

**HB**

**400**

**HFIN**

**FILE**



# FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 400(JUD)  
(H) Publish Date: 2/21/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Military and Veterans' Affairs  
Title Confiscation of Firearms RDU Military and Veterans Affairs  
Component Homeland Security & Emergency Management  
Sponsor Military & Veterans Affairs  
Requester \_\_\_\_\_ Component No. 2657

## Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2006) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS						
Full-time	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

**ANALYSIS:** *(Attach a separate page if necessary)*

No fiscal impact.

Prepared by: John Cramer Phone (907) 465-4602  
Division: Administrative Services Division Date/Time 2/13/06 9:15 AM  
Approved by: Craig E. Campbell, Commissioner Date 2/13/2006  
Agency: Department of Military & Veterans' Affairs

AMENDMENT

2

OFFERED IN THE HOUSE

BY REPRESENTATIVE HAWKER

TO: CS HB 400 work draft 24-LS1543\L

1 Page 1, line 7 through page 1, line 10

2 Delete all material

3

4 Insert "Sec. 26.23.205. Confiscation of firearms. A person forfeits any office or  
5 governmental position if the person is convicted of official misconduct under AS 11.56.850  
6 or interference with constitutional rights under AS 11.76.110 as a result of confiscating,  
7 attempting to confiscate, or ordering the confiscation of a firearm, under color of law, during  
8 a disaster emergency."

**Sec. 11.56.850. Official misconduct.**

(a) A public servant commits the crime of official misconduct if, with intent to obtain a benefit or to injure or deprive another person of a benefit, the public servant

(1) performs an act relating to the public servant's office but constituting an unauthorized exercise of the public servant's official functions, knowing that that act is unauthorized; or

(2) knowingly refrains from performing a duty which is imposed upon the public servant by law or is clearly inherent in the nature of the public servant's office.

(b) Official misconduct is a class A misdemeanor.

**Sec. 11.76.110. Interference with constitutional rights.**

(a) A person commits the crime of interference with constitutional rights if

(1) the person injures, oppresses, threatens, or intimidates another person with intent to deprive that person of a right, privilege, or immunity in fact granted by the constitution or laws of this state;

(2) the person intentionally injures, oppresses, threatens, or intimidates another person because that person has exercised or enjoyed a right, privilege, or immunity in fact granted by the constitution or laws of this state; or

(3) under color of law, ordinance, or regulation of this state or a municipality or other political subdivision of this state, the person intentionally deprives another of a right, privilege, or immunity in fact granted by the constitution or laws of this state.

(b) In a prosecution under this section, whether the injury, oppression, threat, intimidation, or deprivation concerns a right, privilege, or immunity granted by the constitution or laws of this state is a question of law.

(c) Interference with constitutional rights is a class A misdemeanor.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE HAWKER

TO: CS HB 400 work draft 24-LS1543\

1 Page 1, line 4, following "confiscation of a"

2 Insert "firearm"

3

4 Page 1, line 5, following "carried"

5 Delete "firearm by law-abiding citizens"

6 Insert "by a law-abiding citizen"

7

As amended, the section would read:

(5) authorizes the confiscation of a firearm lawfully owned, possessed, or carried by a law-abiding citizen.

24-LS1543L  
Luckhaupt  
3/1/06

CS FOR HOUSE BILL NO. 400( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES COGHILL, Lynn, Dahlstrom, Wilson, Anderson, Thomas

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to confiscation of firearms during disaster emergencies."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 \* Section 1. AS 26.23.200 is amended by adding a new paragraph to read:

4 (5) authorizes the confiscation of a lawfully owned, possessed, or  
5 carried firearm by law-abiding citizens.

