

By: Representatives Gipson, Alday, Aldridge, Arnold, Bain, Baker, Barton, Beckett, Bell, Bounds, Boyd, Brown (20th), Busby, Byrd, Carpenter, Chism, Currie, DeBar, Denny, Eure, Formby, Frierson, Guice, Gunn, Haney, Hood, Horne, Howell, Ladner, Lamar, Lott, Massengill, McLeod, Mettetal, Miles, Mims, Monsour, Moore, Morgan, Nelson, Patterson, Pigott, Powell, Rushing, Shirley, Smith (39th), Snowden, Staples, Steverson, Taylor, Willis, Zuber To: Judiciary B

HOUSE BILL NO. 314

1 AN ACT TO AMEND SECTIONS 33-7-303 AND 33-15-11, MISSISSIPPI
2 CODE OF 1972, TO CLARIFY THAT THE GOVERNOR OR ANY OTHER OFFICIAL
3 OR EMPLOYEE OF THE STATE MAY NOT INTERFERE WITH THE RIGHT OF
4 CITIZENS TO POSSESS FIREARMS; TO AMEND SECTIONS 45-9-51 AND
5 45-9-53, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT COUNTIES AND
6 MUNICIPALITIES MAY NOT INTERFERE WITH THE RIGHT OF CITIZENS TO
7 POSSESS FIREARMS; TO PROVIDE A COMPLAINT PROCEDURE TO CHALLENGE
8 ORDINANCES IN VIOLATION OF THAT RIGHT; TO RESTRICT COUNTY AND
9 MUNICIPAL PROGRAMS TO PURCHASE WEAPONS FROM CITIZENS; AND FOR
10 RELATED PURPOSES.

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

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

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

20 (2) (a) Nothing in this section or in any other statute
21 shall be construed to confer upon the Governor or any official or



22 employee of any department, agency or political subdivision of the
23 state the power to:

24 (i) Confiscate or seize a firearm, ammunition, or
25 components of firearms or ammunition from a person who is in
26 lawful possession of such firearm, ammunition, or components of
27 ammunition; or

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

32 (b) For the purposes of this subsection:

33 (i) "Ammunition" means a cartridge, shell or other
34 device containing explosive or incendiary material designed and
35 intended for use in a firearm.

36 (ii) "Firearm" means any weapon which will or is
37 designed to expel any projectile by the action of an explosive.

38 **SECTION 2.** Section 33-15-11, Mississippi Code of 1972, is
39 amended as follows:

40 33-15-11. (a) The Governor shall have general direction and
41 control of the activities of the Emergency Management Agency and
42 Council and shall be responsible for the carrying out of the
43 provisions of this article, and in the event of a man-made,
44 technological or natural disaster or emergency beyond local
45 control, may assume direct operational control over all or any
46 part of the emergency management functions within this state.



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

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

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

65 (3) In accordance with such plan and program for
66 emergency management of this state, to ascertain the requirements
67 of the state or the political subdivisions thereof for food or
68 clothing or other necessities of life in the event of attack or
69 natural or man-made or technological disasters and to plan for and
70 procure supplies, medicines, materials and equipment, and to use
71 and employ from time to time any of the property, services and



72 resources within the state, for the purposes set forth in this
73 article; to make surveys of the industries, resources and
74 facilities within the state as are necessary to carry out the
75 purposes of this article; to institute training programs and
76 public information programs, and to take all other preparatory
77 steps, including the partial or full mobilization of emergency
78 management organizations in advance of actual disaster, to insure
79 the furnishing of adequately trained and equipped forces of
80 emergency management personnel in time of need.

81 (4) To cooperate with the President and the heads of
82 the Armed Forces, and the Emergency Management Agency of the
83 United States, and with the officers and agencies of other states
84 in matters pertaining to the emergency management of the state and
85 nation and the incidents thereof; and in connection therewith, to
86 take any measures which he may deem proper to carry into effect
87 any request of the President and the appropriate federal officers
88 and agencies, for any action looking to emergency management,
89 including the direction or control of (a) blackouts and practice
90 blackouts, air raid drills, mobilization of emergency management
91 forces, and other tests and exercises, (b) warnings and signals
92 for drills or attacks and the mechanical devices to be used in
93 connection therewith, (c) the effective screening or extinguishing
94 of all lights and lighting devices and appliances, (d) shutting
95 off water mains, gas mains, electric power connections and the
96 suspension of all other utility services, (e) the conduct of



97 civilians and the movement and cessation of movement of
98 pedestrians and vehicular traffic during, prior and subsequent to
99 drills or attack, (f) public meetings or gatherings under
100 emergency conditions, and (g) the evacuation and reception of the
101 civilian population.

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

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

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

119 (8) To establish agencies and offices and to appoint
120 executive, technical, clerical and other personnel as may be
121 necessary to carry out the provisions of this article including,



122 with due consideration to the recommendation of the local
123 authorities, part-time or full-time state and regional area
124 directors.

125 (9) To delegate any authority vested in him under this
126 article, and to provide for the subdelegation of any such
127 authority.

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

144 (11) To sponsor and develop mutual aid plans and
145 agreements between the political subdivisions of the state,



146 similar to the mutual aid arrangements with other states referred
147 to above.

