

**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 12-0553.01 Michael Dohr x4347

HOUSE BILL 12-1064

HOUSE SPONSORSHIP

Stephens,

SENATE SPONSORSHIP

King S.,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROHIBITION OF LIMITATIONS CONCERNING**
102 **FIREARMS DURING AN OFFICIAL STATE OF EMERGENCY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill prohibits the state or any political subdivision of the state (state), during a declared state of emergency, from prohibiting or restricting the otherwise lawful possession, use, carrying, transfer, transportation, storage, or display of a firearm or ammunition; seizing or confiscating a lawfully possessed firearm, except in specific, described

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
February 20, 2012

HOUSE
2nd Reading Unamended
February 14, 2012

circumstances; or requiring registration of a firearm or ammunition for which registration is not otherwise required by law. An exception is made for the commercial sale of firearms if an authorized authority has ordered an evacuation or a general closure of business.

An individual whose rights are violated by the state in conflict with these prohibitions has legal recourse against the state.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-20-205 as
3 follows:

4 **24-20-205. Additional restrictions on or seizure of firearms**
5 **prohibited during official state of emergency - cause of action created**
6 **- attorney fees.** (1) A PERSON ACTING ON BEHALF OR UNDER THE
7 AUTHORITY OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE
8 SHALL NOT TAKE ANY OF THE FOLLOWING ACTIONS DURING A DECLARED
9 STATE OF EMERGENCY:

10 (a) PROHIBIT OR RESTRICT THE OTHERWISE LAWFUL POSSESSION,
11 USE, CARRYING, TRANSFER, TRANSPORTATION, STORAGE, OR DISPLAY OF
12 A FIREARM OR AMMUNITION;

13 (b) SEIZE OR CONFISCATE, OR AUTHORIZE THE SEIZURE OR
14 CONFISCATION OF, AN OTHERWISE LAWFULLY POSSESSED FIREARM OR
15 AMMUNITION UNLESS THE PERSON ACTING ON BEHALF OF OR UNDER THE
16 AUTHORITY OF THE STATE IS DEFENDING HIMSELF OR HERSELF OR
17 ANOTHER PERSON FROM AN ASSAULT, ARRESTING A PERSON IN ACTUAL
18 POSSESSION OF A FIREARM OR AMMUNITION FOR A VIOLATION OF LAW, OR
19 SEIZING OR CONFISCATING THE FIREARM OR AMMUNITION AS EVIDENCE OF
20 A CRIME; OR

21 (c) REQUIRE REGISTRATION OF A FIREARM OR AMMUNITION FOR
22 WHICH REGISTRATION IS NOT OTHERWISE REQUIRED BY STATE LAW.

1 (2) THE PROHIBITIONS SPECIFIED IN PARAGRAPH (a) OF
2 SUBSECTION (1) OF THIS SECTION AS THEY RELATE TO TRANSFER OF A
3 FIREARM SHALL NOT APPLY TO THE COMMERCIAL SALE OF FIREARMS OR
4 AMMUNITION IF AN AUTHORIZED AUTHORITY HAS ORDERED AN
5 EVACUATION OR GENERAL CLOSURE OF BUSINESSES IN THE AFFECTED
6 AREA.

7 (3) AN INDIVIDUAL AGGRIEVED BY A VIOLATION OF THIS SECTION
8 MAY BRING A CIVIL ACTION FOR DAMAGES AGAINST ANY PERSON WHO
9 SUBJECTS THE INDIVIDUAL, OR CAUSES THE INDIVIDUAL TO BE SUBJECTED,
10 TO AN ACTION PROHIBITED BY THIS SECTION.

11 (4) IN ADDITION TO ANY OTHER REMEDY AT LAW OR IN EQUITY, AN
12 INDIVIDUAL AGGRIEVED BY THE SEIZURE OR CONFISCATION OF A FIREARM
13 OR AMMUNITION IN VIOLATION OF THIS SECTION MAY BRING A CIVIL
14 ACTION FOR THE RETURN OF THE FIREARM OR AMMUNITION IN THE COUNTY
15 COURT OF THE COUNTY IN WHICH THE INDIVIDUAL RESIDES OR IN WHICH
16 THE FIREARM OR AMMUNITION WAS SEIZED OR CONFISCATED.

17 (5) IN ANY ACTION OR PROCEEDING TO ENFORCE THIS SECTION, THE
18 COURT SHALL AWARD A PREVAILING PLAINTIFF COSTS AND REASONABLE
19 ATTORNEY FEES.

20 **SECTION 2.** In Colorado Revised Statutes, 24-32-2104, **amend**
21 (7) (h) as follows:

22 **24-32-2104. The governor and disaster emergencies.** (7) In
23 addition to any other powers conferred upon the governor by law, the
24 governor may:

25 (h) Suspend or limit the sale, dispensing, or transportation of
26 alcoholic beverages, ~~firearms~~, explosives, or combustibles; and

27 **SECTION 3. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.