

109th CONGRESS
2d Session
H. R. 5013
AN ACT

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to prohibit the confiscation of firearms during certain national emergencies.

HR 5013 EH

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To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to prohibit the confiscation of firearms during certain national emergencies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Disaster Recovery Personal Protection Act of 2006'.

SEC. 2. FINDINGS.

Congress finds the following:

- (1) The Second Amendment to the Constitution states that a 'well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed', and Congress has repeatedly recognized this language as protecting an individual right.
- (2) In the wake of Hurricane Katrina, State and local law enforcement and public safety service organizations were overwhelmed and could not fulfill the safety needs of the citizens of the State of Louisiana.
- (3) In the wake of Hurricane Katrina, the safety of these citizens, and of their homes and property, was threatened by instances of criminal activity.
- (4) Many of these citizens lawfully kept firearms for the safety of themselves, their loved ones, their businesses, and their property, as guaranteed by the Second Amendment, and used their firearms, individually or in concert with their neighbors, for protection against crime.
- (5) In the wake of Hurricane Katrina, certain agencies confiscated the firearms of these citizens in contravention of the Second Amendment, depriving these citizens of the right to keep and bear arms and rendering them helpless against criminal activity.

(6) These confiscations were carried out at gunpoint by nonconsensual entries into private homes, by traffic checkpoints, by stoppage of boats, and otherwise by force.

(7) The citizens from whom firearms were confiscated were either in their own homes or attempting to flee the flooding and devastation by means of motor vehicle or boat, and were accosted, stopped, and arbitrarily deprived of their private property and means of protection.

(8) The means by which the confiscations were carried out, which included intrusion into the home, temporary detention of persons, and seizures of property, constituted unreasonable searches and seizures and deprived these citizens of liberty and property without due process of law in violation of fundamental rights under the Constitution.

(9) Many citizens who took temporary refuge in emergency housing were prohibited from storing firearms on the premises, and were thus treated as second-class citizens who had forfeited their constitutional right to keep and bear arms.

(10) At least one highly-qualified search and rescue team was prevented from joining in relief efforts because the team included individuals with firearms, although these individuals had been deputized as Federal law enforcement officers.

(11) These confiscations and prohibitions, and the means by which they were carried out, deprived the citizens of Louisiana not only of their right to keep and bear arms, but also of their rights to personal security, personal liberty, and private property, all in violation of the Constitution and laws of the United States.

SEC. 3. PROHIBITION ON CONFISCATION OF FIREARMS DURING CERTAIN NATIONAL EMERGENCIES.

Title VII of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5201) is amended by adding at the end the following:

SEC. 706. FIREARMS POLICIES.

(a) Prohibition on Confiscation of Firearms- No officer or employee of the United States (including any member of the uniformed services), or person operating pursuant to or under color of Federal law, or receiving Federal funds, or under control of any Federal official, or providing services to such an officer, employee, or other person, while acting in support of relief from a major disaster or emergency, may--

(1) temporarily or permanently seize, or authorize seizure of, any firearm the possession of which is not prohibited under Federal, State, or local law, other than for forfeiture in compliance with Federal law or as evidence in a criminal investigation;

(2) require registration of any firearm for which registration is not required by Federal, State, or local law;

(3) prohibit possession of any firearm, or promulgate any rule, regulation, or order prohibiting possession of any firearm, in any place or by any person where such possession is not otherwise prohibited by Federal, State, or local law; or

`(4) prohibit the carrying of firearms by any person otherwise authorized to carry firearms under Federal, State, or local law, solely because such person is operating under the direction, control, or supervision of a Federal agency in support of relief from the major disaster or emergency.

`(b) Limitation- Nothing in this section shall be construed to prohibit any person from requiring the temporary surrender of a firearm as a condition for entry into any mode of transportation used for rescue or evacuation during a major disaster or emergency.

`(c) Private Rights of Action-

`(1) IN GENERAL- Any individual aggrieved by a violation of this section may seek relief in an action at law, suit in equity, or other proper proceeding for redress against any person who subjects such individual, or causes such individual to be subjected, to the deprivation of any of the rights, privileges, or immunities secured by this section.

`(2) REMEDIES- In addition to any existing remedy in law or equity, under any law, an individual aggrieved by the seizure or confiscation of a firearm in violation of this section may bring an action for return of such firearm in the United States district court in the district in which that individual resides or in which such firearm may be found.

`(3) ATTORNEY FEES- In any action or proceeding to enforce this section, the court shall award the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.'

Passed the House of Representatives July 25, 2006.