

By: Burrows

H.B. No. 3

A BILL TO BE ENTITLED

AN ACT

relating to state and local government responses to a pandemic disaster; creating a criminal offense.

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

SECTION 1. Subtitle B, Title 4, Government Code, is amended by adding Chapter 418A to read as follows:

CHAPTER 418A. PANDEMIC EMERGENCY MANAGEMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 418A.001. SHORT TITLE. This chapter may be cited as the Texas Pandemic Response Act.

Sec. 418A.002. PURPOSES. The purposes of this chapter are to:

(1) reduce the vulnerability of residents and communities in this state to damage, injury, and loss of life and property resulting from a pandemic disaster;

(2) prepare for prompt and efficient care and treatment of persons victimized or threatened by a pandemic disaster;

(3) maintain employment levels for state residents to the extent possible;

(4) protect and preserve individual liberties guaranteed under the United States Constitution and the Texas Constitution;

(5) provide a setting conducive to the rapid and

1 orderly restoration and rehabilitation of persons and property
2 affected by a pandemic disaster;

3 (6) clarify and strengthen the roles of the governor,
4 state agencies, the judicial branch of state government, and local
5 governments in the prevention of, preparation for, response to, and
6 recovery from a pandemic disaster;

7 (7) authorize and provide for cooperation in pandemic
8 disaster mitigation, preparedness, response, and recovery;

9 (8) authorize and provide for coordination of
10 activities relating to pandemic disaster mitigation, preparedness,
11 response, and recovery by state agencies and officers and similar
12 state-local, interstate, federal-state, and foreign activities in
13 which this state and the political subdivisions of this state may
14 participate;

15 (9) provide an emergency management system embodying
16 all aspects of pandemic preparedness and response; and

17 (10) assist in the mitigation of pandemic disasters
18 aggravated by inadequate planning for and regulation of public and
19 private resources.

20 Sec. 418A.003. DEFINITIONS. In this chapter:

21 (1) "Division" means the Texas Division of Emergency
22 Management.

23 (2) "Pandemic disaster" means the occurrence or
24 imminent threat of an outbreak of an infectious disease that
25 spreads to a significant portion of the population of multiple
26 countries or the world and that threatens widespread or severe
27 damage, injury, or loss of life or property in this state resulting

1 from any natural or man-made cause related to the outbreak.

2 (3) "Political subdivision" means a county or
3 municipality.

4 Sec. 418A.004. LIMITATIONS. This chapter does not:

5 (1) grant the governor authority to enact law;

6 (2) limit the authority of the governor to apply for,
7 administer, or spend a grant, gift, or payment in aid of pandemic
8 disaster mitigation, preparedness, response, or recovery;

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

13 (4) interfere with dissemination of news or comment on
14 public affairs, provided any communications facility or
15 organization, including radio and television stations, wire
16 services, Internet and cellular services, and newspapers, may be
17 required to transmit or print public service messages providing
18 information or instructions in connection with a pandemic disaster
19 or potential pandemic disaster;

20 (5) affect the jurisdiction or responsibilities of a
21 law enforcement agency, fire department, or unit of the armed
22 forces of the United States, or any of their personnel when on
23 active duty, if state, local, or interjurisdictional emergency
24 management plans rely on the agencies, departments, or units to
25 perform duties related to pandemic disasters;

26 (6) limit, modify, or abridge the authority of the
27 governor to proclaim martial law or exercise any other power vested

1 in the governor under the constitution or laws of this state
2 independent of or in conjunction with any provision of this
3 chapter;

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

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

11 Sec. 418A.005. APPLICABILITY OF OTHER LAW. Sections
12 418.020, 418.021, 418.022, 418.026, and 418.107 and Subchapters C-1
13 and D, Chapter 418, apply to a state of pandemic disaster declared
14 under this chapter.

15 Sec. 418A.006. CONFLICT WITH OTHER LAW. To the extent of
16 any conflict between this chapter and Chapter 418, this chapter
17 controls.