6 \* Sec. 2. AS 26.23 is amended by adding a new section to read:

7 Sec. 26.23.205. Confiscation of firearms. A person forfeits any office or  
8 governmental position held if the person, under color of law, confiscates, attempts to  
9 confiscate, or orders the confiscation of a firearm during a disaster emergency having  
10 no right to do so and no reasonable ground to believe the person has such a right.  
11 However, a person does not violate this section if the person is acting as a private  
12 citizen who has been directed by another whom the person reasonably believes to be a  
13 peace officer or active member of the armed forces or militia, to assist in confiscating  
14 a firearm. In addition to forfeiture of office or position, an officer under the  
15 jurisdiction of the Alaska Police Standards Council who violates this section is subject

1

to revocation of the officer's certification.

# ALASKA STATE HOUSE OF REPRESENTATIVES

Session

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Room 204

## REPRESENTATIVE JOHN COGHILL

*HB 400*

*"An Act relating to Disasters and Confiscation of Firearms"*

### *SPONSOR STATEMENT*

*"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." (Second Amendment to the United States Constitution - ratified December, 1791)*

The wisdom of this Amendment comes not from seeing what future threats to a free State might be, but knowing that the right of the people to keep and bear arms will insure the security of that free State.

In the chaos following Hurricane Katrina, various government agencies, including Federal officers, made systematic attempts to sweep New Orleans of guns, even if it meant entering the homes of law abiding gun owners.

National Guard, federal, state, or local law enforcement personnel should not be allowed to confiscate lawfully owned and lawfully carried firearms.

House Bill 400 will make it a class A felony for any person to knowingly confiscate, attempt to confiscate, or order the confiscation of a firearm during a disaster emergency.

This bill will insure that law-abiding citizens are not disarmed by the government during a time when they may need their firearms the most.

(24-LS1543-A)

# ALASKA STATE HOUSE OF REPRESENTATIVES



Session

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## REPRESENTATIVE JOHN COGHILL

HB 400

"An Act relating to disasters and confiscation of firearms."

### SECTIONAL

#### Section 1

Sec. 26.23.200 places limitation on the authority, and responsibility set out in AS 26.23.010 – 26.23.220 Disasters. This bill adds a new section that states there is no authority granted or implied under the Alaska Disaster Act that:

(5) authorizes the confiscation of a lawfully owned, possessed, or carried firearm.

#### Section 2

Sec. 26.23.205 describes the penalty for:

**Confiscation of firearms.** A person who knowingly confiscates, attempts to confiscate, or orders the confiscation of a firearm during a disaster emergency is guilty of a class A felony and shall be punished as provided in AS12.55.125(c) 20 years imprisonment and fined \$250,000 as provided in AS12.55.035 Fines.

*In this section, "knowingly" has the meaning given in AS 11.81.900 (2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance.*

Westlaw.

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Page 1

Slip Copy, 2005 WL 2428840 (E.D.La.)  
(Cite as: Slip Copy)

**C**

Only the Westlaw citation is currently available.  
United States District Court, E.D. Louisiana.  
NATIONAL RIFLE ASSOCIATION OF  
AMERICA, INC. 11250 Waples Mill Rd. Fairfax,  
VA 22030, Second Amendment Foundation, Inc.  
12500 NE 10th Place Bellevue, WA 98005, Buell  
O. Teel 24161 Trairo Road Ponchatoula, LA 70454  
Plaintiffs

v.

C. Ray NAGIN, Mayor of New Orleans P. Edwin  
Compass III, Superintendent of Police, New  
Orleans Jack Strain, Jr., Sheriff, St. Tammany  
Parish John Does I-VI, Sheriff's Deputies, St.  
Tammany Parish, Defendants  
No. Civ.A. 05-20,000.

Sept. 23, 2005.

