

2020 Regular Session

HOUSE BILL NO. 781

BY REPRESENTATIVE MIGUEZ

WEAPONS: Provides relative to the authority to regulate the manufacture, possession, or sale of firearms or ammunition during a declared emergency or disaster or public health emergency

1 AN ACT

2 To amend and reenact R.S. 14:329.6(C), (G), and (H)(1) and R.S. 29:724(D)(4) and (6),

3 727(F)(4) and (8), 730.3(F), 737(B)(7), 738(A), 766(D)(4) and (8), and 772, to enact

4 R.S. 14:329.6(H)(3) and R.S. 29:738(C), and to repeal R.S. 14:329.6(A)(6), relative

5 to the regulation of firearms and ammunition during a declared emergency or

6 disaster or public health emergency; to provide relative to the authority to regulate

7 the manufacture, sale, and possession of firearms and ammunition during a declared

8 emergency or disaster or public health emergency; to provide relative to the authority

9 of firearm- and ammunition-related businesses to operate during a declared

10 emergency or disaster or public health emergency; to provide relative to the authority

11 of certain officials to regulate with respect to firearms and ammunition during a

12 declared emergency or disaster or public health emergency; and to provide for

13 related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 14:329.6(C), (G), and (H)(1) are hereby amended and reenacted and  
16 R.S. 14:329.6(H)(3) is hereby enacted to read as follows:

17 §329.6. Proclamation of state of emergency; conditions therefor; effect thereof

18 \* \* \*

1 C. All orders promulgated pursuant to this ~~section~~ Section shall be executed  
2 in triplicate and shall be filed with the clerk of court of the parish affected and with  
3 the secretary of state of this state.

4 \* \* \*

5 G. As used in this Section:

6 (1) "Disaster" shall have the same meaning as provided in ~~R.S. 29:723(1)~~  
7 R.S. 29:723.

8 (2) "Emergency" shall have the same meaning as provided in ~~R.S. 29:723(2)~~  
9 R.S. 29:723.

10 H.(1) The right of each citizen to keep and bear arms is fundamental and  
11 shall not be infringed. Nothing in this Section shall authorize the seizure or  
12 confiscation of any firearm or ammunition from any individual who is lawfully  
13 carrying or possessing the firearm or ammunition except as provided in Paragraph  
14 (2) of this Subsection.

15 \* \* \*

16 (3) Firearms and ammunition manufacturers, distributors, wholesalers,  
17 suppliers, and retailers are essential businesses and operations for purposes of safety  
18 and security and shall not be prohibited or restricted from operating or conducting  
19 business during a declared emergency or disaster.

20 Section 2. R.S. 29:724(D)(4) and (6), 727(F)(4) and (8), 730.3(F), 737(B)(7),  
21 738(A), 766(D)(4) and (8), and 772 are hereby amended and reenacted and R.S. 29:738(C)  
22 is hereby enacted to read as follows:

23 §724. Powers of the governor

24 \* \* \*

25 D. In addition to any other powers conferred upon the governor by law, he  
26 may do any or all of the following:

27 \* \* \*

28 (4) Subject to any applicable requirements for compensation, commandeer  
29 or utilize any private property if he finds this necessary to cope with the disaster or

1 emergency. For purposes of this Paragraph, private property does not include  
2 firearms, ammunition, or components of firearms or ammunition.

3 \* \* \*

4 (6) Suspend or limit the sale, dispensing, or transportation of alcoholic  
5 beverages, ~~firearms~~, explosives, and combustibles, excluding those components of  
6 firearm ammunition.

7 \* \* \*

8 §727. Powers of the parish president; penalties for violations

9 \* \* \*

10 F. In addition to any other powers conferred upon the parish president by the  
11 constitution, laws, or by a home rule charter or plan of government, such authority  
12 may do any or all of the following:

13 \* \* \*

14 (4) Subject to any applicable requirements for compensation, commandeer  
15 or utilize any private property if he finds this necessary to cope with the local  
16 disaster. For purposes of this Paragraph, private property does not include firearms,  
17 ammunition, or components of firearms or ammunition.

18 \* \* \*

19 (8) Suspend or limit the sale, dispensing, or transportation of alcoholic  
20 beverages, ~~firearms~~, explosives, and combustibles, excluding those components of  
21 firearm ammunition.

