

By: Corte

H.B. No. 258

A BILL TO BE ENTITLED

AN ACT

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

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

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

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) [~~(5)~~] limit, modify, or abridge the authority of
8 the 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 the firearm to an
20 individual disarmed under Subsection (a) before ceasing to detain
21 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. Section 229.001, Local Government Code, is
27 amended by adding Subsection (d) to read as follows:

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

5 SECTION 4. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2007.