Long Law Firm, L.L.P., Michael A. Patterson, Bar  
Roll No. 10373, Daniel D. Holliday, III, T.A., Bar  
Roll No. 23135, Adrian G. Nadeau, Bar Roll No.  
28169, Baton Rouge, Louisiana, Stephen P.  
Halbrook, Pro Hac Vice, Fairfax, VA, for Plaintiffs.  
Talley, Anthony, Hughes, & Knight, L.L.C.,  
Charles M. Hughes, Jr., Bar Roll No. 14382,  
Mandeville, Louisiana, for defendant, Jack Strain,  
Jr., Sheriff, St. Tammany Parish, Louisiana.  
Office of the City Attorney, City of New Orleans  
Joseph V. Dirosa, Jr., Bar Roll No. 4959, New  
Orleans, Louisiana, for defendants, C. Ray Nagin,  
Mayor of New Orleans and P. Edwin Compass, III,  
Superintendent of Police for the City of New  
Orleans.

Section "A"

ZAINY, J.

## CONSENT ORDER

\*1 THIS CAUSE came on pursuant to the motion of  
the plaintiffs, National Rifle Association of

America, Inc., Second Amendment Foundation, Inc.  
and Buell O. Teel for a temporary restraining order  
and for a preliminary injunction on September 23,  
2005.

Present were the following:

Michael A. Patterson, Daniel D. Holliday, III and  
Adrian G. Nadeau for plaintiffs;  
Charles M. Hughes, Jr. for the defendant, Jack  
Strain, Jr., Sheriff, St. Tammany Parish, Louisiana;  
and,  
Joseph V. DiRosa, Jr. for the defendants, C. Ray  
Nagin, Mayor of New Orleans and P. Edwin  
Compass, III, Superintendent of Police for the City  
of New Orleans.

Defendant, Jack Strain, Jr., Sheriff, St. Tammany  
Parish, Louisiana, reserving all rights and waiving  
none, affirmatively denies all of the allegations in  
the Complaint For Declaratory Judgment and  
Injunctive Relief, and specifically and affirmatively  
denies that it was or is the policy, custom or  
practice of the St. Tammany Parish Sheriff's Office  
to illegally seize lawfully possessed firearms from  
citizens, including plaintiff, Buell O. Teel or that  
Sheriff Strain or any of his deputies, officers,  
agents, servants or employees illegally confiscated  
firearms from any citizens or that he has any such  
firearms in his possession or that any constitutional  
or statutory right of any plaintiff or other individual  
has been violated:

Defendants, C. Ray Nagin, Mayor of New Orleans  
and P. Edwin Compass, III, Superintendent of  
Police for the City of New Orleans, deny the  
allegations in the Complaint For Declaratory  
Judgment and Injunctive Relief and specifically  
deny that it was or is the policy of the City of New  
Orleans nor the New Orleans Police Department to  
illegally seize lawfully possessed firearms from  
citizens;

Defendants C. Ray Nagin, Mayor of the City of

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Slip Copy, 2005 WL 2428840 (E.D.La.)  
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New Orleans, and P. Edwin Compass, III, Superintendent of the Department of Police for the City of New Orleans, specifically deny each and every allegation in the Complaint for Declaratory Judgment and Injunctive Relief and specifically reserving all rights herein and waiving none, assert the following:

1. C. Ray Nagin has not issued, nor has he any intention of issuing, any order, declaration, promulgation, and/or directive pursuant to the authority granted unto him by LSA-R.S. 29:721, et seq., ordering the seizure of any lawfully-possessed firearm from law abiding citizens, nor has C. Ray Nagin delegated any authority granted unto him pursuant to LSA-RS 29:721, et seq. to any other city official, department head, officer, employee, and/or agent of the City of New Orleans including, but not limited to, P. Edwin Compass, III, Superintendent of the Department of Police for the City of New Orleans and/or Warren Riley, Deputy Superintendent of the Department of Police of the City of New Orleans;
2. P. Edwin Compass, III acknowledges that no authority has been delegated to him by C. Ray Nagin, Mayor of the City of New Orleans, pursuant to the powers granted unto the said Mayor by the provisions of LSA-RS 29:721, et seq. to order the seizure of lawfully-possessed firearms from law abiding citizens and that any and all statements which are allegedly attributed to him in such regard do not represent any policy, statement, ordinance, regulation, decision, custom or practice of either C. Ray Nagin or the City of New Orleans, its agencies and/or departments;
- \*2 3. C. Ray Nagin and P. Edwin Compass, III affirmatively deny that seizures of lawfully possessed firearms from law abiding citizens has occurred as a result of the actions of officers, city officials, employees and/or agents of the City of New Orleans or any of its departments and further affirmatively deny that any such weapons are presently in the possession of the City of New Orleans, its agents and/or departments;
4. C. Ray Nagin and P. Edwin Compass, III further affirmatively deny that it is the custom, practice and/or policy of the City of New Orleans, either officially or unofficially, to seize and/or confiscate lawfully-possessed firearms from law abiding citizens

