

By: Representatives Franks, Peranich

To: Conservation and Water Resources

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1309

1 AN ACT TO AMEND SECTION 75-24-25, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE PRICE RESTRICTION FOR GOODS AND SERVICES
3 DURING EMERGENCIES SHALL APPLY STATEWIDE; TO AUTHORIZE THE OFFICE
4 OF THE ATTORNEY GENERAL TO MONITOR PETROLEUM BASED FUEL PRICES
5 THROUGHOUT THE STATE; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 75-24-25, Mississippi Code of 1972, is
8 amended as follows:

9 75-24-25. (1) For the purposes of this section, the
10 following terms shall have the meanings herein ascribed:

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

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

24 (c) "Local emergency" means the duly proclaimed
25 existence of conditions of disaster or extreme peril to the safety
26 of persons and property within the territorial limits of a county
27 and/or municipality caused by such conditions as air or water
28 pollution, fire, flood, storm, epidemic, earthquake, hurricane,

29 resource shortages or other natural or man-made conditions, which
30 conditions are or are likely to be beyond the control of the
31 services, personnel, equipment and facilities of the political
32 subdivision and require the combined forces of other subdivisions
33 or of the state to combat.

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

36 (2) Whenever, under the Mississippi Emergency Management
37 Law, Sections 33-15-1 through 33-15-49, a state of emergency or a
38 local emergency is declared to exist in this state, then the value
39 received for all goods and services sold within the state shall
40 not exceed the prices ordinarily charged for comparable goods or
41 services in the same market area at or immediately before the
42 declaration of a state of emergency or local emergency. However,
43 the value received may include: any expenses, the cost of the
44 goods and services which are necessarily incurred in procuring
45 such goods and services during a state of emergency or local
46 emergency. The prices ordinarily charged for comparable goods or
47 services in the same market area do not include temporarily
48 discounted goods or services. The same market area does not
49 necessarily mean a single provider of goods or services.

50 (3) Any person who knowingly and willfully violates
51 subsection (2) of this section, when the value unlawfully received
52 is Fifty Dollars (\$50.00) or more, shall be guilty of a felony and
53 upon conviction shall be punished by confinement for a term of not
54 less than one (1) year nor more than five (5) years or a fine of
55 not more than Five Thousand Dollars (\$5,000.00), or both.

56 (4) Any person who knowingly and willfully violates
57 subsection (2) of this section, when the value unlawfully received
58 is less than Fifty Dollars (\$50.00), shall be guilty of a
59 misdemeanor and upon conviction shall be fined not more than One
60 Thousand Dollars (\$1,000.00) or by imprisonment in the county jail
61 for a term not to exceed six (6) months, or both. The circuit

62 court shall have exclusive jurisdiction over violations under this
63 subsection.

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

71 **SECTION 2.** (1) The Legislature finds and determines that
72 the petroleum industry is an essential element of the Mississippi
73 economy and is therefore of vital importance to the health and
74 welfare of all Mississippians.

75 The Legislature further finds and determines that a
76 complete and thorough understanding of the operations of the
77 petroleum industry is required by state government at all times to
78 enable it to respond to possible shortages, oversupplies or other
79 disruptions and to assess whether all consumers including
80 emergency service agencies, state and local government agencies,
81 and agricultural and business consumers of petroleum products have
82 adequate and economic supplies of fuel.

83 (2) The Attorney General is authorized to monitor petroleum
84 based fuel prices throughout the state, using the Oil Price
85 Information Services (OPIS) or any other service, approved by the
86 Attorney General, that monitors petroleum based fuel prices
87 throughout the state. The Attorney General may promulgate such
88 rules and regulations necessary to effectuate only his authority
89 to monitor petroleum based fuel prices.

90 **SECTION 3.** This act shall take effect and be in force from
91 and after July 1, 2005.