

2021 Regular Session

HOUSE BILL NO. 597

BY REPRESENTATIVE MIGUEZ

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

CONTRACTS: Provides relative to prohibition on certain governmental entity contracts with companies that discriminate against firearm and ammunition industries

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; and
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

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

8 §2216.1. Prohibition on contracts with companies that discriminate against firearm
9 and ammunition industries

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

12 (1) "Ammunition" shall mean a loaded cartridge case, primer, bullet, or
13 propellant powder with or without a projectile.

14 (2) "Company" shall mean a for-profit organization, association, corporation,
15 partnership, joint venture, limited partnership, limited liability partnership, or limited
16 liability company, including a wholly owned subsidiary, majority-owned subsidiary,

1 parent company, or affiliate of those entities or associations that exists to make a
2 profit.

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

5 (i) Refuses to engage in the trade of any goods or services with the entity or
6 association based solely on its status as a firearm entity or firearm trade association.

7 (ii) Refrains from continuing an existing business relationship with the entity
8 or association based solely on its status as a firearm entity or firearm trade
9 association.

10 (iii) Terminates an existing business relationship with the entity or
11 association based solely on its status as a firearm entity or firearm trade association.

12 (b) A company does not "discriminate against a firearm entity or firearm
13 trade association" if it refuses to engage in the trade of any goods or services,
14 refrains from continuing an existing relationship, or declines to enter into, modifies,
15 or terminates a customer relationship for any of the following reasons:

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

18 (ii) For any traditional business reason that is specific to the customer or
19 potential customer and not based solely on an entity's or association's status as a
20 firearm entity or firearm trade association.

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

23 (5) "Firearm accessory" shall mean:

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

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

29 (6) "Firearm entity" shall mean:

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

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

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

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

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

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

15 B. The provisions of this Section shall apply to any contract with a value of
16 one hundred thousand dollars or more that meets all of the following criteria:

17 (1) Is to be paid partly or wholly from public funds.

18 (2) Is between a public entity and a company with at least ten full-time
19 employees.

20 (3) Is entered into on or after August 1, 2021.

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

24 (1) The company does not have a written or unwritten internal practice,
25 policy, guidance, or directive that discriminates against a firearm entity or firearm
26 trade association based solely on its status as a firearm entity or firearm trade
27 association.

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

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 firearm
6 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 case, primer, bullet, or
10 propellant powder with or without a projectile.

11 (2) "Company" shall mean a for-profit organization, association, corporation,
12 partnership, joint venture, limited partnership, limited liability partnership, or limited
13 liability company, including a wholly owned subsidiary, majority-owned subsidiary,
14 parent company, or affiliate of those entities or associations that exists to make a
15 profit.

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

18 (i) Refuses to engage in the trade of any goods or services with the entity or
19 association based solely on its status as a firearm entity or firearm trade association.

20 (ii) Refrains from continuing an existing business relationship with the entity
21 or association based solely on its status as a firearm entity or firearm trade
22 association.

23 (iii) Terminates an existing business relationship with the entity or
24 association based solely on its status as a firearm entity or firearm trade association.

25 (b) A company does not "discriminate against a firearm entity or firearm
26 trade association" if it refuses to engage in the trade of any goods or services,
27 refrains from continuing an existing relationship, or declines to enter into, modifies,
28 or terminates a customer relationship for any of the following reasons:

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

3 (ii) For any traditional business reason that is specific to the customer or
4 potential customer and not based solely on an entity's or association's status as a
5 firearm entity or firearm trade association.

6 (d) Otherwise expresses a prejudice against the entity or association.

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

9 (5) "Firearm accessory" shall mean:

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

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

15 (6) "Firearm entity" shall mean:

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

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

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

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

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

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

1 (8) "Governmental entity" shall mean:

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

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

10 B. The provisions of this Section apply to any contract with a value of one
11 hundred thousand dollars or more that meets all of the following criteria:

12 (1) Is to be paid partly or wholly from public funds.

13 (2) Is between a governmental entity and a company with at least ten full-
14 time employees.

15 (3) Is entered into on or after August 1, 2021.

16 C. A governmental entity may not enter into a contract with a company for
17 the purchase of goods or services unless the contract contains a written verification
18 from an authorized company representative of both of the following:

19 (1) The company does not have a written or unwritten internal practice,
20 policy, guidance, or directive that discriminates against a firearm entity or firearm
21 trade association based solely on its status as a firearm entity or firearm trade
22 association.

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

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)]

HB 597 Engrossed

2021 Regular Session

Miguez

Abstract: Prohibits state agencies and political subdivisions from entering into public works or procurement contracts with companies that discriminate against firearm entities or trade associations.

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 (R.S. 38:2181, et seq.) and the La. Procurement Code (R.S. 39:1551, et seq.).

PUBLIC BID LAW

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.)

Proposed law adds 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 an authorized company representative of both of the following:

- (1) The company does not have a written or unwritten internal practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association based solely on its 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 or association's status as a firearm entity or firearm trade association.

Further provides that proposed law applies only to a contract with a value of \$100,000 or more that meets all of the following criteria:

- (1) Is to be paid partly or wholly from public funds.
- (2) Is between a public entity and a company with at least 10 full-time employees.
- (3) Is entered into on or after August 1, 2021.

Proposed law provides 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 its 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 its status as a firearm entity or firearm trade association.
- (3) Terminates an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.

Further provides 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 relationship, or declines to enter into, modifies, or terminates a customer 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 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.

LOUISIANA 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.

Present law (R.S. 39:2191, et seq) establishes restrictions on contracting that apply to any bid or award resulting from present law (the La. Procurement Code). Proposed law adds an additional restriction for contracts let by governmental entities pursuant to the La. Procurement Code. Defines "governmental entity" as:

- (1) 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.
- (2) Any parish, city, town, governmental body, and any other subdivision of the state or public agency thereof, public authority, public educational, health, or other institution, and to the extent provided by law, any other entity which expends public funds for the acquisition or leasing of supplies, services, major repairs, and construction, and any nonprofit corporation operating a charitable hospital.

Proposed law prohibits a governmental entity from entering into a contract with a company for the purchase of goods or services unless the contract contains a written verification from an authorized company representative of both of the following:

- (1) The company does not have a written or unwritten internal practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association based solely on its 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 or association's status as a firearm entity or firearm trade association.

Further provides that proposed law only applies to a contract with a value of \$100,000 or more that meets all of the following criteria:

- (1) Is to be paid partly or wholly from public funds.
- (2) Is between a public entity and a company with at least 10 full-time employees.
- (3) Is entered into on or after Aug. 1, 2021.

Proposed law provides 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 its 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 its status as a firearm entity or firearm trade association.
- (3) Terminates an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.

Further provides 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 relationship, or declines to enter into, modifies, or terminates a customer 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 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.

Effective August 1, 2021.

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

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Appropriations to the original bill:

1. Change the definition of "discriminate against a firearm entity or firearm trade association" to provide exceptions.
2. Remove the definition of "owner" from the bill and requirements that the "owner" cause the company to discriminate against a firearm entity or firearm trade association.
3. Make technical changes.