

# Legislative Analysis



## NO SEIZURE OR SUSPENSION OF SALES OF GUNS DURING EMERGENCIES

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**House Bills 6363 and 6364 (Substitutes H-2)**

**Sponsor: Rep. Scott Hummel**

**Committee: Government Operations**

### **First Analysis (9-14-06)**

**BRIEF SUMMARY:** House Bills 6363 and 6364 would eliminate the governor's ability to suspend the sale of firearms and to issue orders or rules providing for the "control of the possession, sale, carrying and use of firearms, other dangerous weapons, and ammunition" during declared states of disaster or emergency. The bills would also specifically ban the seizure or confiscation of lawfully-possessed firearms, ammunition, or other weapons during states of emergency.

**FISCAL IMPACT:** The bills would have no fiscal impact on the state or local governments.

**THE APPARENT PROBLEM:** These bills were introduced in response to reports of seizures of lawfully-possessed guns in New Orleans after Hurricane Katrina. Although no such seizures have taken place in Michigan, the bills are an attempt to foreclose any seizures during future emergencies.

### **THE CONTENT OF THE BILLS:**

Under Section 5(1)(h) of the Emergency Management Act (P.A. 30 of 1976), after declaring a state of disaster or emergency, the governor has various powers including the power to "suspend the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles." House Bill 6363 (H-2) would amend the act (MCL 30.405) to delete "firearms" from this list, eliminating the governor's authority to suspend the sale or transportation of firearms during emergencies. The bill would also add the proviso that the governor's powers do not include "the seizure, taking, or confiscation of lawfully possessed firearms or ammunition."

House Bill 6364 (H-2) would make similar changes to Public Act 302 of 1945 (MCL 10.31) which also relates to emergency powers of the governor. Under Section 1(1) of that law (MCL 10.31(1)), after declaring a state of emergency, the governor may promulgate orders, rules, and regulations necessary to protect life and property and to bring an emergency situation under control. The bill would eliminate from this section the governor's ability to promulgate orders and rules providing for "control of the possession, sale, carrying, and use of firearms, other dangerous weapons, and ammunition" and add a new subsection (MCL 10.31(3)) that would say that this subsection of the law "does not authorize the seizure, taking, or confiscation of lawfully possessed firearms, ammunition, or other weapons." House Bill 6363 bans the seizure of "firearms or ammunition" during emergencies; House Bill 6364 bans the seizure of "firearms, ammunition, or other weapons."

As introduced, the bills did not ban the seizure of ammunition.

## **BACKGROUND INFORMATION:**

There were many reports of gun seizures in New Orleans in the aftermath of Hurricane Katrina. In response to the post-Katrina gun seizures, several states, including Louisiana, Virginia, New Hampshire, Florida, and Arizona, are considering or have passed laws to ban weapons seizures by state and local officials during emergencies.

In Washington, D.C., the U.S. House of Representatives passed H.R. 5013, known as the "Disaster Recovery Personal Protection Act of 2006," in July 2006. That bill would prevent federal officials or local law enforcement agents that receive federal money from confiscating legally-owned firearms confiscations during emergencies. It also authorizes private lawsuits to recover seized weapons and other remedies for violations of the law, including attorney fees. The U.S. Senate has voted to include a similar prohibition in a homeland security funding bill. The sponsor of H.R. 5013, Rep. Bobby Jindal of Louisiana, has said he wants to avoid a repeat of occurrences during Hurricane Katrina when he heard dozens of reports of weapons being seized from law-abiding citizens.

Opponents of the federal legislation have said that the bill would tie the hands of law enforcement officials during a time of crisis and would prevent the police from picking up guns that might otherwise be used by looters, would endanger rescue workers, and would subject law enforcement officers and the National Guard to personal lawsuits for seizing guns that were later found to be legally owned. H.R. 5013 was amended to address concerns that it would endanger rescue workers. It now allows the Coast Guard and other rescue workers to require that people surrender their weapons before boarding a rescue vehicle.

The National Rifle Association (NRA) and other groups have sued the city of New Orleans for the post-Katrina gun seizures in New Orleans.

## **ARGUMENTS:**

### ***For:***

The Second Amendment protects the right of law-abiding citizens to possess firearms. Emergencies or times of civil unrest are precisely when citizens may most need their lawful weapons to protect themselves, their families, or their property.

### **Against:**

No arguments were expressed against the bills at the committee hearing on the bills.

## **POSITIONS:**

The NRA supports the bill. (9-12-06)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.