

Regular Session, 2008

HOUSE BILL NO. 68

BY REPRESENTATIVE RICHMOND

WEAPONS/FIREARMS: Bans possession of assault weapons

1 AN ACT

2 To enact Part V of Chapter 9 of Title 40 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 40:1821 through 1834, relative to weapons; to enact the Louisiana
4 Assault Weapons Protection Act; to provide for legislative findings; to provide for
5 definitions; to prohibit the possession of assault weapons; to provide for the
6 registration of assault weapons owned prior to January 1, 2009; to provide for the
7 issuance of a license to possess assault weapons owned prior to January 1, 2009; to
8 provide for fees; to create the Assault Weapon Registration and Licensing Fund; to
9 provide for deposit and use of monies in the fund; to provide for rulemaking; to
10 provide for exceptions; to provide for penalties; to provide for the duties of the office
11 of state police; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

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

15 PART V. LOUISIANA ASSAULT WEAPONS PROTECTION ACT

16 §1821. Title

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

1 §1822. Legislative findings2 The legislature hereby finds and declares that:3 (1) Semiautomatic assault weapons are military style guns designed to
4 quickly kill large numbers of people. The shooter can simply point, rather than
5 carefully aim, the weapon to quickly spray a wide area with a hail of bullets.6 (2) According to Federal Bureau of Investigation (FBI) data, between 1998
7 and 2001, one in five law enforcement officers slain in the line of duty was killed
8 with an assault weapon.9 (3) Gun manufacturers have for many years made, marketed, and sold to
10 civilians semiautomatic versions of military assault weapons designed with features
11 specifically intended to increase lethality for military applications.12 (4) Assault weapons have been used in some of America's most notorious
13 murders, including the 1999 massacre at Columbine High School and the 2002
14 Washington, D.C., area sniper shootings.15 (5) The state has regulated the sale and possession of machine guns and
16 explosive devices because of the danger they present to the citizens of the state of
17 Louisiana. Assault weapons are equally as dangerous as machine guns or explosive
18 devices and should be prohibited.19 §1823. Definitions20 For the purposes of this Part, the following terms shall have the following
21 meanings:22 (1) "Assault weapon" means any weapon as defined in R.S. 40:1824.23 (2) "Assault weapon conversion kit" means a kit, any part, or combination
24 of parts from which an assault weapon can be assembled or which can be used in
25 converting a firearm into an assault weapon.26 (3) "Barrel shroud" means a covering, other than a slide, that is attached to,
27 or that substantially or completely encircles, the barrel of a firearm and that allows
28 the bearer of the firearm to hold the barrel with the non-shooting hand while firing
29 the firearm, without burning that hand, except that the term shall not include an

1 extension of the stock along the bottom of the barrel that does not substantially or
2 completely encircle the barrel.

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

7 (5) "Muzzle brake" means a device attached to the muzzle of a weapon that
8 utilizes escaping gas to reduce recoil.

9 (6) "Muzzle compensator" means a device attached to the muzzle of a
10 weapon that utilizes escaping gas to control muzzle movement.

11 (7) "State police" means the Louisiana Department of Public Safety and
12 Corrections, office of state police.

13 §1824. Assault weapons; defined

14 "Assault weapon" means any of the following:

15 (1) Any pistol that is capable of accepting a detachable magazine at any
16 location outside of the pistol grip.

17 (2) Any semiautomatic pistol, or any semiautomatic center-fire rifle, with a
18 fixed magazine that has the capacity to accept more than ten rounds of ammunition.

19 (3) Any shotgun capable of accepting a detachable magazine.

20 (4) Any shotgun with a revolving cylinder magazine.

21 (5) Any semiautomatic or pump-action rifle or semiautomatic pistol that is
22 capable of accepting a detachable magazine and that also possesses any of the
23 following:

24 (a) If the firearm is a rifle, a pistol grip located behind the trigger.

25 (b) If the firearm is a rifle, a stock in any configuration, including but not
26 limited to a thumbhole stock, a folding stock, or a telescoping stock, that allows the
27 bearer of the firearm to grasp the firearm with the trigger hand such that the web of
28 the trigger hand, between the thumb and forefinger, can be placed below the top of
29 the external portion of the trigger during firing.