18 Sec. 418A.007. CIVIL LIABILITY DURING PANDEMIC DISASTER.

19 (a) An officer or employee of a state or local agency, or a
20 volunteer acting at the direction of an officer or employee of a
21 state or local agency, is considered for purposes of Section
22 437.222 to be a member of the Texas military forces ordered into
23 active service of this state by proper authority and is considered
24 to be discharging a duty in that capacity if the person is
25 performing an activity related to sheltering or housing individuals
26 in connection with the evacuation of an area stricken or threatened
27 by a pandemic disaster.

1 (b) A business or an entity operating during a pandemic
2 disaster in this state is not liable for an injury caused by
3 exposing or potentially exposing an individual to a disease if on
4 the date of the exposure or potential exposure:

5 (1) the business or entity is authorized to do
6 business in this state;

7 (2) the business or entity knew of the risk of exposure
8 or potential exposure;

9 (3) the business or entity made a reasonable effort to
10 comply with applicable federal, state, and local laws, rules,
11 ordinances, declarations, and proclamations related to the
12 pandemic disaster; and

13 (4) the act or omission giving rise to the exposure or
14 potential exposure was not wilful, reckless, or grossly negligent.

15 (c) A person who provides goods or renders services during a
16 pandemic disaster in support of disaster response efforts and at
17 the request of the governor or the governor's designee is not liable
18 for an injury caused by the goods or services, regardless of the
19 circumstances, so long as the act or omission giving rise to the
20 injury was not wilful, reckless, grossly negligent, or inconsistent
21 with a limit specified in the governor's request.

22 SUBCHAPTER B. POWERS AND DUTIES OF GOVERNOR

23 Sec. 418A.051. RESPONSIBILITY OF GOVERNOR. The governor is
24 responsible for meeting the dangers to this state and the residents
25 of this state presented by a pandemic disaster. The governor may
26 only exercise the authority granted by this chapter to address a
27 pandemic disaster.

1 Sec. 418A.052. EXECUTIVE ORDERS, PROCLAMATIONS, AND RULES.

2 (a) The governor may issue, amend, or rescind an executive order,
3 proclamation, or rule to further the purposes of this chapter.

4 (b) An executive order, proclamation, or rule issued by the
5 governor under this chapter has the force and effect of law.

6 Sec. 418A.053. DECLARATION OF STATE OF PANDEMIC DISASTER.

7 (a) The governor by executive order or proclamation may declare a
8 state of pandemic disaster if the governor determines that a state
9 of pandemic disaster is occurring in this state or that the
10 occurrence or threat of a pandemic disaster is imminent.

11 (b) Subject to Subsection (c), a state of pandemic disaster
12 continues until the governor:

13 (1) determines that:

14 (A) the threat of a pandemic disaster has passed;

15 or

16 (B) the pandemic disaster has been addressed to
17 the extent that emergency conditions no longer exist; and

18 (2) terminates the state of pandemic disaster by
19 executive order or proclamation.

20 (c) A state of pandemic disaster may not continue for more
21 than 30 days unless renewed by the governor. The legislature by law
22 may terminate a state of pandemic disaster at any time. On
23 termination by the legislature, the governor shall issue an
24 executive order ending the state of pandemic disaster.

25 (d) An executive order or proclamation issued under this
26 section must include:

27 (1) a description of the nature of the pandemic

1 disaster;

2 (2) a designation of the areas affected or threatened;

3 and

4 (3) a description of the conditions that caused the
5 pandemic disaster or allowed the termination of the pandemic
6 disaster.

7 (e) The governor shall:

8 (1) promptly disseminate an executive order or
9 proclamation by any means intended to bring its contents to the
10 attention of the public; and

11 (2) unless the circumstances related to the pandemic
12 disaster prevent or impede the filing, promptly file the order or
13 proclamation with:

14 (A) the division;

15 (B) the secretary of state; and

16 (C) the county clerk or municipal secretary in
17 each area in which it applies.

