

By: Representative Hamilton

To: Military Affairs

HOUSE BILL NO. 1018

1 AN ACT TO AMEND SECTION 33-15-11, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THE TIME FOR WHICH A DECLARATION OF EMERGENCY IS
3 EFFECTIVE; TO AMEND SECTION 75-24-25, MISSISSIPPI CODE OF 1972, TO
4 CLARIFY THE CRITERIA FOR PRICE RESTRICTIONS DURING A STATE OF
5 EMERGENCY; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 33-15-11, Mississippi Code of 1972, is
8 amended as follows:

9 33-15-11. (a) The Governor shall have general direction and
10 control of the activities of the Emergency Management Agency and
11 Council and shall be responsible for the carrying out of the
12 provisions of this article, and in the event of a man-made,
13 technological or natural disaster or emergency beyond local
14 control, may assume direct operational control over all or any
15 part of the emergency management functions within this state.

16 (b) In performing his duties under this article, the
17 Governor is further authorized and empowered:

18 (1) To make, amend and rescind the necessary orders,
19 rules and regulations to carry out the provisions of this article
20 with due consideration of the plans of the federal government, and
21 to enter into disaster assistance grants and agreements with the
22 federal government under the terms as may be required by federal
23 law.

24 (2) To work with the Mississippi Emergency Management
25 Agency in preparing a comprehensive plan and program for the
26 emergency management of this state, such plan and program to be
27 integrated into and coordinated with the emergency management
28 plans of the federal government and of other states to the fullest



29 possible extent, and to coordinate the preparation of plans and
30 programs for emergency management by the political subdivisions of
31 this state, such local plans to be integrated into and coordinated
32 with the emergency management plan and program of this state to
33 the fullest possible extent.

34 (3) In accordance with such plan and program for
35 emergency management of this state, to ascertain the requirements
36 of the state or the political subdivisions thereof for food or
37 clothing or other necessities of life in the event of attack or
38 natural or man-made or technological disasters and to plan for and
39 procure supplies, medicines, materials and equipment, and to use
40 and employ from time to time any of the property, services and
41 resources within the state, for the purposes set forth in this
42 article; to make surveys of the industries, resources and
43 facilities within the state as are necessary to carry out the
44 purposes of this article; to institute training programs and
45 public information programs, and to take all other preparatory
46 steps, including the partial or full mobilization of emergency
47 management organizations in advance of actual disaster, to insure
48 the furnishing of adequately trained and equipped forces of
49 emergency management personnel in time of need.

50 (4) To cooperate with the President and the heads of
51 the Armed Forces, and the Emergency Management Agency of the
52 United States, and with the officers and agencies of other states
53 in matters pertaining to the emergency management of the state and
54 nation and the incidents thereof; and in connection therewith, to
55 take any measures which he may deem proper to carry into effect
56 any request of the President and the appropriate federal officers
57 and agencies, for any action looking to emergency management,
58 including the direction or control of (a) blackouts and practice
59 blackouts, air raid drills, mobilization of emergency management
60 forces, and other tests and exercises, (b) warnings and signals
61 for drills or attacks and the mechanical devices to be used in



62 connection therewith, (c) the effective screening or extinguishing
63 of all lights and lighting devices and appliances, (d) shutting
64 off water mains, gas mains, electric power connections and the
65 suspension of all other utility services, (e) the conduct of
66 civilians and the movement and cessation of movement of
67 pedestrians and vehicular traffic during, prior and subsequent to
68 drills or attack, (f) public meetings or gatherings under
69 emergency conditions, and (g) the evacuation and reception of the
70 civilian population.

71 (5) To take such action and give such directions to
72 state and local law enforcement officers and agencies as may be
73 reasonable and necessary for the purpose of securing compliance
74 with the provisions of this article and with the orders, rules and
75 regulations made pursuant thereto.

76 (6) To employ such measures and give such directions to
77 the state or local boards of health as may be reasonably necessary
78 for the purpose of securing compliance with the provisions of this
79 article or with the findings or recommendations of such boards of
80 health by reason of conditions arising from enemy attack or the
81 threat of enemy attack or natural, man-made or technological
82 disaster.

