

By: Senator(s) Doxey

To: Judiciary, Division B

SENATE BILL NO. 3030

1 AN ACT TO BRING FORWARD SECTIONS 75-24-25, 33-15-5 AND
2 33-15-11, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; 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 brought forward 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" has the meaning ascribed in
13 Section 33-15-5.

14 (c) "Local emergency" has the meaning ascribed in
15 Section 33-15-5.

16 (d) "Emergency impact area" has the meaning ascribed in
17 Section 33-15-5.

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

20 (2) Whenever, under the Mississippi Emergency Management
21 Law, Sections 33-15-1 through 33-15-49, a state of emergency or a
22 local emergency is declared to exist in this state, then the value
23 received for all goods and services sold within the designated
24 emergency impact area shall not exceed the prices ordinarily
25 charged for comparable goods or services in the same market area
26 at or immediately before the declaration of a state of emergency
27 or local emergency. However, the value received may include: any

28 expenses, the cost of the goods and services which are necessarily
29 incurred in procuring such goods and services during a state of
30 emergency or local emergency. The prices ordinarily charged for
31 comparable goods or services in the same market area do not
32 include temporarily discounted goods or services. The same market
33 area does not necessarily mean a single provider of goods or
34 services.

35 (3) Any person who knowingly and willfully violates
36 subsection (2) of this section, when the total value received
37 during a twenty-four-hour period is Five Hundred Dollars (\$500.00)
38 or more, shall be guilty of a felony and upon conviction shall be
39 punished by confinement for a term of not less than one (1) year
40 nor more than five (5) years or a fine of not more than Five
41 Thousand Dollars (\$5,000.00), or both.

42 (4) Any person who knowingly and willfully violates
43 subsection (2) of this section, when the total value received
44 during a twenty-four-hour period is less than Five Hundred Dollars
45 (\$500.00), shall be guilty of a misdemeanor and upon conviction
46 shall be fined not more than One Thousand Dollars (\$1,000.00) or
47 by imprisonment in the county jail for a term not to exceed six
48 (6) months, or both.

49 (5) For the purpose of determining the punishment to be
50 imposed under subsections (3) and (4) of this section, the value
51 received during a twenty-four-hour period shall be aggregated.

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

59 **SECTION 2.** Section 33-15-5, Mississippi Code of 1972, is
60 brought forward as follows:

61 33-15-5. The following words, whenever used in this article
62 shall, unless a different meaning clearly appears from the
63 context, have the following meanings:

64 (a) "Agency" means the Mississippi Emergency Management
65 Agency, created by Section 33-15-7.

66 (b) "Director" means the Director of Emergency
67 Management, appointed pursuant to Section 33-15-7.

68 (c) "Emergency management" means the preparation for,
69 the mitigation of, the response to, and the recovery from
70 emergencies and disasters. Specific emergency management
71 responsibilities include, but are not limited to:

72 (i) Reduction of vulnerability of people and
73 communities of this state to damage, injury and loss of life and
74 property resulting from natural, technological or man-made
75 emergencies or hostile military paramilitary action.

76 (ii) Preparation for prompt and efficient response
77 and recovery to protect lives and property affected by
78 emergencies.

79 (iii) Response to emergencies using all systems,
80 plans and resources necessary to preserve adequately the health,
81 safety and welfare of persons or property affected by the
82 emergency.

83 (iv) Recovery from emergencies by providing for
84 the rapid and orderly start of restoration and rehabilitation of
85 persons and property affected by emergencies.

86 (v) Provision of an emergency management system
87 embodying all aspects of preemergency preparedness and
88 postemergency response, recovery and mitigation.

89 (vi) Assistance in anticipation, recognition,
90 appraisal, prevention and mitigation of emergencies which may be
91 caused or aggravated by inadequate planning for, and regulation of
92 public and private facilities and land use.

93 (d) "Civil defense," whenever it appears in the laws of
94 the State of Mississippi, shall mean "emergency management" unless
95 the context clearly indicates otherwise.

96 (e) "State of war emergency" means the condition which
97 exists immediately, with or without a proclamation thereof by the
98 Governor, whenever this state or nation is attacked by an enemy of
99 the United States or upon receipt by the state of a warning from
100 the federal government indicating that such an attack is probable
101 or imminent.

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

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

122 (h) "Emergency" means any occurrence, or threat
123 thereof, whether natural, technological, or man-made, in war or in
124 peace, which results or may result in substantial injury or harm
125 to the population or substantial damage to or loss of property.

126 (i) "Man-made emergency" means an emergency caused by
127 an action against persons or society, including, but not limited
128 to, emergency attack, sabotage, terrorism, civil unrest or other
129 action impairing the orderly administration of government.

130 (j) "Natural emergency" means an emergency caused by a
131 natural event, including, but not limited to, a hurricane, a
132 storm, a flood, severe wave action, a drought or an earthquake.

