

By: Harrison

H.B. No. 33

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

Sec. 418.009. STATE COURT JURISDICTION. (a) District and  
appellate courts of this state have jurisdiction to hear cases  
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.