrying, concealing, buying, selling, or transporting any firearm that has been disguised.

Present law provides that whoever violates the provisions of present law may be fined not more than \$1000 and must be imprisoned at hard labor for five years without benefit of probation, parole, or suspension of sentence.

Proposed law retains present law and authorizes a fine of not less than \$1,000 nor more than \$5,000 and mandates imprisonment at hard labor for not less than two nor more than 20 years without benefit of probation, parole, or suspension of sentence for whoever violates proposed law.

Proposed law requires that the provisions of proposed law be known and cited as the "Marcus McNeil Act" in honor of the New Orleans Police Officer who died in the line of duty.

Effective August 1, 2023.

(Amends R.S. 40:1781(3)-(8) and 1792(B)-(F); adds R.S. 40:1781(9) and 1792(G) and (H))