133 (k) "Technological emergency" means an emergency caused
134 by a technological failure or accident, including, but not limited
135 to, an explosion, transportation accident, radiological accident,
136 or chemical or other hazardous material incident.

137 (l) "Local emergency management agency" means an
138 organization created to discharge the emergency management
139 responsibilities and functions of a political subdivision.

140 (m) "Disaster" means any natural, technological or
141 civil emergency as defined in this section that causes damage of
142 sufficient severity and magnitude to result in a declaration of an
143 emergency by a county or municipality, the Governor or the
144 President of the United States. Disasters shall be identified by
145 the severity of resulting damage, as follows:

146 (i) "Catastrophic disaster" means a disaster that
147 will require massive state and federal assistance, including
148 immediate military involvement.

149 (ii) "Major disaster" means a disaster that will
150 likely exceed local capabilities and require a broad range of
151 state and federal assistance.

152 (iii) "Minor disaster" means a disaster that is
153 likely to be within the response capabilities of local government
154 and to result in only a minimal need for state or federal
155 assistance.

156 (n) "Disaster Reservist" means any person hired on a
157 temporary basis pursuant to State Personnel Board policies and
158 procedures regulating personal service contracts, that is hired to

159 perform specific tasks related to a Governor's State of Emergency,
160 or by an emergency or disaster declaration of the President of the
161 United States, by the agency, and is assigned to perform such
162 duties as may be required under the direction of the appropriate
163 agency supervisor.

164 (o) "Emergency impact area" means the area of the state
165 in which market conditions exist due to a state of emergency
166 creating a likelihood that prices ordinarily charged for goods and
167 services could be raised unfairly due to the underlying emergency.

168 **SECTION 3.** Section 33-15-11, Mississippi Code of 1972, is
169 brought forward as follows:

170 33-15-11. (a) The Governor shall have general direction and
171 control of the activities of the Emergency Management Agency and
172 Council and shall be responsible for the carrying out of the
173 provisions of this article, and in the event of a man-made,
174 technological or natural disaster or emergency beyond local
175 control, may assume direct operational control over all or any
176 part of the emergency management functions within this state.

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

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

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

192 this state, such local plans to be integrated into and coordinated
193 with the emergency management plan and program of this state to
194 the fullest possible extent.

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

211 (4) To cooperate with the President and the heads of
212 the Armed Forces, and the Emergency Management Agency of the
213 United States, and with the officers and agencies of other states
214 in matters pertaining to the emergency management of the state and
215 nation and the incidents thereof; and in connection therewith, to
216 take any measures which he may deem proper to carry into effect
217 any request of the President and the appropriate federal officers
218 and agencies, for any action looking to emergency management,
219 including the direction or control of (a) blackouts and practice
220 blackouts, air raid drills, mobilization of emergency management
221 forces, and other tests and exercises, (b) warnings and signals
222 for drills or attacks and the mechanical devices to be used in
223 connection therewith, (c) the effective screening or extinguishing
224 of all lights and lighting devices and appliances, (d) shutting

225 off water mains, gas mains, electric power connections and the
226 suspension of all other utility services, (e) the conduct of
227 civilians and the movement and cessation of movement of
228 pedestrians and vehicular traffic during, prior and subsequent to
229 drills or attack, (f) public meetings or gatherings under
230 emergency conditions, and (g) the evacuation and reception of the
231 civilian population.

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

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

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

249 (8) To establish agencies and offices and to appoint
250 executive, technical, clerical and other personnel as may be
251 necessary to carry out the provisions of this article including,
252 with due consideration to the recommendation of the local
253 authorities, part-time or full-time state and regional area
254 directors.

255 (9) To delegate any authority vested in him under this
256 article, and to provide for the subdelegation of any such
257 authority.

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

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

278 (12) To collect information and data for assessment of
279 vulnerabilities and capabilities within the borders of Mississippi
280 as it pertains to the nation and state's security and homeland
281 defense. This information shall be exempt from the Mississippi
282 Public Records Act, Section 25-61-1 et seq.

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

289 (14) To authorize the Commissioner of Public Safety to
290 select, train, organize and equip a ready reserve of auxiliary
291 highway patrolmen.

292 (15) To suspend or limit the sale, dispensing or
293 transportation of alcoholic beverages, firearms, explosives and
294 combustibles.

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

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

315 (18) To declare an emergency impact area when he finds
316 that the conditions described in Section 33-15-5(o) exist. The
317 proclamation shall be in writing and shall take effect immediately
318 upon its execution by the Governor. As soon as possible, the
319 proclamation shall be filed with the Secretary of State and be
320 given widespread notice and publicity. The Governor shall review
321 the need for continuing the declaration of emergency impact area

322 at least every thirty (30) days until the emergency is terminated,
323 and shall proclaim the reduction of the emergency impact area or
324 termination of the declaration of emergency impact area at the
325 earliest date or dates possible.

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

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

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

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

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

354 **SECTION 4.** This act shall take effect and be in force from
355 and after July 1, 2007.