

1-1 By: Carona, Nelson S.B. No. 112  
1-2 (In the Senate - Filed November 14, 2006; January 29, 2007,  
1-3 read first time and referred to Committee on Transportation and  
1-4 Homeland Security; February 13, 2007, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 8,  
1-6 Nays 0; February 13, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 112 By: Carona

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the confiscation of firearms and ammunition during a  
1-11 state of disaster.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 418.003, Government Code, is amended to  
1-14 read as follows:

1-15 Sec. 418.003. LIMITATIONS. This chapter does not:

1-16 (1) limit the governor's authority to apply for,  
1-17 administer, or expend any grant, gift, or payment in aid of disaster  
1-18 mitigation, preparedness, response, or recovery;

1-19 (2) interfere with the course or conduct of a labor  
1-20 dispute, except that actions otherwise authorized by this chapter  
1-21 or other laws may be taken when necessary to forestall or mitigate  
1-22 imminent or existing danger to public health or safety;

1-23 (3) interfere with dissemination of news or comment on  
1-24 public affairs, but any communications facility or organization,  
1-25 including radio and television stations, wire services, and  
1-26 newspapers, may be required to transmit or print public service  
1-27 messages furnishing information or instructions in connection with  
1-28 a disaster or potential disaster;

1-29 (4) affect the jurisdiction or responsibilities of  
1-30 police forces, fire-fighting forces, units of the armed forces of  
1-31 the United States, or of any of their personnel when on active duty,  
1-32 but state, local, and interjurisdictional emergency management  
1-33 plans shall place reliance on the forces available for performance  
1-34 of functions related to disasters; ~~or~~

1-35 (5) except as provided by Section 418.184, authorize  
1-36 the seizure or confiscation of any firearm or ammunition from an  
1-37 individual who is lawfully carrying or possessing the firearm or  
1-38 ammunition; or

1-39 (6) limit, modify, or abridge the authority of the  
1-40 governor to proclaim martial law or exercise any other powers  
1-41 vested in the governor under the constitution or laws of this state  
1-42 independent of or in conjunction with any provisions of this  
1-43 chapter.

1-44 SECTION 2. Subchapter H, Chapter 418, Government Code, is  
1-45 amended by adding Section 418.184 to read as follows:

1-46 Sec. 418.184. FIREARMS. (a) A peace officer who is acting  
1-47 in the lawful execution of the officer's official duties during a  
1-48 state of disaster may disarm an individual if the officer  
1-49 reasonably believes it is immediately necessary for the protection  
1-50 of the officer or another individual.

1-51 (b) The peace officer shall return a firearm and any  
1-52 ammunition to an individual disarmed under Subsection (a) before  
1-53 ceasing to detain the individual unless the officer:

1-54 (1) arrests the individual for engaging in criminal  
1-55 activity; or

1-56 (2) seizes the firearm as evidence in a criminal  
1-57 investigation.

1-58 SECTION 3. Subsection (b), Section 433.002, Government  
1-59 Code, is amended to read as follows:

1-60 (b) The directive may provide for:

1-61 (1) control of public and private transportation in  
1-62 the affected area;

1-63 (2) designation of specific zones in the affected area

2-1 in which, if necessary, the use and occupancy of buildings and  
2-2 vehicles may be controlled;

2-3 (3) control of the movement of persons;

2-4 (4) control of places of amusement or assembly;

2-5 (5) establishment of curfews;

2-6 (6) control of the sale, transportation, and use of  
2-7 alcoholic beverages, weapons, and ammunition, except as provided by  
2-8 Section 433.0045; and

2-9 (7) control of the storage, use, and transportation of  
2-10 explosives or flammable materials considered dangerous to public  
2-11 safety.

2-12 SECTION 4. Chapter 433, Government Code, is amended by  
2-13 adding Section 433.0045 to read as follows:

2-14 Sec. 433.0045. FIREARMS. (a) A directive issued under  
2-15 this chapter may not authorize the seizure or confiscation of any  
2-16 firearm or ammunition from an individual who is lawfully carrying  
2-17 or possessing the firearm or ammunition.

2-18 (b) A peace officer who is acting in the lawful execution of  
2-19 the officer's official duties during a state of emergency may  
2-20 disarm an individual if the officer reasonably believes it is  
2-21 immediately necessary for the protection of the officer or another  
2-22 individual.

2-23 (c) The peace officer shall return a firearm and any  
2-24 ammunition to an individual disarmed under Subsection (b) before  
2-25 ceasing to detain the individual unless the officer:

2-26 (1) arrests the individual for engaging in criminal  
2-27 activity; or

2-28 (2) seizes the firearm as evidence in a criminal  
2-29 investigation.

2-30 SECTION 5. Section 229.001, Local Government Code, is  
2-31 amended by adding Subsection (d) to read as follows:

2-32 (d) The exception provided by Subsection (b)(4) does not  
2-33 authorize the seizure or confiscation of any firearm or ammunition  
2-34 from an individual who is lawfully carrying or possessing the  
2-35 firearm or ammunition.

2-36 SECTION 6. This Act takes effect immediately if it receives  
2-37 a vote of two-thirds of all the members elected to each house, as  
2-38 provided by Section 39, Article III, Texas Constitution. If this  
2-39 Act does not receive the vote necessary for immediate effect, this  
2-40 Act takes effect September 1, 2007.

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