

SUBJECT: Prohibiting use of emergency powers to regulate firearms, gun stores

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 10 ayes — Paddie, Harless, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson, Smithee

3 nays — Hernandez, Deshotel, Howard

WITNESSES: For — Felisha Bull, Gun Owners of America; Tara Mica, National Rifle Association; Darren Lasorte, National Shooting Sports Foundation; Rick Briscoe, Open Carry Texas; Andi Turner and Darryl Valdes, Texas State Rifle Association; John Bolgiano; Kyle Guarco; Kenneth Lindbloom; James Lofton; Gary Zimmerman; (*Registered, but did not testify*: Angela Smith, Fredericksburg Tea Party; Manfred Wendt, Young Conservatives of Texas; Jordan Clements, Young Conservatives of Texas-UT; and 31 individuals)

Against — (*Registered, but did not testify*: Bill Kelly, Mayor's Office, City of Houston; Gyl Switzer, Texas Gun Sense; and 12 individuals)

On — (*Registered, but did not testify*: Thomas Parkinson)

BACKGROUND: Government Code ch. 418, the Texas Disaster Act of 1975, governs powers and responsibilities of the governor, state agencies, and local governments in the event of a disaster. Subch. B outlines the emergency powers and duties of the governor, including declaring a state of disaster if a disaster has occurred or one is imminent. The governor also may suspend certain laws and rules, control the movements of persons, and restrict the sale and transportation of certain materials, including firearms.

Under sec. 433.001, on application of the chief executive officer or government body of a county or city during an emergency, the governor may proclaim a state of emergency and designate the area involved. Statute provides that an emergency exists in certain situations, including during a natural or man-made disaster. After a state of emergency is

proclaimed, sec. 433.002 allows the governor to issue directives calculated to control effectively and terminate the emergency and protect life and property.

DIGEST:

HB 1500 would specify that the Texas Disaster Act would not authorize any person to prohibit or restrict the business or operations of a firearms or ammunition manufacturer, distributor, wholesaler, supplier, or retailer or a sport shooting range in connection with a disaster.

The bill would remove the governor's authority during a declared disaster to suspend or limit the sale, dispensing, or transportation of firearms and prohibit the governor from restricting the sale and transportation of explosives or combustibles that were components of firearm ammunition.

Under the bill, the governor could no longer control the sale, transportation, and use of weapons and ammunition through a directive issued during a state of emergency under Government Code ch. 433. The directives also could not:

- control the storage, use, and transportation of explosives or flammable materials that were components of firearm ammunition; or
- prohibit or restrict the business or operations of a firearms or ammunition manufacturer, distributor, wholesaler, supplier, or retailer or a sport shooting range.

The bill would remove a city's authority to regulate the use of firearms, air guns, or knives in the case of an insurrection, riot, or natural disaster if the city found the regulations necessary to protect public health and safety.

The bill would take effect September 1, 2021.

**SUPPORTERS
SAY:**

HB 1500 would protect the right of lawful gun owners and firearms retailers and promote the safety of families, property, and businesses, which is especially critical during disaster situations. By prohibiting

emergency powers from being used to prevent or impede the sale of firearms, ammunition, and related components, the bill would ensure Texans could defend themselves, their families, and their properties when most vulnerable.

Last year, several local orders issued in response to the ongoing COVID-19 pandemic that allowed only essential businesses to remain open did not designate firearms manufacturers or retailers or shooting ranges as essential. However, according to a March 2020 attorney general opinion, cities and counties may not use emergency declarations to regulate the sale of firearms due to state firearms preemption statute.

The bill simply would codify the attorney general opinion to completely protect firearms businesses from overregulation by ensuring that in any future disaster or emergency, such businesses were classified as essential. By prohibiting any level of government from using emergency powers to regulate firearms, ammunition, and related businesses, the bill would support the constitutional rights of lawful gun owners by ensuring access to items they have a right to own and possess.

**CRITICS
SAY:**

HB 1500 would override local control by eliminating a city's authority to regulate the use of firearms and other weapons during an insurrection, riot, or natural disaster. Local leaders should have the discretion to take actions necessary to protect the public health and safety of their citizens during times of tension and anxiety.