Furthermore, Defendants, Jack Strain, Jr., Sheriff, St. Tammany Parish, Louisiana, C. Ray Nagin, Mayor of New Orleans and P. Edwin Compass, III, Superintendent of Police for the City of New Orleans reserve all rights that they may have in this matter.

Notwithstanding the above, the parties hereby consent to the entry of the following order:

IT IS ORDERED, ADJUDGED AND DECREED that C. Ray Nagin, Mayor of New Orleans; P. Edwin Compass III, Superintendent of Police for New Orleans; and Jack Strain, Jr., Sheriff, St. Tammany Parish; and the officers, deputies, agents, servants, and employees of all such persons, and upon those persons in active concert or participation with them, are hereby enjoined and prohibited, until further order of this Court:

1. From confiscating lawfully-possessed firearms from citizens, including, but not limited to, Plaintiff Buell O. Teel and members of Plaintiffs National Rifle Association, Inc. and Second Amendment Foundation, Inc.
2. And they are further ordered to return any and all firearms which may have been confiscated by Defendants, their officers, deputies, agents, servants, and employees of all such persons from Plaintiff, Buell O. Teel, who plaintiffs have assured the Court is authorized to possess firearms; members of Plaintiff, National Rifle Association, Inc., who lawfully possess firearms; and members of Plaintiff Second Amendment Foundation, Inc., who lawfully possess firearms; and all other persons who lawfully possess them, upon presentation of identification and execution of a receipt therefore.

Nothing in this order shall supercede any declaration of emergency promulgated by the applicable authorities.

E.D.La.,2005.  
National Rifle Ass'n of America, Inc. v. Nagin  
Slip Copy, 2005 WL 2428840 (E.D.La.)

END OF DOCUMENT

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IN THE UNITED STATES DISTRICT COURT  
FOR EASTERN DISTRICT OF LOUISIANA

NATIONAL RIFLE ASSOCIATION OF )  
AMERICA, INC. )  
11250 Waples Mill Rd. )  
Fairfax, VA 22030, )  
)  
SECOND AMENDMENT FOUNDATION, INC. )  
12500 NE 10th Place )  
Bellevue, WA 98005, )  
)  
BUELL O. TEEL )  
24161 Trairo Road )  
Ponchatoula, LA 70454 )

CIVIL ACTION NO. \_\_\_\_\_

Plaintiffs

v.

C. RAY NAGIN, Mayor of New Orleans

P. EDWIN COMPASS III,  
Superintendent of Police, New Orleans

JACK STRAIN, JR., Sheriff,  
St. Tammany Parish

JOHN DOES I-V, Sheriff's Deputies,  
St. Tammany Parish,

Defendants

**COMPLAINT**  
(For Declaratory and Injunctive Relief)

1. This is an action to vindicate the constitutional rights of the law-abiding citizens of Louisiana to keep and bear arms to protect themselves from criminal violence, and to enjoin confiscation of lawful firearms without due process, discriminatory policies based on wealth, and arbitrary searches and seizures. These acts were committed against victims of Hurricane

Katrina.

