

By: Senator(s) McDaniel

To: Judiciary, Division A

SENATE BILL NO. 2530

1 AN ACT TO BE KNOWN AS THE FIREARM PROTECTION ACT OF 2013; TO  
2 AMEND SECTION 33-7-303, MISSISSIPPI CODE OF 1972, TO LIMIT THE  
3 POWER OF THE GOVERNMENT TO SEIZE A FIREARM; TO AMEND SECTIONS  
4 45-9-53 AND 33-15-11, MISSISSIPPI CODE OF 1972, TO CONFORM; AND  
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 33-7-303, Mississippi Code of 1972, is  
8 amended as follows:

9 33-7-303. (1) The Governor, if he deems it necessary to  
10 preserve law and order, may by proclamation declare martial law to  
11 be in effect in any county or area in the state. Such  
12 proclamation shall be in writing, shall define the limits of such  
13 martial law, and specify the forces to be used, and the extent and  
14 degree to which martial law may be employed.

15 (2) (a) Nothing in this section or in any other statute  
16 shall be construed to confer upon the Governor or any official or  
17 employee of any department, agency or political subdivision of the  
18 state the power to:



19                   (i) Seize or confiscate any firearm or ammunition  
20 from any individual who is lawfully carrying or possessing the  
21 firearm or ammunition, except a peace officer who is acting in the  
22 lawful discharge of the officer's official duties may disarm an  
23 individual if the officer reasonably believes it is immediately  
24 necessary for the protection of the officer or another individual;  
25 however, the peace officer shall return the firearm and ammunition  
26 to the individual before discharging that individual unless the  
27 officer arrests that individual for engaging in criminal activity,  
28 or seizes the firearm and ammunition as evidence pursuant to an  
29 investigation for the commission of a crime; or

30                   (ii) Impose additional restrictions as to the  
31 lawful possession, transfer, sale, carrying, storage, display or  
32 use of firearms, ammunition, or components of firearms or  
33 ammunition.

34           **SECTION 2.** Section 45-9-53, Mississippi Code of 1972, is  
35 amended as follows:

36           45-9-53. (1) This section and Section 45-9-51 do not affect  
37 the authority that a county or municipality may have under another  
38 law:

39                   (a) To require citizens or public employees to be armed  
40 for personal or national defense, law enforcement, or another  
41 lawful purpose;

42                   (b) To regulate the discharge of firearms within the  
43 limits of the county or municipality. A county or municipality



44 may not apply a regulation relating to the discharge of firearms  
45 or other weapons in the extraterritorial jurisdiction of the  
46 county or municipality or in an area annexed by the county or  
47 municipality after September 1, 1981, if the firearm or other  
48 weapon is:

49 (i) A shotgun, air rifle or air pistol, BB gun or  
50 bow and arrow discharged:

51 1. On a tract of land of ten (10) acres or  
52 more and more than one hundred fifty (150) feet from a residence  
53 or occupied building located on another property; and

54 2. In a manner not reasonably expected to  
55 cause a projectile to cross the boundary of the tract; or

56 (ii) A center fire or rim fire rifle or pistol or  
57 a muzzle-loading rifle or pistol of any caliber discharged:

58 1. On a tract of land of fifty (50) acres or  
59 more and more than three hundred (300) feet from a residence or  
60 occupied building located on another property; and

61 2. In a manner not reasonably expected to  
62 cause a projectile to cross the boundary of the tract;

63 (c) To regulate the use of property or location of  
64 businesses for uses therein pursuant to fire code, zoning  
65 ordinances, or land-use regulations, so long as such codes,  
66 ordinances and regulations are not used to circumvent the intent  
67 of Section 45-9-51 or \* \* \* paragraph (e) of this \* \* \*  
68 subsection;



69 (d) To regulate the use of firearms in cases of  
70 insurrection, riots and natural disasters in which the city finds  
71 such regulation necessary to protect the health and safety of the  
72 public. However, the provisions of this section shall not apply  
73 to the lawful possession of firearms in the home, place of  
74 business or in transit to and from the home or place of business;

75 (e) To regulate the storage or transportation of  
76 explosives in order to protect the health and safety of the  
77 public, with the exception of black powder which is exempt up to  
78 twenty-five (25) pounds per private residence and fifty (50)  
79 pounds per retail dealer;

80 (f) To regulate the carrying of a firearm at: (i) a  
81 public park or at a public meeting of a county, municipality or  
82 other governmental body; (ii) a political rally, parade or  
83 official political meeting; or (iii) a nonfirearm-related school,  
84 college or professional athletic event; or

85 (g) To regulate the receipt of firearms by pawnshops.