18 Sec. 418A.054. EFFECT OF PANDEMIC DISASTER DECLARATION.

19 (a) An executive order or proclamation declaring a state of
20 pandemic disaster:

21 (1) activates the pandemic disaster preparedness and
22 response components of the state emergency management plan required
23 by Section 418.042, as applicable to the area subject to the
24 declaration; and

25 (2) authorizes the deployment and use of any resources
26 to which the pandemic disaster recovery and rehabilitation
27 components of the state emergency management plan apply and the use

1 or distribution of any supplies, equipment, materials, or
2 facilities assembled, stored, or arranged to be made available
3 under this chapter or other law relating to disasters.

4 (b) During a pandemic disaster, the pandemic disaster
5 preparedness and response components of the state emergency
6 management plan are activated as provided by that plan.

7 (c) During a state of pandemic disaster and the following
8 recovery period, the governor is the commander in chief of state
9 agencies, boards, and commissions having emergency
10 responsibilities. To the greatest extent possible, the governor
11 shall delegate or assign command authority by prior arrangement
12 embodied in appropriate executive orders or plans. This chapter
13 does not restrict the governor's authority to issue those orders at
14 the time of the pandemic disaster.

15 Sec. 418A.055. SUSPENSION OF CERTAIN LAWS, ORDERS, AND
16 RULES. (a) The governor may suspend the provisions of any
17 regulatory statute prescribing procedures for conducting state
18 business or a state agency order or rule if strict compliance with
19 the statute, order, or rule would in any way prevent, hinder, or
20 delay necessary action in coping with a pandemic disaster.

21 (b) On request of a political subdivision, the governor may
22 waive or suspend a deadline, including a deadline relating to a
23 budget or ad valorem tax, imposed on the political subdivision by a
24 statute or a state agency order or rule if the waiver or suspension
25 is reasonably necessary to cope with the pandemic disaster.

26 (c) The governor may suspend any of the following
27 requirements in response to a pandemic emergency or disaster

1 declaration of another jurisdiction if strict compliance with the
2 requirement would prevent, hinder, or delay necessary action in
3 assisting another state with coping with a pandemic emergency or
4 disaster:

5 (1) a registration requirement in an agreement entered
6 into under the International Registration Plan under Section
7 502.091, Transportation Code, to the extent authorized by federal
8 law;

9 (2) a temporary registration permit requirement under
10 Section 502.094, Transportation Code;

11 (3) a provision of Subtitle E, Title 7, Transportation
12 Code, to the extent authorized by federal law;

13 (4) a motor carrier registration requirement under
14 Chapter 643, Transportation Code;

15 (5) a registration requirement under Chapter 645,
16 Transportation Code, to the extent authorized by federal law; or

17 (6) a fuel tax requirement under the International
18 Fuel Tax Agreement described by 49 U.S.C. Section 31701 et seq., to
19 the extent authorized by federal law.

20 (d) For the purposes of Subsection (c), "pandemic emergency
21 or disaster declaration of another jurisdiction" means a pandemic
22 emergency declaration, a major pandemic disaster declaration, a
23 pandemic state of emergency declaration, a state of pandemic
24 disaster declaration, or a similar declaration related to a
25 pandemic made by:

26 (1) the president of the United States under the
27 Robert T. Stafford Disaster Relief and Emergency Assistance Act (42

1 U.S.C. Section 5121 et seq.); or

2 (2) the governor of another state.

3 (e) To the extent federal law requires this state to issue a
4 special permit under 23 U.S.C. Section 127 or an executive order, a
5 suspension issued under Subsection (c) is a special permit or an
6 executive order.

7 Sec. 418A.056. USE OF PUBLIC AND PRIVATE RESOURCES. (a) The
8 governor may use all available resources of executive departments
9 and agencies or their units that are reasonably necessary to cope
10 with a pandemic disaster.

11 (b) The governor may temporarily reassign resources,
12 personnel, or functions of state agencies and political
13 subdivisions for the purpose of performing or facilitating
14 emergency services during a pandemic disaster.

15 (c) The governor may commandeer or use private property if
16 the governor finds it necessary to cope with a pandemic disaster,
17 subject to the compensation requirements of Subchapter G, Chapter
18 418.

19 Sec. 418A.057. MOVEMENT OF PEOPLE. (a) The governor may
20 prescribe routes, modes of transportation, and destinations in
21 connection with any evacuation necessary in a pandemic disaster.