83 (7) To utilize the services and facilities of existing
84 officers and agencies of the state and of the political
85 subdivisions thereof; and all such officers and agencies shall
86 cooperate with and extend their services and facilities to the
87 Governor as he may request.

88 (8) To establish agencies and offices and to appoint
89 executive, technical, clerical and other personnel as may be
90 necessary to carry out the provisions of this article including,
91 with due consideration to the recommendation of the local
92 authorities, part-time or full-time state and regional area
93 directors.



94 (9) To delegate any authority vested in him under this
95 article, and to provide for the subdelegation of any such
96 authority.

97 (10) On behalf of this state to enter into reciprocal
98 aid agreements or compacts with other states and the federal
99 government, either on a statewide basis or local political
100 subdivision basis or with a neighboring state or province of a
101 foreign country. Such mutual aid arrangements shall be limited to
102 the furnishings or exchange of food, clothing, medicine and other
103 supplies; engineering services; emergency housing; police
104 services; national or state guards while under the control of the
105 state; health, medical and related services; fire fighting,
106 rescue, transportation and construction services and equipment;
107 personnel necessary to provide or conduct these services; and such
108 other supplies, equipment, facilities, personnel and services as
109 may be needed; the reimbursement of costs and expenses for
110 equipment, supplies, personnel and similar items for mobile
111 support units, fire fighting and police units and health units;
112 and on such terms and conditions as are deemed necessary.

113 (11) To sponsor and develop mutual aid plans and
114 agreements between the political subdivisions of the state,
115 similar to the mutual aid arrangements with other states referred
116 to above.

117 (12) Authorize any agency or arm of the state to create
118 a special emergency management revolving fund, accept donations,
119 contributions, fees, grants, including federal funds, as may be
120 necessary for such agency or arm of the state to administer its
121 functions of this article as set forth in the Executive Order of
122 the Governor.

123 (13) To authorize the Commissioner of Public Safety to
124 select, train, organize and equip a ready reserve of auxiliary
125 highway patrolmen.



126 (14) To suspend or limit the sale, dispensing or
127 transportation of alcoholic beverages, firearms, explosives and
128 combustibles.

129 (15) To control, restrict and regulate by rationing,
130 freezing, use of quotas, prohibitions on shipments, price fixing,
131 allocation or other means, the use, sale or distribution of food,
132 feed, fuel, clothing and other commodities, materials, goods or
133 services.

134 (16) To proclaim a state of emergency in an area
135 affected or likely to be affected thereby when he finds that the
136 conditions described in Section 33-15-5(g) exist, or when he is
137 requested to do so by the mayor of a municipality or by the
138 president of the board of supervisors of a county, or when he
139 finds that a local authority is unable to cope with the emergency.
140 Such proclamation shall be in writing and shall take effect
141 immediately upon its execution by the Governor. As soon
142 thereafter as possible, such proclamation shall be filed with the
143 Secretary of State and be given widespread notice and publicity.
144 The Governor, upon advice of the director, shall review the need
145 for continuing the state of emergency at least every thirty (30)
146 days until the emergency is terminated and shall proclaim the
147 termination of the state of emergency at the earliest possible
148 date that conditions warrant.

149 (c) In addition to the powers conferred upon the Governor in
150 this section, the Legislature hereby expressly delegates to the
151 Governor the following powers and duties in the event of an
152 impending enemy attack, an enemy attack, or a man-made,
153 technological or natural disaster where such disaster is beyond
154 local control:

155 (1) To suspend the provisions of any regulatory statute
156 prescribing the procedures for conduct of state business, or the
157 orders, rules or regulations of any state agency, if strict
158 compliance with the provisions of any statute, order, rule or



159 regulation would in any way prevent, hinder or delay necessary
160 action in coping with a disaster or emergency.

161 (2) To transfer the direction, personnel or functions
162 of state agencies, boards, commissions or units thereof for the
163 purpose of performing or facilitating disaster or emergency
164 services.

