

BILL ANALYSIS

Senate Research Center
80R5670 MSE-D

C.S.S.B. 112
By: Carona, Nelson
Transportation & Homeland Security
2/8/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In the aftermath of Hurricane Katrina when law enforcement resources were stretched thin, many law-abiding Louisiana residents were subject to having their personal firearms confiscated by law enforcement. There is currently no statute or state constitutional provision protecting law-abiding Texas residents from having their firearms confiscated should Texas be subject to a disaster similar in scale to Hurricane Katrina.

C.S.S.B. 112 seeks to protect the right to bear arms during a disaster.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 418.003, Government Code, to prohibit the seizure or confiscation of any firearm or ammunition from an individual lawfully carrying or possessing those items except as provided by Section 418.184 (Firearms), Government Code. Makes conforming changes.

SECTION 2. Amends Subchapter H, Chapter 418, Government Code, by adding Section 418.184, as follows:

Sec. 418.184. FIREARMS. Authorizes a peace officer acting in an official capacity during a state of disaster to disarm an individual if the officer reasonably believes it is immediately necessary for the protection of the officer or another individual. Requires the peace officer to return a firearm and any ammunition to the individual before ceasing to detain the individual unless the officer arrests the individual for engaging in criminal activity or seizes the gun as evidence in a criminal investigation.

SECTION 3. Amends Section 433.002(b), Government Code, by including provisions under Section 433.0045 (Firearms), Government Code, as exceptions to a directive issued by the governor during a state of emergency (directive) that pertains to the control of the sale of weapons and ammunition.

SECTION 4. Amends Chapter 433, Government Code, by adding Section 433.0045, as follows:

Sec. 433.0045. FIREARMS. Prohibits a directive from authorizing the seizure or confiscation of any firearm or ammunition from an individual who is lawfully carrying or possessing those items. Authorizes a peace officer acting in an official capacity during a state of emergency to disarm an individual if the officer reasonably believes it is immediately necessary for the protection of the officer or another individual. Requires the peace officer to return a firearm and any ammunition to the individual disarmed under this section before ceasing to detain the individual unless the officer arrests the individual for engaging in criminal activity or seizes the gun as evidence in a criminal investigation.

SECTION 5. Amends Section 229.001, Local Government Code, by adding Subsection (d) to provide that a municipality's authority to regulate the use of firearms during an insurrection, riot,

or natural disaster does not authorize the seizure or confiscation of a firearm or ammunition from a person who is lawfully carrying or possessing those items.

SECTION 6. Effective date: upon passage or September 1, 2007.