1 (c) If the firearm is a pistol, a shoulder stock of any type or configuration,
2 including but not limited to a folding stock or a telescoping stock.

3 (d) A barrel shroud.

4 (e) A muzzle brake or muzzle compensator.

5 (f) Any feature designed to be capable of functioning as a protruding grip
6 that can be held by the hand that is not the trigger hand, excluding any extension of
7 the stock along the bottom of the barrel that does not substantially or completely
8 encircle the barrel.

9 §1825. Possession, manufacture, sale of assault weapons or conversion kits
10 prohibited

11 On or after January 1, 2009, assault weapons are banned in the state of
12 Louisiana, and no person shall:

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

14 (2) Possess an assault weapon conversion kit.

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

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

19 §1826. Registration of assault weapons possessed prior to January 1, 2009;
20 conditions of registration; license to possess an assault weapon; conditions
21 for licensing; license term

22 A. A person possessing an assault weapon prior to January 1, 2009, shall
23 either surrender the assault weapon to state police as provided for in R.S. 40:1828
24 or register the assault weapon and apply for a license to possess an assault weapon
25 as provided for in this Section.

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

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

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

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

4 C. The registration of the assault weapon shall contain the following
5 information:

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

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

11 D. The registration and application for license provided for by this Section
12 shall be submitted to state police by December 1, 2008.

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

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

16 G. If the person is prohibited from possessing a firearm under state or federal
17 law, the state police shall not issue a license to possess an assault weapon, and the
18 person shall surrender the assault weapon to the state police as provided for in R.S.
19 40:1828.

20 §1827. Conditions for lawful possession of an assault weapon by the holder of a
21 license to possess an assault weapon

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

25 (1) The licensee possesses the assault weapon only on property owned or
26 immediately controlled by the person, or while engaged in the legal use of the assault
27 weapon at a duly licensed firing range, or while traveling to or from either of these
28 locations for the purpose of engaging in the legal use of the assault weapon, provided

1 that the assault weapon is stored unloaded and in a separate locked container during
2 transport.

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

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

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

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

13 §1828. Surrender of an assault weapon possessed prior to January 1, 2009

14 A. A person possessing an assault weapon prior to January 1, 2009, shall
15 surrender the assault weapon to state police when either of the following occur:

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

18 (2) The person is prohibited from possessing a firearm under state or federal
19 law and has applied for a license to possess an assault weapon as provided for in R.S.
20 40:1826(G).

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

23 §1829. Assault weapon received through inheritance or succession

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

1 §1830. Fee for registration of assault weapons and license to possess an assault
2 weapon

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

6 §1831. Powers and duties of state police; rulemaking

7 A. The state police shall:

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

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

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

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

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

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

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

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

22 C. All rules shall be adopted pursuant to the provisions of the Administrative
23 Procedure Act.

24 §1832. Assault Weapon Registration and Licensing Fund

25 A. There is hereby created as a special fund in the state treasury the "Assault
26 Weapon Registration and Licensing Fund", hereinafter referred to as the "fund".

27 After compliance with the requirements of Article VII, Section 9(B) of the
28 Constitution of Louisiana relative to the Bond Security and Redemption Fund, and
29 after a sufficient amount is allocated from that fund to pay all of the obligations

1 secured by the full faith and credit of the state which become due and payable within
2 any fiscal year, the state treasurer shall annually deposit to the fund an amount equal
3 to the fees collected pursuant to the provisions of R.S. 40:1826. The monies in this
4 fund shall be used solely as provided by this Section and only in the amounts
5 appropriated by the legislature.

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

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

14 §1833. Exemptions

15 The provisions of this Part shall not apply to:

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

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

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

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

25 §1834. Penalties

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

- 1 B. A person who possesses an assault weapon which has not been registered
 2 as provided for in R.S. 40:1826 shall be fined not more than two thousand dollars,
 3 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. 68

Abstract: Bans assault weapons on or after Sept. 13, 2004. Provides for registration of weapons possessed prior to Sept. 13, 2004.

Proposed law provides that on or after Jan. 1, 2009, 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, 2009, 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 March 13, 2005. The license has a term of one year.

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, 2009, 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)