

By: Corte, et al.

H.B. No. 258

Substitute the following for H.B. No. 258:

By: Corte

C.S.H.B. No. 258

A BILL TO BE ENTITLED

AN ACT

relating to the confiscation of firearms and ammunition during a state of disaster or emergency.

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; ~~[or]~~

(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.

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

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

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

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

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

SECTION 3. Subsection (b), Section 433.002, 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.

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

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

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

(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.