

By: Representative Fleming

To: Judiciary B;
Conservation and Water
Resources

HOUSE BILL NO. 86

1 AN ACT TO AMEND SECTION 75-24-25, MISSISSIPPI CODE OF 1972,
2 TO PROHIBIT PREDATORY PRICING AND PRICE GOUGING ON GASOLINE; AND
3 FOR RELATED PURPOSES.

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

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

7 75-24-25. (1) For the purposes of this section, the
8 following terms shall have the meanings herein ascribed:

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

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

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

28 conditions are or are likely to be beyond the control of the
29 services, personnel, equipment and facilities of the political
30 subdivision and require the combined forces of other subdivisions
31 or of the state to combat.

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

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

49 (b) It shall be unlawful to sell gasoline below
50 wholesale price or above the price ordinarily charged for gasoline
51 in the market area at or immediately before the declaration of
52 state or local emergency as described in paragraph (a) of this
53 section.

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

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

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

74 **SECTION 2.** This act shall take effect and be in force from
75 and after its passage.