#### Parties

2. Plaintiff National Rifle Association of America, Inc. (hereafter "NRA") is a non-profit association incorporated under the laws of New York, with its principal place of business in Fairfax, Virginia. NRA has a membership of almost 4 million persons, of whom scores of thousands reside in Louisiana, many in the areas devastated by Hurricane Katrina. The purposes of NRA include protection of the right of citizens to have firearms for the lawful defense of their families, persons, and property, and to promote public safety and law and order. NRA brings this action on behalf of itself and its members.

3. Plaintiff Second Amendment Foundation, Inc. (hereafter "SAF"), is a non-profit membership organization incorporated under the laws of Washington with its principal place of business in Bellevue, Washington. SAF has over 600,000 members and supporters nationwide, including thousands in Louisiana (many in the areas devastated by Hurricane Katrina). The purposes of SAF include education, research, publishing and legal action focusing on the Constitutional right privately to own and possess firearms and the consequences of gun control. SAF brings this action on behalf of itself and its members.

5. Plaintiff Buell Teel is a resident of Ponchatoula, Louisiana, and is a citizen of the United States.

6. Defendant Ray Nagin is the Mayor of New Orleans whose principal place of business is in New Orleans. He is being sued in his official capacity.

7. Defendant P. Edwin Compass III is the Superintendent of Police for New Orleans whose principal place of business is in New Orleans. He is being sued in his official capacity.

Defendant Jack Strain, Jr., is Sheriff, St. Tammany Parish, whose principal place of business is in Covington, Louisiana. He is being sued in his official capacity.

Defendants John Does I-V were at all times pertinent herein Sheriff's Deputies from St. Tammany Parish. Their identities and principal places of business are currently unknown.

#### **Jurisdiction**

Jurisdiction is founded on 28 U.S.C. § 1331 in that this action arises under the Constitution and laws of the United States, and under 28 U.S.C. § 1343(3) in that this action seeks to redress the deprivation, under color of the laws, statutes, ordinances, regulations, customs and usages of Louisiana and political subdivisions thereof, of rights, privileges or immunities secured by the United States Constitution. Supplemental jurisdiction is founded upon the laws of the State of Louisiana.

This action seeks relief pursuant to 28 U.S.C. §§ 2201, 2202, and 42 U.S.C. § 1983. Venue lies in this district pursuant to 28 U.S.C. § 1391.

#### **Facts**

On August 26, 2005, Louisiana Governor Kathleen Babineaux Blanco declared a state of emergency based on the imminent threat of Hurricane Katrina to the safety and security of the citizens of Louisiana.

I. the devastation and breakdown of law and order that followed, law-abiding citizens were left on their own without police protection to protect their families, persons, and property from looters, rapists, and criminals of various types. Police who sought to do their duty were overwhelmed.

Defendants responded to this crisis in part by ordering that the law-abiding citizens be

disarmed, leaving them at the mercy of roving gangs, home invaders, and other criminals. Defendants had no lawful authority to order the wholesale confiscation of firearms from citizens who lawfully possessed such firearms in their homes or who were lawfully carrying such firearms.

During and after Hurricane Katrina, beginning in August 2005 and continuing through the present, Defendants Mayor C. Ray Nagin and P. Edwin Compass III, the Superintendent of Police, have pursued a policy of seizing lawfully-possessed firearms from law-abiding residents. Superintendent Compass announced, on or about September 8, 2005, that anyone with a weapon, even one legally registered, will have it confiscated, adding: "No one will be able to be armed. Guns will be taken. Only law enforcement will be allowed to have guns."

During the same period, Mayor Nagin ordered the New Orleans Police and other law enforcement entities under his authority to evict persons from their homes and to confiscate their lawfully-possessed firearms. Police went from house to house and confiscated numerous firearms from citizens at gunpoint.

Thousands of members of Plaintiff NRA members and hundreds of members of Plaintiff SAF reside in New Orleans. The overwhelming majority of NRA and SAF members lawfully possess firearms. NRA and SAF members from New Orleans have been and remain subject to having their firearms unlawfully confiscated from their homes and persons pursuant to the policies of Mayor Nagin and Superintendent Compass, subjecting said NRA and SAF members to irreparable harm.

