

By: Harrison

H.B. No. 183

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the authority of the legislature, courts, the governor,
3 and other state and local officials regarding declared states of
4 disaster.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter A, Chapter 418, Government Code, is
7 amended by adding Sections 418.007, 418.008, and 418.009 to read as
8 follows:

9 Sec. 418.007. RECOMMENDATIONS, GUIDELINES, AND
10 COORDINATION. A state or local official may issue recommendations
11 and nonbinding guidelines to assist with a state of disaster
12 declared under this chapter and may coordinate public and private
13 resources to prevent or respond to the disaster.

14 Sec. 418.008. PROTECTION OF RIGHTS. Notwithstanding any
15 other law, an order issued by the governor or a state or local
16 official under this chapter that regulates and infringes on the
17 rights of any private person must be:

18 (1) narrowly tailored to serve a compelling public
19 health or safety purpose; and

20 (2) limited in duration, applicability, and scope to
21 reduce any infringement on individual liberty.

22 Sec. 418.009. STATE COURT JURISDICTION. (a) District and
23 appellate courts of this state have jurisdiction to hear cases
24 challenging a state or local disaster order, including cases

1 challenging compliance with limitations on orders prescribed under
2 this chapter and other law, and shall expedite hearings for the
3 cases to the extent practicable.

4 (b) A court may invalidate or enjoin a disaster order, or
5 the application of a disaster order, that is not narrowly tailored
6 to serve a compelling public health or safety purpose because of the
7 order's inequality in application to or impact on groups,
8 situations, or circumstances.

9 SECTION 2. Section 418.012, Government Code, is amended to
10 read as follows:

11 Sec. 418.012. EXECUTIVE ORDERS, PROCLAMATIONS, AND
12 REGULATIONS. (a) Under this chapter, the governor may issue,
13 amend, or rescind executive orders, proclamations, and regulations
14 [~~and amend or rescind them~~].

15 (b) Notwithstanding any law authorizing a state or local
16 official to issue an order related to a declared state of disaster
17 and only to the extent allowed under the United States Constitution
18 or Texas Constitution, only the governor may issue an order that
19 from the date the order is issued infringes on a protected
20 constitutional right in a non-trivial manner, including, but not
21 limited to:

- 22 (1) the rights to travel, work, assemble, and speak;
23 (2) the freedom of religious exercise;
24 (3) the right to contract without state interference;
25 (4) property rights;
26 (5) the freedom from unreasonable searches and
27 seizures; and

1 (6) the freedom to purchase lawfully acquired firearms
2 and ammunition.

3 (c) An order subject to Subsection (b) expires on the 30th
4 day after the date the governor issues the order unless:

5 (1) the governor or the legislature by law terminates
6 the order on an earlier date; or

7 (2) the legislature by law extends the order on or
8 before the expiration date.

9 (d) If the legislature is not convened in a regular or
10 special session, the governor may convene the legislature to
11 consider an order subject to Subsection (b). The members of the
12 legislature may remotely vote to approve, extend, or terminate the
13 order:

14 (1) by an electronic method authorized under the rules
15 prescribed by each house of the legislature; or

16 (2) as the lieutenant governor or speaker of the house
17 of representatives specifies when the rules do not address an
18 electronic voting method.

19 (e) The governor may not issue the same or a substantially
20 similar order as an order subject to Subsection (b) that has expired
21 unless the governor determines significantly changed circumstances
22 require issuance of the similar order for a period not to exceed
23 three days or a greater period the legislature by law approves
24 ~~[Executive orders, proclamations, and regulations have the force~~
25 ~~and effect of law].~~

26 SECTION 3. Section [418.014\(c\)](#), Government Code, is amended
27 to read as follows:

1 (c) A state of disaster may not continue for more than 30
2 days unless renewed by the legislature by law [~~governor~~]. The
3 legislature by law may terminate a state of disaster at any time.
4 On termination by the legislature, the governor shall issue an
5 executive order ending the state of disaster. The governor may not
6 declare a new state of disaster based on the same or a substantially
7 similar finding as a prior state of disaster that the legislature
8 terminated or refused to renew.

9 SECTION 4. Section 418.0155, Government Code, is amended to
10 read as follows:

11 Sec. 418.0155. SUSPENSION LIST. (a) The governor's
12 office, using existing resources, shall compile and maintain a
13 comprehensive list of state agency [~~regulatory statutes and~~] rules
14 that may require suspension during a disaster.

15 (b) On request by the governor's office, a state agency that
16 would be impacted by the suspension of a [~~statute or~~] rule on the
17 list compiled under Subsection (a) shall review the list for
18 accuracy and shall advise the governor's office regarding any
19 [~~statutes or~~] rules that should be added to the list.

20 SECTION 5. The heading to Section 418.016, Government Code,
21 is amended to read as follows:

22 Sec. 418.016. SUSPENSION OF CERTAIN [~~LAWS AND~~] RULES.

23 SECTION 6. Sections 418.016(a) and (e), Government Code,
24 are amended to read as follows:

25 (a) The governor may suspend [~~the provisions of any~~
26 ~~regulatory statute prescribing the procedures for conduct of state~~
27 ~~business or~~] the orders or rules of a state agency if strict

1 compliance with the [~~provisions,~~] orders[~~,~~] or rules would in any
2 way prevent, hinder, or delay necessary action in coping with a
3 disaster.

4 (e) On request of a political subdivision, the governor may
5 waive or suspend a deadline imposed by [~~a statute or~~] the orders or
6 rules of a state agency on the political subdivision, including a
7 deadline relating to a budget or ad valorem tax, if the waiver or
8 suspension is reasonably necessary to cope with a disaster.

9 SECTION 7. Section 418.020(c), Government Code, is amended
10 to read as follows:

11 (c) Under regulations prescribed by the governor, the
12 governor may temporarily suspend or modify for a period of not more
13 than 60 days any public health, safety, zoning, intrastate
14 transportation, or other [~~law or~~] regulation if by proclamation the
15 governor considers the suspension or modification essential to
16 provide temporary housing or emergency shelter for disaster
17 victims.

18 SECTION 8. Section 418.042(c), Government Code, is amended
19 to read as follows:

20 (c) All or part of the state emergency management plan may
21 be incorporated into regulations of the division or executive
22 orders [~~that have the force and effect of law~~].

23 SECTION 9. Section 51.408(b), Occupations Code, is amended
24 to read as follows:

25 (b) An emergency license issued under this section expires
26 on the date indicated by the executive director, but not later than
27 the 90th day after the date the license is issued. If the governor

1 declares a [~~an extended~~] state of disaster that the legislature
2 renews under Section 418.014, Government Code, the executive
3 director may extend the term of an emergency license to an
4 expiration date after the 90th day after the date the license was
5 issued.

6 SECTION 10. The changes in law made by this Act apply only
7 to an order, proclamation, or regulation issued on or after the
8 effective date of this Act.

9 SECTION 11. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect on the 91st day after the last day of
14 the legislative session.