86 (2) The exception provided by subsection (1)(f) of this  
87 section does not apply if the firearm was in or carried to and  
88 from an area designated for use in a lawful hunting, fishing or  
89 other sporting event and the firearm is of the type commonly used  
90 in the activity.

91 (3) This section and Section 45-9-51 do not authorize a  
92 county or municipality or their officers or employees to act in  
93 contravention of Section 33-7-303.



94           **SECTION 3.** Section 33-15-11, Mississippi Code of 1972, is  
95 amended as follows:

96           33-15-11. (a) The Governor shall have general direction and  
97 control of the activities of the Emergency Management Agency and  
98 Council and shall be responsible for the carrying out of the  
99 provisions of this article, and in the event of a man-made,  
100 technological or natural disaster or emergency beyond local  
101 control, may assume direct operational control over all or any  
102 part of the emergency management functions within this state.

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

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

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



119 with the emergency management plan and program of this state to  
120 the fullest possible extent.

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

137 (4) To cooperate with the President and the heads of  
138 the Armed Forces, and the Emergency Management Agency of the  
139 United States, and with the officers and agencies of other states  
140 in matters pertaining to the emergency management of the state and  
141 nation and the incidents thereof; and in connection therewith, to  
142 take any measures which he may deem proper to carry into effect  
143 any request of the President and the appropriate federal officers



144 and agencies, for any action looking to emergency management,  
145 including the direction or control of (a) blackouts and practice  
146 blackouts, air raid drills, mobilization of emergency management  
147 forces, and other tests and exercises, (b) warnings and signals  
148 for drills or attacks and the mechanical devices to be used in  
149 connection therewith, (c) the effective screening or extinguishing  
150 of all lights and lighting devices and appliances, (d) shutting  
151 off water mains, gas mains, electric power connections and the  
152 suspension of all other utility services, (e) the conduct of  
153 civilians and the movement and cessation of movement of  
154 pedestrians and vehicular traffic during, prior and subsequent to  
155 drills or attack, (f) public meetings or gatherings under  
156 emergency conditions, and (g) the evacuation and reception of the  
157 civilian population.

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

163           (6) To employ such measures and give such directions to  
164 the state or local boards of health as may be reasonably necessary  
165 for the purpose of securing compliance with the provisions of this  
166 article or with the findings or recommendations of such boards of  
167 health by reason of conditions arising from enemy attack or the



168 threat of enemy attack or natural, man-made or technological  
169 disaster.

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

175           (8) To establish agencies and offices and to appoint  
176 executive, technical, clerical and other personnel as may be  
177 necessary to carry out the provisions of this article including,  
178 with due consideration to the recommendation of the local  
179 authorities, part-time or full-time state and regional area  
180 directors.

181           (9) To delegate any authority vested in him under this  
182 article, and to provide for the subdelegation of any such  
183 authority.

184           (10) On behalf of this state to enter into reciprocal  
185 aid agreements or compacts with other states and the federal  
186 government, either on a statewide basis or local political  
187 subdivision basis or with a neighboring state or province of a  
188 foreign country. Such mutual aid arrangements shall be limited to  
189 the furnishings or exchange of food, clothing, medicine and other  
190 supplies; engineering services; emergency housing; police  
191 services; national or state guards while under the control of the  
192 state; health, medical and related services; fire fighting,





193 rescue, transportation and construction services and equipment;  
194 personnel necessary to provide or conduct these services; and such  
195 other supplies, equipment, facilities, personnel and services as  
196 may be needed; the reimbursement of costs and expenses for  
197 equipment, supplies, personnel and similar items for mobile  
198 support units, fire fighting and police units and health units;  
199 and on such terms and conditions as are deemed necessary.

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

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

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

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



218           (15) To suspend or limit the sale, dispensing or  
219 transportation of alcoholic beverages, firearms, explosives and  
220 combustibles.

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

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

241           (18) To declare an emergency impact area when he finds  
242 that the conditions described in Section 33-15-5(o) exist. The



243 proclamation shall be in writing and shall take effect immediately  
244 upon its execution by the Governor. As soon as possible, the  
245 proclamation shall be filed with the Secretary of State and be  
246 given widespread notice and publicity. The Governor shall review  
247 the need for continuing the declaration of emergency impact area  
248 at least every thirty (30) days until the emergency is terminated,  
249 and shall proclaim the reduction of the emergency impact area or  
250 termination of the declaration of emergency impact area at the  
251 earliest date or dates possible.

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

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

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



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

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

280           (d) This section does not authorize the Governor or a  
281 designee of the Governor to act in contravention of Section  
282 33-7-303.

283           **SECTION 4.** This act shall take effect and be in force from  
284 and after July 1, 2013.