22 (b) The governor may control ingress and egress to and from
23 a pandemic disaster area and the movement of persons and the
24 occupancy of premises in the area.

25 Sec. 418A.058. RESTRICTED SALE AND TRANSPORTATION OF
26 MATERIALS. (a) The governor may suspend or limit the sale,
27 dispensing, or transportation of alcoholic beverages, explosives,

1 and combustibles in response to a pandemic disaster.

2 (b) The sale, dispensing, or transportation of firearms and
3 ammunition may not be suspended or limited in response to a pandemic
4 disaster.

5 Sec. 418A.059. RULES. The governor may adopt rules
6 necessary to implement this chapter, including rules for:

7 (1) standards of eligibility for persons applying for
8 benefits related to the pandemic disaster;

9 (2) procedures for applying for the benefits;

10 (3) procedures for the administration, investigation,
11 filing, and approval of applications for the benefits;

12 (4) procedures for the formation of local or statewide
13 boards to act on applications for the benefits; and

14 (5) procedures for appeals of decisions relating to
15 applications for the benefits.

16 Sec. 418A.060. RELIGIOUS FREEDOM. Actions taken under a
17 declared state of pandemic disaster must satisfy the religious
18 freedom protections of Chapter 110, Civil Practice and Remedies
19 Code, and the Religious Freedom Restoration Act of 1993 (42 U.S.C.
20 2000bb et seq.).

21 SUBCHAPTER C. LOCAL AND INTERJURISDICTIONAL PANDEMIC EMERGENCY

22 MANAGEMENT

23 Sec. 418A.101. PANDEMIC EMERGENCY MANAGEMENT DIRECTORS.

24 (a) The presiding officer of the governing body of a political
25 subdivision is designated as the pandemic emergency management
26 director for that political subdivision.

27 (b) A pandemic emergency management director serves as the

1 governor's designated agent in the administration and supervision
2 of duties under this chapter. A pandemic emergency management
3 director may exercise the powers granted to the governor under this
4 chapter on an appropriate local scale.

5 (c) A pandemic emergency management director may designate
6 a person to serve as pandemic emergency management coordinator.
7 The pandemic emergency management coordinator shall serve as an
8 assistant to the pandemic emergency management director for
9 pandemic emergency management purposes.

10 (d) A person, other than a pandemic emergency management
11 director exercising under Subsection (b) a power granted to the
12 governor, may not seize state or federal resources without prior
13 authorization from the division or the state or federal agency
14 responsible for those resources.

15 Sec. 418A.102. SUSPENSION OF DEADLINES IMPOSED BY LOCAL
16 LAW. (a) Notwithstanding any other law, a deadline imposed by
17 local law on a political subdivision, including a deadline relating
18 to a budget or ad valorem tax, is suspended if:

19 (1) the territory of the political subdivision is
20 wholly or partly located in an area in which a pandemic disaster has
21 been declared by the president of the United States or the governor;
22 and

23 (2) the presiding officer of the political subdivision
24 proclaims that the political subdivision is unable to comply with
25 the requirement because of the pandemic disaster.

26 (b) The presiding officer of the political subdivision may
27 issue an order ending the suspension of a deadline under this

1 section. A deadline may not be suspended for more than 30 days after
2 the date the presiding officer issues the proclamation described by
3 Subsection (a)(2).

4 Sec. 418A.103. PREEMPTION. Any local order or rule issued
5 in response to a state or local state of pandemic disaster is
6 superseded and void to the extent that it is inconsistent with
7 orders, declarations, or proclamations issued by the governor or
8 the Department of State Health Services.

9 Sec. 418A.104. LIMITATION ON ALTERATION OF VOTING
10 PROCEDURES. (a) An election official of a political subdivision
11 seeking to alter, in response to a pandemic disaster, any voting
12 standard, practice, or procedure in a manner not otherwise
13 expressly authorized by the Election Code, must first obtain
14 approval of the proposed alteration from the secretary of state by
15 submitting a written request for approval to the secretary of
16 state.

