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S.B. No. 112

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the confiscation of firearms and ammunition during a
3 state of disaster.

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

5 SECTION 1. Section 418.003, Government Code, is amended to
6 read as follows:

7 Sec. 418.003. LIMITATIONS. This chapter does not:

8 (1) limit the governor's authority to apply for,
9 administer, or expend any grant, gift, or payment in aid of disaster
10 mitigation, preparedness, response, or recovery;

11 (2) interfere with the course or conduct of a labor
12 dispute, except that actions otherwise authorized by this chapter
13 or other laws may be taken when necessary to forestall or mitigate
14 imminent or existing danger to public health or safety;

15 (3) interfere with dissemination of news or comment on
16 public affairs, but any communications facility or organization,
17 including radio and television stations, wire services, and
18 newspapers, may be required to transmit or print public service
19 messages furnishing information or instructions in connection with
20 a disaster or potential disaster;

21 (4) affect the jurisdiction or responsibilities of
22 police forces, fire-fighting forces, units of the armed forces of
23 the United States, or of any of their personnel when on active duty,
24 but state, local, and interjurisdictional emergency management

1 plans shall place reliance on the forces available for performance
2 of functions related to disasters; [~~or~~]

3 (5) except as provided by Section 418.184, authorize
4 the seizure or confiscation of any firearm or ammunition from an
5 individual who is lawfully carrying or possessing the firearm or
6 ammunition; or

7 (6) limit, modify, or abridge the authority of the
8 governor to proclaim martial law or exercise any other powers
9 vested in the governor under the constitution or laws of this state
10 independent of or in conjunction with any provisions of this
11 chapter.

12 SECTION 2. Subchapter H, Chapter 418, Government Code, is
13 amended by adding Section 418.184 to read as follows:

14 Sec. 418.184. FIREARMS. (a) A peace officer who is acting
15 in the lawful execution of the officer's official duties during a
16 state of disaster may disarm an individual if the officer
17 reasonably believes it is immediately necessary for the protection
18 of the officer or another individual.

19 (b) The peace officer shall return a firearm and any
20 ammunition to an individual disarmed under Subsection (a) before
21 ceasing to detain the individual unless the officer:

22 (1) arrests the individual for engaging in criminal
23 activity; or

24 (2) seizes the firearm as evidence in a criminal
25 investigation.

26 SECTION 3. Subsection (b), Section 433.002, Government
27 Code, is amended to read as follows:

1 (b) The directive may provide for:

2 (1) control of public and private transportation in
3 the affected area;

4 (2) designation of specific zones in the affected area
5 in which, if necessary, the use and occupancy of buildings and
6 vehicles may be controlled;

7 (3) control of the movement of persons;

8 (4) control of places of amusement or assembly;

9 (5) establishment of curfews;

10 (6) control of the sale, transportation, and use of
11 alcoholic beverages, weapons, and ammunition, except as provided by
12 Section 433.0045; and

13 (7) control of the storage, use, and transportation of
14 explosives or flammable materials considered dangerous to public
15 safety.

16 SECTION 4. Chapter 433, Government Code, is amended by
17 adding Section 433.0045 to read as follows:

18 Sec. 433.0045. FIREARMS. (a) A directive issued under
19 this chapter may not authorize the seizure or confiscation of any
20 firearm or ammunition from an individual who is lawfully carrying
21 or possessing the firearm or ammunition.

22 (b) A peace officer who is acting in the lawful execution of
23 the officer's official duties during a state of emergency may
24 disarm an individual if the officer reasonably believes it is
25 immediately necessary for the protection of the officer or another
26 individual.

27 (c) The peace officer shall return a firearm and any

1 ammunition to an individual disarmed under Subsection (b) before
2 ceasing to detain the individual unless the officer:

3 (1) arrests the individual for engaging in criminal
4 activity; or

5 (2) seizes the firearm as evidence in a criminal
6 investigation.

7 SECTION 5. Section 229.001, Local Government Code, is
8 amended by adding Subsection (d) to read as follows:

9 (d) The exception provided by Subsection (b)(4) does not
10 authorize the seizure or confiscation of any firearm or ammunition
11 from an individual who is lawfully carrying or possessing the
12 firearm or ammunition.

13 SECTION 6. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2007.