

GOVERNMENT CODE

TITLE 4. EXECUTIVE BRANCH

SUBTITLE C. STATE MILITARY FORCES AND VETERANS

CHAPTER 433. STATE OF EMERGENCY

Sec. 433.001. PROCLAMATION OF STATE OF EMERGENCY. On application of the chief executive officer or governing body of a county or municipality during an emergency, the governor may proclaim a state of emergency and designate the area involved. For the purposes of this section an emergency exists in the following situations:

(1) a riot or unlawful assembly by three or more persons acting together by use of force or violence;

(2) if a clear and present danger of the use of violence exists; or

(3) a natural or man-made disaster.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 433.002. ISSUANCE OF DIRECTIVES. (a) After a state of emergency is proclaimed, the governor may issue reasonable directives calculated to control effectively and terminate the emergency and protect life and property. Before a directive takes effect, reasonable notice must be given in a newspaper of general circulation in the affected area, through television or radio serving the affected area, or by circulating notices or posting signs at conspicuous places in the affected area.

(b) The directive may provide for:

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

(2) designation of specific zones in the affected area in which, if necessary, the use and occupancy of buildings and vehicles may be controlled;

(3) control of the movement of persons;

(4) control of places of amusement or assembly;

(5) establishment of curfews;

(6) control of the sale, transportation, and use of alcoholic beverages; and

(7) control of the storage, use, and transportation of explosives or flammable materials considered dangerous to public safety, other than explosives or flammable materials that are components of firearm ammunition.

(c) A directive takes effect according to its terms, but not before notice is given as required by Subsection (a). The governor may amend, modify, or rescind a directive in a manner similar to adoption of a directive during the state of emergency.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 18 (S.B. 112), Sec. 3, eff. April 27, 2007.

Acts 2021, 87th Leg., R.S., Ch. 998 (H.B. 1500), Sec. 3, eff. September 1, 2021.

Sec. 433.003. DURATION OF STATE OF EMERGENCY. (a) Except as provided by Subsection (b), a directive expires 72 hours after the time of proclamation of the state of emergency for which it was issued.

(b) The governor by proclamation may terminate or set a shorter period for a directive. The governor may proclaim successive states of emergency, each not exceeding 72 hours, as necessary to protect health, life, and property in the affected area, and may extend a directive from one state of emergency to the next.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 433.004. DUTIES OF LAW ENFORCEMENT AGENCY. (a) During a state of emergency, each law enforcement agency in the state shall cooperate in the manner the governor or the governor's designated representative requests and shall allow the use of the agency's equipment and facilities as the governor or the governor's designated representative requires, except that if the agency is not located within the affected area, the use may not substantially interfere with the normal duties of the agency.

(b) A county or municipal law enforcement agency shall notify the director of the Department of Public Safety if the agency

receives notice of a threatened or actual disturbance indicating the possibility of serious domestic violence.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 433.0045. FIREARMS. (a) A directive issued under this chapter may not:

(1) authorize the seizure or confiscation of any firearm or ammunition from an individual who is lawfully carrying or possessing the firearm or ammunition; or

(2) prohibit or restrict the business or operations of a firearms or ammunition manufacturer, distributor, wholesaler, supplier, or retailer or a sport shooting range, as defined by Section 250.001, Local Government Code, in connection with a state of emergency.

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

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

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

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

Added by Acts 2007, 80th Leg., R.S., Ch. 18 (S.B. 112), Sec. 4, eff. April 27, 2007.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 998 (H.B. 1500), Sec. 4, eff. September 1, 2021.

Sec. 433.005. CALLING OF STATE MILITARY FORCES. (a) The chief executive officer or governing body of a county or municipality may request the governor to provide state military forces to aid in controlling conditions in the county or municipality that the officer or governing body believes cannot be

controlled by the local law enforcement agencies alone. On receiving the request, the governor may order a commander of a unit of the state military forces to appear at a time and place the governor directs to aid the civil authorities.

(b) After the forces have appeared at the appointed place, the commanding officer shall obey and execute the general instructions of the civil authorities charged by law with the suppression of riot, the preservation of public peace, and the protection of life and property. The instructions must be in writing, except that if written instructions are impracticable, the instructions may be given verbally in the presence of two or more credible witnesses. The commanding officer shall exercise his discretion as to the proper method of practically accomplishing the instructions.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 433.006. VIOLATIONS. (a) A person who violates this chapter or a directive issued under this chapter commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not more than \$200, confinement for not more than 60 days, or both.

(b) A temporary restraining order or temporary or permanent injunction may be issued to prevent violation of this chapter or a directive issued under this chapter as provided by the Texas Rules of Civil Procedure and applicable law.

(c) The governor may institute an action under this section in any court of competent jurisdiction in the state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 433.007. CONSTRUCTION OF CHAPTER. This chapter shall be construed broadly to effect its intent to recognize the governor's broad power of action in the exercise of the police power of the state to provide adequate control over persons and conditions during periods of impending or actual public crisis or disaster and to provide means for local governments to protect lives and property and maintain the operation of government.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.