HOUSE BILL NO. 1018

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

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

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

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

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

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

(2) To work with the Mississippi Emergency Management Agency in preparing a comprehensive plan and program for the emergency management of this state, such plan and program to be integrated into and coordinated with the emergency management plans of the federal government and of other states to the fullest
possible extent, and to coordinate the preparation of plans and
programs for emergency management by the political subdivisions of
this state, such local plans to be integrated into and coordinated
with the emergency management plan and program of this state to
the fullest possible extent.

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

(4) To cooperate with the President and the heads of
the Armed Forces, and the Emergency Management Agency of the
United States, and with the officers and agencies of other states
in matters pertaining to the emergency management of the state and
nation and the incidents thereof; and in connection therewith, to
take any measures which he may deem proper to carry into effect
any request of the President and the appropriate federal officers
and agencies, for any action looking to emergency management,
including the direction or control of (a) blackouts and practice
blackouts, air raid drills, mobilization of emergency management
forces, and other tests and exercises, (b) warnings and signals
for drills or attacks and the mechanical devices to be used in
connection therewith, (c) the effective screening or extinguishing
of all lights and lighting devices and appliances, (d) shutting
off water mains, gas mains, electric power connections and the
suspension of all other utility services, (e) the conduct of
civilians and the movement and cessation of movement of
pedestrians and vehicular traffic during, prior and subsequent to
drills or attack, (f) public meetings or gatherings under
emergency conditions, and (g) the evacuation and reception of the
civilian population.

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

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

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

(8) To establish agencies and offices and to appoint
executive, technical, clerical and other personnel as may be
necessary to carry out the provisions of this article including,
with due consideration to the recommendation of the local
authorities, part-time or full-time state and regional area
directors.
(9) To delegate any authority vested in him under this article, and to provide for the subdelegation of any such authority.

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

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

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

(13) To authorize the Commissioner of Public Safety to select, train, organize and equip a ready reserve of auxiliary highway patrolmen.
To suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives and combustibles.

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

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

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

To suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule or
regulation would in any way prevent, hinder or delay necessary
action in coping with a disaster or emergency.

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

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

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

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

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

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

(b) "State of emergency" means the duly proclaimed
existence of conditions of disaster or extreme peril to the safety
of persons or property within the state caused by air or water
pollution, fire, flood, storm, epidemic, earthquake, hurricane,
resource shortages or other natural or man-made conditions other
than conditions causing a "state of war emergency," which
conditions by reasons of their magnitude are or are likely to be
beyond the control of the services, personnel, equipment and
facilities of any single county and/or municipality and require combined forces of the state to combat.

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

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

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

(3) Any person who knowingly and willfully violates subsection (2) of this section, when the value unlawfully received is Two Hundred Fifty Dollars ($250.00) or more, shall be guilty of a felony and upon conviction shall be punished by confinement for a term of not less than one (1) year nor more than five (5) years.
or a fine of not more than Five Thousand Dollars ($5,000.00), or
both.

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

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

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

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