

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5013

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IN THE SENATE OF THE UNITED STATES

JULY 26, 2006

Received

AUGUST 4 (legislative day, AUGUST 3), 2006

Read twice and referred to the Committee on the Judiciary

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## AN ACT

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

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Disaster Recovery Per-  
3 sonal Protection Act of 2006”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) The Second Amendment to the Constitution  
7 states that a “well regulated militia, being necessary  
8 to the security of a free State, the right of the peo-  
9 ple to keep and bear arms, shall not be infringed”,  
10 and Congress has repeatedly recognized this lan-  
11 guage as protecting an individual right.

12 (2) In the wake of Hurricane Katrina, State  
13 and local law enforcement and public safety service  
14 organizations were overwhelmed and could not fulfill  
15 the safety needs of the citizens of the State of Lou-  
16 isiana.

17 (3) In the wake of Hurricane Katrina, the safe-  
18 ty of these citizens, and of their homes and property,  
19 was threatened by instances of criminal activity.

20 (4) Many of these citizens lawfully kept fire-  
21 arms for the safety of themselves, their loved ones,  
22 their businesses, and their property, as guaranteed  
23 by the Second Amendment, and used their firearms,  
24 individually or in concert with their neighbors, for  
25 protection against crime.

1           (5) In the wake of Hurricane Katrina, certain  
2 agencies confiscated the firearms of these citizens in  
3 contravention of the Second Amendment, depriving  
4 these citizens of the right to keep and bear arms and  
5 rendering them helpless against criminal activity.

6           (6) These confiscations were carried out at gun-  
7 point by nonconsensual entries into private homes,  
8 by traffic checkpoints, by stoppage of boats, and  
9 otherwise by force.

10          (7) The citizens from whom firearms were con-  
11 fiscated were either in their own homes or attempt-  
12 ing to flee the flooding and devastation by means of  
13 motor vehicle or boat, and were accosted, stopped,  
14 and arbitrarily deprived of their private property and  
15 means of protection.

16          (8) The means by which the confiscations were  
17 carried out, which included intrusion into the home,  
18 temporary detention of persons, and seizures of  
19 property, constituted unreasonable searches and sei-  
20 zures and deprived these citizens of liberty and prop-  
21 erty without due process of law in violation of funda-  
22 mental rights under the Constitution.

23          (9) Many citizens who took temporary refuge in  
24 emergency housing were prohibited from storing fire-  
25 arms on the premises, and were thus treated as sec-

1       ond-class citizens who had forfeited their constitu-  
2       tional right to keep and bear arms.

3               (10) At least one highly-qualified search and  
4       rescue team was prevented from joining in relief ef-  
5       forts because the team included individuals with fire-  
6       arms, although these individuals had been deputized  
7       as Federal law enforcement officers.

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

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

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

20 **“SEC. 706. FIREARMS POLICIES.**

21       “(a) PROHIBITION ON CONFISCATION OF FIRE-  
22      ARMS.—No officer or employee of the United States (in-  
23      cluding any member of the uniformed services), or person  
24      operating pursuant to or under color of Federal law, or  
25      receiving Federal funds, or under control of any Federal

1 official, or providing services to such an officer, employee,  
2 or other person, while acting in support of relief from a  
3 major disaster or emergency, may—

4 “(1) temporarily or permanently seize, or au-  
5 thorize seizure of, any firearm the possession of  
6 which is not prohibited under Federal, State, or  
7 local law, other than for forfeiture in compliance  
8 with Federal law or as evidence in a criminal inves-  
9 tigation;

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

13 “(3) prohibit possession of any firearm, or pro-  
14 mulgate any rule, regulation, or order prohibiting  
15 possession of any firearm, in any place or by any  
16 person where such possession is not otherwise pro-  
17 hibited by Federal, State, or local law; or

18 “(4) prohibit the carrying of firearms by any  
19 person otherwise authorized to carry firearms under  
20 Federal, State, or local law, solely because such per-  
21 son is operating under the direction, control, or su-  
22 pervision of a Federal agency in support of relief  
23 from the major disaster or emergency.

24 “(b) LIMITATION.—Nothing in this section shall be  
25 construed to prohibit any person from requiring the tem-

1 porary surrender of a firearm as a condition for entry into  
2 any mode of transportation used for rescue or evacuation  
3 during a major disaster or emergency.

4 “(c) PRIVATE RIGHTS OF ACTION.—

5 “(1) IN GENERAL.—Any individual aggrieved  
6 by a violation of this section may seek relief in an  
7 action at law, suit in equity, or other proper pro-  
8 ceeding for redress against any person who subjects  
9 such individual, or causes such individual to be sub-  
10 jected, to the deprivation of any of the rights, privi-  
11 leges, or immunities secured by this section.

12 “(2) REMEDIES.—In addition to any existing  
13 remedy in law or equity, under any law, an indi-  
14 vidual aggrieved by the seizure or confiscation of a  
15 firearm in violation of this section may bring an ac-  
16 tion for return of such firearm in the United States  
17 district court in the district in which that individual  
18 resides or in which such firearm may be found.

19 “(3) ATTORNEY FEES.—In any action or pro-  
20 ceeding to enforce this section, the court shall award

1 the prevailing party, other than the United States,  
2 a reasonable attorney's fee as part of the costs.".

Passed the House of Representatives July 25, 2006.

Attest: KAREN L. HAAS,  
*Clerk.*