

NATIONAL RIFLE ASSOCIATION OF AMERICA

Institute for Legislative Action

11250 WAPLES MILL ROAD

FAIRFAX, VIRGINIA 22030



NRA

April 12, 2021

City of Shreveport City Council
505 Travis St.
Shreveport, LA 71101

Dear Shreveport City Councilmembers:

The National Rifle Association opposes the contemplated change to the Shreveport Code of Ordinances concerning the storage of handguns in personal vehicles.

The proposed legislation would apply a one-size-fits-all approach to handgun storage in personal vehicles. Specifically, the change would require law-abiding gun owners to “lock the handgun in the vehicle’s trunk, lock the handgun in the vehicle’s glove compartment, or lock the handgun in a locked container that is permanently affixed to the vehicle’s interior” any time the vehicle is left unattended. Those who violate this mandate could be found guilty of a misdemeanor and face a one thousand dollar fine.

This change would place an unjustified burden on Louisianans who carry handguns for self-defense, violate Louisiana law, and raise significant legal questions concerning Louisianans’ right to keep and bear arms.

The Louisiana State Legislature has made clear their intent to occupy the field of firearms regulation. Louisiana’s state firearms preemption statute, LSA-R.S. 40:1796, states,

No governing authority of a political subdivision shall enact after July 15, 1985, any ordinance or regulation more restrictive than state law concerning in any way the sale, purchase, possession, ownership, transfer, transportation, license, or registration of firearms, ammunition, or components of firearms or ammunition

The proposed legislation would enact an ordinance more restrictive than state law concerning the “possession,” “ownership,” and “transportation” of firearms.

Moreover, LSA-R.S. 40:1796 provides explicit exemptions to this general prohibition on local gun control for a narrow set of measures. Local measures concerning the storage of firearms is not an enumerated exemption, and therefore prohibited.

Setting aside the fact that the proposed ordinance implicates the “ownership,” and “transportation” of firearms, Shreveport Mayor Adrian Perkins has contended that the ordinance does not violate the

state firearm preemption statute as it does not concern the “possession” of firearms. Under the mayor’s crabbed reading of LSA-R.S. 40:1796, “This ordinance expressly applies only to weapons in unattended vehicles, which by definition are not in anyone’s ‘possession.’” This is a fundamental misunderstanding of the term “possession.”

The law contemplates more than one type of possession, actual and constructive. Actual possession is when a person has an item on their person or within their physical grasp. Constructive possession is when a person does not have the item in their physical possession, but has access to the item and has dominion or control over it. A person who left their handgun in their personal vehicle while running an errand, would be in constructive possession of firearm the entire time.

Proponents of the legislation have also been quick to dismiss concerns that the new ordinance would violate the Second Amendment, citing firearm storage requirements that have been upheld by various courts. Lawmakers should understand that Louisiana has taken significant steps to protect the right to keep and bear arms and that the survival of certain gun control measures in other jurisdictions should not be taken as indicative of their legality in the Pelican State.

Article 1 § 11 of the Constitution of the State of Louisiana provides, “The right of each citizen to keep and bear arms is fundamental and shall not be infringed.” Moreover, in 2012, this section of the state constitution was amended to add “Any restriction on this right shall be subject to strict scrutiny.”

Unlike many other jurisdictions, all restrictions on the right to keep and bear arms in Louisiana are examined under the highest level of judicial scrutiny. This means that any ordinance must further a compelling state interest in the least restrictive manner.

If the city council is concerned about the theft of handguns from unattended motor vehicles, a less restrictive means by which to address this matter would be to work to limit and discourage gun-free zones in the city. Individuals free to exercise their Right-to-Carry for self-defense in more places are less likely to need to store a handgun in an unattended vehicle.

With LSA-R.S. 40:1796, the Louisiana State Legislature made clear its intent to prohibit political subdivisions from restricting Louisianans’ right to keep and bear arms. Because the proposed changes to the Shreveport Code of Ordinances burden law-abiding Louisianans, violate state law, and implicate the right to keep and bear arms as protected by both the Second Amendment to the U.S. Constitution and Article 1 § 11 of the Constitution of the State of Louisiana, the National Rifle Association stands opposed to this legislation.

Thank you for your attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Herriman", with a stylized flourish at the end.

Matt Herriman
State Director
NRA-ILA