By:  Hefner, et al. (Senate Sponsor - Creighton) H.B. No. 1500

(In the Senate - Received from the House April 19, 2021; May 14, 2021, read first time and referred to Committee on State Affairs; May 21, 2021, reported favorably by the following vote: Yeas 9, Nays 0; May 21, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Hughes          X

Birdwell        X

Campbell        X

Hall            X

Lucio           X

Nelson          X

Powell          X

Schwertner      X

Zaffirini       X

A BILL TO BE ENTITLED

AN ACT

relating to authority of the governor and certain political subdivisions to regulate firearms, ammunition, knives, air guns, explosives, and combustibles and certain associated businesses during certain disasters and emergencies.

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

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

Sec. 418.003.  LIMITATIONS. This chapter does not:

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

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

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

(4)  affect the jurisdiction or responsibilities of police forces, fire-fighting forces, units of the armed forces of the United States, or of any of their personnel when on active duty, but state, local, and interjurisdictional emergency management plans shall place reliance on the forces available for performance of functions related to disasters;

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

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

(7)  authorize any person to prohibit or restrict the business or operations of a firearms or ammunition manufacturer, distributor, wholesaler, supplier, or retailer or a sport shooting range, as defined by Section 250.001, Local Government Code, in connection with a disaster.

SECTION 2.  Section 418.019, Government Code, is amended to read as follows:

Sec. 418.019.  RESTRICTED SALE AND TRANSPORTATION OF MATERIALS. The governor may suspend or limit the sale, dispensing, or transportation of alcoholic beverages, [~~firearms,~~] explosives, and combustibles, other than explosives or combustibles that are components of firearm ammunition.

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

(b)  The directive may provide for:

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

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

(3)  control of the movement of persons;

(4)  control of places of amusement or assembly;

(5)  establishment of curfews;

(6)  control of the sale, transportation, and use of alcoholic beverages[~~, weapons, and ammunition, except as provided by Section 433.0045~~]; and

(7)  control of the storage, use, and transportation of explosives or flammable materials considered dangerous to public safety, other than explosives or flammable materials that are components of firearm ammunition.

SECTION 4.  Section 433.0045(a), Government Code, is amended to read as follows:

(a)  A directive issued under this chapter may not:

(1)  authorize the seizure or confiscation of any firearm or ammunition from an individual who is lawfully carrying or possessing the firearm or ammunition; or

(2)  prohibit or restrict the business or operations of a firearms or ammunition manufacturer, distributor, wholesaler, supplier, or retailer or a sport shooting range, as defined by Section 250.001, Local Government Code, in connection with a state of emergency.

SECTION 5.  Sections 229.001(b), (c), (d), and (d-1), Local Government Code, are amended to read as follows:

(b)  Subsection (a) does not affect the authority a municipality has under another law to:

(1)  require residents or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;

(2)  regulate the discharge of firearms or air guns within the limits of the municipality, other than at a sport shooting range;

(3)  except as provided by Subsection (b-1), adopt or enforce a generally applicable zoning ordinance, land use regulation, fire code, or business ordinance;

(4)  [~~regulate the use of firearms, air guns, or knives in the case of an insurrection, riot, or natural disaster if the municipality finds the regulations necessary to protect public health and safety;~~

[~~(5)~~]  regulate the storage or transportation of explosives to protect public health and safety, except that 25 pounds or less of black powder for each private residence and 50 pounds or less of black powder for each retail dealer are not subject to regulation;

(5) [~~(6)~~]  regulate the carrying of a firearm or air gun by a person other than a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, at a:

(A)  public park;

(B)  public meeting of a municipality, county, or other governmental body;

(C)  political rally, parade, or official political meeting; or

(D)  nonfirearms-related school, college, or professional athletic event;

(6) [~~(7)~~]  regulate the carrying of a firearm by a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, in accordance with Section 411.209, Government Code;

(7) [~~(8)~~]  regulate the hours of operation of a sport shooting range, except that the hours of operation may not be more limited than the least limited hours of operation of any other business in the municipality other than a business permitted or licensed to sell or serve alcoholic beverages for on-premises consumption;

(8) [~~(9)~~]  regulate the carrying of an air gun by a minor on:

(A)  public property; or

(B)  private property without consent of the property owner; or

(9) [~~(10)~~]  except as provided by Subsection (d-1), regulate or prohibit an employee's carrying or possession of a firearm, firearm accessory, or ammunition in the course of the employee's official duties.

(c)  The exception provided by Subsection (b)(5) [~~(b)(6)~~] does not apply if the firearm or air gun is in or is carried to or from an area designated for use in a lawful hunting, fishing, or other sporting event and the firearm or air gun is of the type commonly used in the activity.

(d)  Nothing in this section may be construed to [~~The exception provided by Subsection (b)(4) does not~~] authorize the seizure or confiscation of any firearm, air gun, knife, ammunition, or firearm or air gun supplies or accessories from an individual who is lawfully carrying or possessing the firearm, air gun, knife, ammunition, or firearm or air gun supplies or accessories.

(d-1)  The exception provided by Subsection (b)(9) [~~(b)(10)~~] does not authorize a municipality to regulate an employee's carrying or possession of a firearm in violation of Subchapter G, Chapter 52, Labor Code.

SECTION 6.  Chapters 418 and 433, Government Code, as amended by this Act, apply only to a declaration of disaster or local disaster or a proclamation of a state of emergency issued or renewed on or after the effective date of this Act. A declaration or proclamation issued before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 7.  This Act takes effect September 1, 2021.

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