While decreeing that ordinary citizens may not possess firearms, Defendants Nagin and Compass followed a policy of allowing certain businesses and wealthy persons to hire hundreds

of armed security guards to protect their property

On or about September 9, 2005, Plaintiff Buell O. Teel was with his brother on a boat in Lake Pontchartrain in St. Tammany Parish proceeding to chart a course to the industrial canal in New Orleans, so that barges could be positioned after the storm damage. They were stopped by officers in a St. Tammany Parish Sheriff's boat who asked, at gunpoint, if they had any weapons. Teel responded that they had two rifles in a hard case. Teel lawfully possessed these rifles for self protection. The officers boarded Teel's boat and confiscated his rifles, refusing to give him a receipt. Said officers are identified here as John Does I-III.

Proceeding a mile further on the lake, Teel was again stopped at gunpoint by other officers in a St. Tammany Parish Sheriff's boat who asked if they had any weapons. Said officers are identified here as John Does IV-V.

Said Defendants John Does I-V were acting officially under the authority of Defendant Jack Strain, Jr., Sheriff of St. Tammany Parish. Sheriff Strain either explicitly ordered said officers to confiscate firearms from citizens of St. Tammany Parish, or allowed said officers acting under his authority to do so and ratified their actions.

As a proximate cause of the aforesaid acts of Defendants and their agents and employees, Plaintiffs have been subjected to irreparable harm in that they are subject to having their lawfully-possessed firearms confiscated from them, or have actually had their lawfully-possessed firearms confiscated from them, subjecting them to endangerment from criminal violence and violating their constitutional rights as set forth herein.

**COUNT ONE**  
**(Right to Keep and Bear Arms)**

Paragraphs 1 through xx are realleged and incorporated herein by reference.

Article I, § 11, of the Louisiana Constitution provides: "The right of each citizen to keep and bear arms shall not be abridged, but this provision shall not prevent the passage of laws to prohibit the carrying of weapons concealed on the person." The Second Amendment to the United States Constitution, which applies to the States through the Fourteenth Amendment, similarly provides: "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."

The above-described acts of Defendants ordering the confiscation of firearms of citizens and actually confiscating firearms from citizens abridged and infringed on the right of each Plaintiff and countless other citizens to keep and bear arms, in violation of La. Const., Art. I, § 11, and U.S. Const., Amends. II and XIV.

**COUNT TWO  
(Due Process)**

Paragraphs 1 through xx are realleged and incorporated herein by reference.

The Fourteenth Amendment to the United States Constitution provides that no State shall deprive any person of life, liberty, or property without due process of law.

The firearms confiscated by Defendants constituted private property which was lawfully possessed by Plaintiffs pursuant to State and Federal law. Moreover, the manner in which Plaintiffs kept, bore, and possessed such property was a liberty interest recognized by State and Federal law.

Said liberty and property interests are recognized by La. Const., Art. I, § 11, which guarantees the right to keep and bear arms; LSA-R.S. § 40:1379.3, which provides for a statewide permit which "shall grant authority to a citizen to carry a concealed handgun on his person" (subsection B) and which may be revoked only

according to specified procedures; and by other provisions of Louisiana law.

Accordingly, by ordering the confiscation of firearms and by actually confiscating the firearms belonging to Plaintiffs and countless other citizens, Defendants deprived them of liberty and property without due process of law, in violation of U.S. Const., Amend. XIV.

**COUNT THREE  
(Equal Protection)**

Paragraphs 1 through xx are realleged and incorporated herein by reference.

The Fourteenth Amendment to the United States Constitution provides that no State shall deny to any person the equal protection of the laws.