22 \* \* \*

23 §730.3. Evacuations and curfews

24 \* \* \*

25 F. During a declared disaster or state of emergency, the parish president may  
26 in the proclamation for evacuation or a separate proclamation impose a curfew  
27 prohibiting anyone who is not designated as essential workforce or critical workforce  
28 to be on a public street or place. The curfew may be for the entire parish or for  
29 certain areas of the parish, and the curfew may be for an unlimited period of time or

1           may be for certain periods of time during each twenty-four-hour period. The  
 2           proclamation shall specify the geographical area or areas and the period during each  
 3           twenty-four-hour period to which the curfew applies. The proclamation imposing  
 4           a curfew may regulate and close places of amusement and assembly; and prohibit the  
 5           sale and distribution of alcoholic beverages; ~~and regulate and control, subject to the~~  
 6           ~~provisions of R.S. 29:738, the possession, storage, display, sale, transport, and use~~  
 7           ~~of firearms and other dangerous weapons and ammunition.~~

\* \* \*

9           §737. Municipalities; authority to respond to emergencies

\* \* \*

11                   B. As used in this Section, "emergency response measures" includes, but is  
 12           not limited to, any or all of the following:

\* \* \*

14                   (7) Suspending or limiting the sale, dispensing, or transportation of alcoholic  
 15           beverages, ~~firearms~~, explosives, and combustibles, excluding those components of  
 16           firearm ammunition.

\* \* \*

18           §738. Emergency powers do not extend to confiscation or seizure of lawfully  
 19           possessed or used firearms, weapons, or ammunition; exceptions

20                   A. The right of each citizen to keep and bear arms is fundamental and shall  
 21           not be infringed. Nothing in this Chapter shall authorize the seizure or confiscation  
 22           of any firearm or ammunition from any individual who is lawfully carrying or  
 23           possessing the firearm or ammunition except as provided in Subsection B of this  
 24           Section.

\* \* \*

26                   C. Firearms and ammunition manufacturers, distributors, wholesalers,  
 27           suppliers, and retailers are essential businesses and operations for purposes of safety



emergency, disaster, or public health emergency to suspend or limit the sale, dispensing, or transportation of firearms or combustibles.

Present law (R.S. 29:730.3) further authorizes the governor and the parish president during a declared disaster or emergency to issue a proclamation for evacuation or for the imposition of a curfew which may include the regulation and control of the possession, storage, display, sale, transport, and use of firearms and other dangerous weapons and ammunition.

Proposed law removes the authority of the governor, the parish president, the chief executive officer of a municipality, and the chief law enforcement officer of the political subdivision from regulating the sale, dispensing, or transportation of firearms, and provides that the authority to regulate the sale, dispensing, or transportation of combustibles does not apply to those component parts of ammunition.

Proposed law removes the authority for a proclamation for the imposition of a curfew to include the regulation and control of the possession, storage, display, sale, transport, and use of firearms and other dangerous weapons and ammunition.

Present law authorizes the governor (R.S. 29:724 and 766) and parish presidents (R.S. 29:727), subject to applicable requirements for compensation, to commandeer or utilize any private property if he finds this necessary to cope with the disaster, emergency, or public health emergency.

Proposed law retains present law but provides that for these purposes private property does not include firearms, ammunition, or components of firearms or ammunition.

Present law (R.S. 14:329.6 and R.S. 29:738) provides that the emergency powers of these individuals do not authorize the seizure or confiscation of any firearm or ammunition from any individual who is lawfully carrying or possessing the firearm or ammunition. However, present law provides that a peace officer who is acting in the lawful discharge of the officer's official duties may disarm an individual if the officer reasonably believes it is immediately necessary for the protection of the officer or another individual.

Proposed law retains present law and adds that, as provided in the present constitution, the right of each citizen to keep and bear arms is fundamental and shall not be infringed, and further provides that firearms and ammunition manufacturers, distributors, wholesalers, suppliers, and retailers are essential businesses and operations for purposes of safety and security and shall not be prohibited or restricted from operating or conducting business during a declared disaster or emergency.

Proposed law further provides that the present law (R.S. 29:738) provisions prohibiting the seizure of lawfully possessed firearms or ammunition, and the authority of law enforcement to disarm individuals under certain circumstances, during a declared emergency or disaster shall apply also to declared public health emergencies.

(Amends R.S. 14:329.6(C), (G), and (H)(1) and R.S. 29:724(D)(4) and (6), 727(F)(4) and (8), 730.3(F), 737(B)(7), 738(A), 766(D)(4) and (8), and 772; Adds R.S. 14:329.6(H)(3) and R.S. 29:738(C); Repeals R.S. 14:329.6(A)(6))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Add that the governor's and parish president's authority to commandeer or utilize private property during a declared disaster or emergency or public health emergency does not apply to firearms, ammunition, or components of firearms or ammunition.

2. With regard to declared public health emergencies, remove the governor's authority to suspend or limit the sale, dispensing, or transportation of firearms and provide that the governor's authority to suspend or limit the sale, dispensing, or transportation of explosives and combustibles does not apply to components of firearms ammunition.
3. Provide that present law provisions prohibiting the seizure of lawfully possessed firearms or ammunition during a declared emergency or disaster shall apply also to declared public health emergencies.