17 (b) The secretary of state by written order may approve a
18 proposed alteration requested under Subsection (a). An election
19 official of a political subdivision may not alter any voting
20 standard, practice, or procedure in a manner not otherwise
21 expressly authorized by the Election Code without a written order
22 of approval from the secretary of state.

23 Sec. 418A.105. LIMITATION ON AD VALOREM TAX RATE OF CERTAIN
24 COUNTIES AND MUNICIPALITIES. (a) In this section:

25 (1) "No-new-revenue tax rate" and "voter-approval tax
26 rate" have the meanings assigned by Section 26.04, Tax Code.

27 (2) "Tax year" has the meaning assigned by Section

1 1.04, Tax Code.

2 (b) This section applies only to a county or municipality:

3 (1) the presiding officer of the governing body of
4 which issues an order requiring the closure of a private business in
5 response to a pandemic; and

6 (2) for which the governor issues a written
7 determination finding that the presiding officer of the governing
8 body of the county or municipality has taken an action described by
9 Subdivision (1).

10 (c) Notwithstanding Chapter 26, Tax Code, or any other law,
11 the governing body of a county or municipality to which this section
12 applies may not adopt an ad valorem tax rate for the current tax
13 year that exceeds the lesser of the county's or municipality's
14 no-new-revenue tax rate or voter-approval tax rate for that tax
15 year.

16 (d) For purposes of making the calculation required under
17 Section 26.013, Tax Code, in a tax year in which this section
18 applies to a county or municipality, the difference between the
19 county's or municipality's actual tax rate and voter-approval tax
20 rate is considered to be zero.

21 (e) A county or municipality is no longer subject to the
22 limitation prescribed by this section in the first tax year in which
23 the governor rescinds the written determination issued under
24 Subsection (b)(2).

25 SUBCHAPTER D. MISCELLANEOUS PROVISIONS

26 Sec. 418A.151. QUALIFICATIONS FOR RENDERING AID. A person
27 who holds a license, certificate, or other permit issued by a state

1 or political subdivision of any state evidencing that a person
2 possesses certain specific professional, mechanical, or other
3 skills may render aid in this state through the use of the
4 applicable skill to meet a pandemic disaster. This state shall give
5 due consideration to the license, certificate, or other permit.

6 Sec. 418A.152. CRIMINAL PENALTY FOR VIOLATION OF PANDEMIC
7 COMPONENTS OF EMERGENCY MANAGEMENT PLAN. (a) A person commits an
8 offense if the person violates a provision of the pandemic
9 components of a state, local, or interjurisdictional emergency
10 management plan or a rule, order, or ordinance adopted under those
11 provisions.

12 (b) An offense under this section is punishable by a fine
13 only in an amount not to exceed \$1,000.

14 (c) This section may be enforced by state and local
15 officials.

16 Sec. 418A.153. SHELTER OPERATIONS. The Department of State
17 Health Services shall develop, with the direction, oversight, and
18 approval of the division, an addendum to the pandemic components of
19 the state emergency management plan that includes provisions for:

20 (1) developing medical special needs categories;

21 (2) categorizing the requirements of individuals with
22 medical special needs; and

23 (3) establishing minimum health-related standards for
24 short-term and long-term shelter operations in shelters operated
25 with state funds or receiving state assistance.

26 Sec. 418A.154. PERSONNEL SURGE CAPACITY PLANNING. (a)
27 With the direction, oversight, and approval of the division and the

1 assistance of the Department of State Health Services, health care
2 facilities, county officials, trauma service area regional
3 advisory councils, and other appropriate entities, each council of
4 government, regional planning commission, or similar regional
5 planning agency created under Chapter 391, Local Government Code,
6 shall develop a regional plan for personnel surge capacity during
7 pandemic disasters, including plans for providing personal
8 protective equipment, lodging, and meals for pandemic disaster
9 relief workers and volunteers.

10 (b) An entity developing a regional plan for personnel surge
11 capacity with regard to lodging shall consult with representatives
12 of emergency responders, infrastructure and utility repair
13 personnel, and other representatives of agencies, entities, or
14 businesses essential to the planning process.

15 Sec. 418A.155. MEDICAL SPECIAL NEEDS VOLUNTEERS. (a) An
16 entity responsible for the care of individuals with medical special
17 needs shall develop and distribute information on volunteering in
18 connection with a pandemic disaster.