165 (3) To commandeer or utilize any private property if
166 necessary to cope with a disaster or emergency, provided that such
167 private property so commandeered or utilized shall be paid for
168 under terms and conditions agreed upon by the participating
169 parties. The owner of said property shall immediately be given a
170 receipt for the said private property and said receipt shall serve
171 as a valid claim against the Treasury of the State of Mississippi
172 for the agreed upon market value of said property.

173 (4) To perform and exercise such other functions,
174 powers and duties as may be necessary to promote and secure the
175 safety and protection of the civilian population in coping with a
176 disaster or emergency.

177 **SECTION 2.** Section 75-24-25, Mississippi Code of 1972, is
178 amended as follows:

179 75-24-25. (1) For the purposes of this section, the
180 following terms shall have the meanings herein ascribed:

181 (a) "Person" means a natural person, corporation,
182 trust, partnership, incorporated or unincorporated association, or
183 any other legal entity.

184 (b) "State of emergency" means the duly proclaimed
185 existence of conditions of disaster or extreme peril to the safety
186 of persons or property within the state caused by air or water
187 pollution, fire, flood, storm, epidemic, earthquake, hurricane,
188 resource shortages or other natural or man-made conditions other
189 than conditions causing a "state of war emergency," which
190 conditions by reasons of their magnitude are or are likely to be
191 beyond the control of the services, personnel, equipment and



192 facilities of any single county and/or municipality and require
193 combined forces of the state to combat.

194 (c) "Local emergency" means the duly proclaimed
195 existence of conditions of disaster or extreme peril to the safety
196 of persons and property within the territorial limits of a county
197 and/or municipality caused by such conditions as air or water
198 pollution, fire, flood, storm, epidemic, earthquake, hurricane,
199 resource shortages or other natural or man-made conditions, which
200 conditions are or are likely to be beyond the control of the
201 services, personnel, equipment and facilities of the political
202 subdivision and require the combined forces of other subdivisions
203 or of the state to combat.

204 (d) "Value received" means the consideration or payment
205 given for the purchase of goods and services.

206 (2) Whenever, under the Mississippi Emergency Management
207 Law, Sections 33-15-1 through 33-15-49, a state of emergency or a
208 local emergency is declared to exist in this state, then the value
209 received for all goods and services sold within the designated
210 emergency area shall not exceed the prices ordinarily charged for
211 comparable goods or services in the same market area at or
212 immediately before the declaration of a state of emergency or
213 local emergency. However, the value received may include: any
214 reasonable expenses, the cost of the goods and services which are
215 necessarily incurred in procuring such goods and services during a
216 state of emergency or local emergency, and a reasonable profit
217 margin consistent with that received on the goods and services
218 prior to the declaration of state of emergency or local emergency.

219 (3) Any person who knowingly and willfully violates
220 subsection (2) of this section, when the value unlawfully received
221 is Two Hundred Fifty Dollars (\$250.00) or more, shall be guilty of
222 a felony and upon conviction shall be punished by confinement for
223 a term of not less than one (1) year nor more than five (5) years



224 or a fine of not more than Five Thousand Dollars (\$5,000.00), or
225 both.

226 (4) Any person who knowingly and willfully violates
227 subsection (2) of this section, when the value unlawfully received
228 is less than Two Hundred Fifty Dollars (\$250.00), shall be guilty
229 of a misdemeanor and upon conviction shall be fined not more than
230 One Thousand Dollars (\$1,000.00) or by imprisonment in the county
231 jail for a term not to exceed six (6) months, or both.

232 (5) In addition to the criminal penalties prescribed in
233 subsections (3) and (4), any knowing and willful violation of
234 subsection (2) of this section shall be considered an unfair or
235 deceptive trade practice subject to and governed by all the
236 procedures and remedies available under the provisions of this
237 chapter for enforcement of prohibited acts and practices contained
238 therein.

239 (6) No person can be in violation of subsection (2) of this
240 section for actions that occurred before the declaration of a
241 state of emergency or local emergency.

242 **SECTION 3.** This act shall take effect and be in force from
243 and after its passage.