At the same time that Defendants Nagin and Compass instituted and executed their policy of confiscating firearms from Plaintiffs and countless other law-abiding citizens and thereby prevented them from protecting their more-modest homes from looters and other intruders, Defendants allowed selected wealthy persons to keep their firearms and/or to retain armed private security personnel to protect their more expensive homes and properties. This means that one's ability to exercise one's rights and to protect life and property depended on whether one had or has the economic means to retain armed private security personnel.

Defendants thereby discriminated in favor of the selected few, and against Plaintiffs and the great majority of citizens, solely on the basis of wealth and influence. Defendants thereby denied Plaintiffs and countless other citizens the equal protection of the law.

**COUNT FOUR  
(Search and Seizure)**

Paragraphs 1 through xx are realleged and incorporated herein by reference.

The Fourth Amendment to the United States Constitution, which applies to the States through the Fourteenth Amendment, provides in part that "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . . ."

As described above, Defendants issued or executed orders that persons (including Plaintiffs) be accosted at gunpoint by law enforcement officers and that their persons, homes, boats, and other properties be searched and temporarily seized, and that their firearms be seized and kept for an indefinite period of time. Plaintiffs committed no unlawful acts, did not threaten any law enforcement officers, or engage in any other activity that would justify such searches and seizures.

The above-described acts of Defendants violated the right of each Plaintiff and countless other citizens to be secure in their persons and houses against unreasonable searches and seizures, in violation of U.S. Const., Amends. IV and XIV.

WHEREFORE, plaintiffs pray that the Court:

1. Enter a declaratory judgment that the aforesaid acts by Defendants in ordering the confiscation of firearms and actually confiscating firearms violated the Plaintiffs' rights to keep and bear arms, not to be deprived of liberty or property without due process of law, not to be denied the equal protection of the laws, and to be free of unreasonable searches and seizures, all in violation of the Second, Fourth, and Fourteenth Amendments of the U.S. Constitution, and of the Louisiana Constitution, Article I, § 11.

2. Issue a temporary restraining order and preliminary and permanent injunctions compelling Defendants to return all unlawfully seized firearms to Plaintiffs (including the

members of the association Plaintiffs) and to their other lawful owners, and ordering them not to make further unlawful seizures of firearms.

3. Grant such other and further relief as may be proper.
4. Award plaintiffs attorney's fees and costs.

Respectfully Submitted,

National Rifle Association of America, Inc., *et al.*,  
Plaintiffs

By Counsel

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## Major Victory For Firearms Owners And Freedom In Louisiana

Friday, September 23, 2005

(Fairfax, VA) – The United States District Court for the Eastern District in Louisiana today sided with the National Rifle Association (NRA) and issued a restraining order to bar further gun confiscations from peaceable and law-abiding vic'ims of Hurricane Katrina in New Orleans.

"This is a significant victory for freedom and for the victims of Hurricane Katrina. The court's ruling is instant relief for the victims who now have an effective means of defending themselves from the robbers and rapists that seek to further exploit the remnants of their shattered lives," said NRA Executive Vice President Wayne LaPierre.

Joining LaPierre in hailing the U.S. District Court decision was NRA chief lobbyist Chris W. Cox. "This is an important victory. But the battle is not over. The NRA will remedy state emergency statutes in all 50 states, if needed, to ensure that this injustice does not happen again."

The controversy erupted when *The New York Times* reported, the New Orleans superintendent of police directed that no civilians in New Orleans will be allowed to have guns and that "only law enforcement are allowed to have weapons." ABC News quoted New Orleans' deputy police chief, saying, "No one will be able to be armed. We are going to take all the weapons."

The NRA also pledged that it will continue its work to ensure that every single firearm arbitrarily and unlawfully seized under this directive is returned to the rightful law-abiding owner.

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*Established in 1871, the National Rifle Association is America's oldest civil rights and sportsmen's group. Four million members strong, NRA continues its mission to uphold Second Amendment rights and to advocate enforcement of existing laws against violent offenders to reduce crime. The Association remains the nation's leader in firearm education and training for law-abiding gun owners, law enforcement and the armed services.*

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