19 (b) The division shall provide information to interested
20 parties and the public regarding the process for identifying and
21 training volunteers to assist groups of people, including people
22 with medical special needs and residents of assisted living
23 facilities.

24 Sec. 418A.156. ATTORNEY GENERAL AS LEGAL ADVISOR ON ISSUES
25 RELATED TO DECLARED PANDEMIC DISASTER. (a) This section applies
26 only during a declared state of pandemic disaster under Section
27 418A.053 and the 90-day period following the expiration or

1 termination of the pandemic disaster declaration.

2 (b) The attorney general may provide legal counsel to a
3 political subdivision subject to a declared state of pandemic
4 disaster under Section 418A.053 on issues related to pandemic
5 disaster mitigation, preparedness, response, and recovery
6 applicable to the area subject to the pandemic disaster
7 declaration.

8 (c) A request for legal counsel under this section may be
9 submitted only by:

10 (1) the emergency management director designated
11 under Section 418.1015 for the political subdivision;

12 (2) the county judge or a commissioner of a county
13 subject to the declaration; or

14 (3) the mayor of a municipality subject to the
15 declaration.

16 Sec. 418A.157. OFF-CAMPUS PROGRAMS APPROVED FOR AVERAGE
17 DAILY ATTENDANCE DURING PANDEMIC DISASTER. (a) Notwithstanding
18 any other law, the commissioner of education may, based on criteria
19 developed by the commissioner, approve instructional programs
20 provided off-campus by an entity other than a school district or
21 open-enrollment charter school as a program in which participation
22 by a student of a district or charter school shall be counted for
23 purposes of determining average daily attendance, in accordance
24 with Section 48.005(h), Education Code, during a pandemic disaster.

25 (b) A student of a district or charter school may attend an
26 instructional program provided off-campus by an entity other than a
27 school district or open-enrollment charter school if the district

1 or charter school does not offer full-time in-person education for
2 the student.

3 (c) A student attending an off-campus instructional program
4 described by Subsection (b) shall be counted in the average daily
5 attendance of the district of residence. The off-campus
6 instructional program shall provide attendance figures to the
7 school district weekly.

8 (d) If a district of residence fails to compensate the
9 off-campus instructional program before the 46th day after the date
10 of receiving a bill, the commissioner of education shall reimburse
11 the off-campus instructional program from funding deducted from the
12 district.

13 SECTION 2. Section 418.004(1), Government Code, is amended
14 to read as follows:

15 (1) "Disaster" means the occurrence or imminent threat
16 of widespread or severe damage, injury, or loss of life or property
17 resulting from any natural or man-made cause, including fire,
18 flood, earthquake, wind, storm, wave action, oil spill or other
19 water contamination, volcanic activity, epidemic, air
20 contamination, blight, drought, infestation, explosion, riot,
21 hostile military or paramilitary action, extreme heat,
22 cybersecurity event, other public calamity requiring emergency
23 action, or energy emergency. The term does not include a pandemic.

24 SECTION 3. Section 418.005(b), Government Code, is amended
25 to read as follows:

26 (b) Each person described by Subsection (a) shall complete a
27 course of training provided or approved by the division of not less

1 than three hours regarding the responsibilities of state and local
2 governments under this chapter and Chapter 418A not later than the
3 180th day after the date the person:

4 (1) takes the oath of office, if the person is required
5 to take an oath of office to assume the person's duties as a public
6 officer;

7 (2) otherwise assumes responsibilities as a public
8 officer, if the person is not required to take an oath of office to
9 assume the person's duties; or

10 (3) is designated as an emergency management
11 coordinator under Section [418.1015\(c\)](#).

12 SECTION 4. Section 418A.007, Government Code, as added by
13 this Act, applies only to a cause of action that accrued on or after
14 March 13, 2020. A cause of action that accrued before March 13,
15 2020, is governed by the law applicable to the cause of action
16 immediately before the effective date of this Act, and that law is
17 continued in effect for that purpose.

18 SECTION 5. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section [39](#), Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2021.