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

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

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

162 (15) To suspend or limit the sale, dispensing or
163 transportation of alcoholic beverages, firearms, explosives and
164 combustibles.

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



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

185 (18) To declare an emergency impact area when he finds
186 that the conditions described in Section 33-15-5(o) exist. The
187 proclamation shall be in writing and shall take effect immediately
188 upon its execution by the Governor. As soon as possible, the
189 proclamation shall be filed with the Secretary of State and be
190 given widespread notice and publicity. The Governor shall review
191 the need for continuing the declaration of emergency impact area
192 at least every thirty (30) days until the emergency is terminated,
193 and shall proclaim the reduction of the emergency impact area or



194 termination of the declaration of emergency impact area at the
195 earliest date or dates possible.

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

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

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

212 (3) To commandeer or utilize any private property if
213 necessary to cope with a disaster or emergency, provided that such
214 private property so commandeered or utilized shall be paid for
215 under terms and conditions agreed upon by the participating
216 parties. The owner of said property shall immediately be given a
217 receipt for the said private property and said receipt shall serve



218 as a valid claim against the Treasury of the State of Mississippi
219 for the agreed upon market value of said property.

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

224 (d) This section does not authorize the Governor or a
225 designee of the Governor to act in contravention of Section
226 33-7-303.

227 **SECTION 3.** Section 45-9-51, Mississippi Code of 1972, is
228 amended as follows:

229 45-9-51. (1) Subject to the provisions of Section 45-9-53,
230 no county or municipality may adopt any ordinance that restricts
231 * * * the possession, carrying, transportation, sale, transfer or
232 ownership of firearms or ammunition or their components.

233 (2) No public housing authority operating in this state may
234 adopt any rule or regulation restricting a lessee or tenant of a
235 dwelling owned and operated by such public housing authority from
236 lawfully possessing firearms or ammunition or their components
237 within individual dwelling units or the transportation of such
238 firearms or ammunition or their components to and from such
239 dwelling.

240 **SECTION 4.** Section 45-9-53, Mississippi Code of 1972, is
241 amended as follows:



242 45-9-53. (1) This section and Section 45-9-51 do not affect
243 the authority that a county or municipality may have under another
244 law:

245 (a) To require citizens or public employees to be armed
246 for personal or national defense, law enforcement, or another
247 lawful purpose;

248 (b) To regulate the discharge of firearms within the
249 limits of the county or municipality. A county or municipality
250 may not apply a regulation relating to the discharge of firearms
251 or other weapons in the extraterritorial jurisdiction of the
252 county or municipality or in an area annexed by the county or
253 municipality after September 1, 1981, if the firearm or other
254 weapon is:

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

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

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

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

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



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

269 (c) To regulate the use of property or location of
270 businesses for uses therein pursuant to fire code, zoning
271 ordinances, or land-use regulations, so long as such codes,
272 ordinances and regulations are not used to circumvent the intent
273 of Section 45-9-51 or * * * paragraph (e) of this * * *
274 subsection;

275 (d) To regulate the use of firearms in cases of
276 insurrection, riots and natural disasters in which the city finds
277 such regulation necessary to protect the health and safety of the
278 public. However, the provisions of this section shall not apply
279 to the lawful possession of firearms * * *, ammunition or
280 components of firearms or ammunition;

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

286 (f) To regulate the carrying of a firearm at: (i) a
287 public park or at a public meeting of a county, municipality or
288 other governmental body; (ii) a political rally, parade or
289 official political meeting; or (iii) a nonfirearm-related school,
290 college or professional athletic event; or

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



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

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

300 (4) No county or a municipality may use the written notice
301 provisions of Section 45-9-101(13) to prohibit firearms on
302 property under their control except in the locations listed in
303 subsection (1)(f) of this section.

304 (5) (a) A citizen of this state, or a person licensed to
305 carry a concealed pistol or revolver under Section 45-9-101, or a
306 person licensed to carry a concealed pistol or revolver with the
307 endorsement under Section 97-37-7, who is adversely affected by an
308 ordinance or posted written notice adopted by a county or
309 municipality in violation of this section may file suit for
310 declarative and injunctive relief against a county or municipality
311 in the circuit court which shall have jurisdiction over the county
312 or municipality where the violation of this section occurs.

313 (b) Before instituting suit under this subsection, the
314 party adversely impacted by the ordinance or posted written notice
315 shall notify the Attorney General in writing of the violation and
316 include evidence of the violation. The Attorney General shall,



317 within thirty (30) days, investigate whether the county or
318 municipality adopted an ordinance or posted written notice in
319 violation of this section and provide the chief administrative
320 officer of the county or municipality notice of his findings,
321 including, if applicable, a description of the violation and
322 specific language of the ordinance or posted written notice found
323 to be in violation. The county or municipality shall have thirty
324 (30) days from receipt of that notice to cure the violation. If
325 the county or municipality fails to cure the violation within that
326 30-day time period, a suit under subsection (a) may proceed. The
327 findings of the Attorney General shall constitute a "Public
328 Record" as defined by the Mississippi Public Records Act of 1983,
329 Section 25-61-1, et seq.

330 (c) If the circuit court finds that a county or
331 municipality adopted an ordinance or posted written notice in
332 violation of this section and failed to cure that violation in
333 accordance with paragraph (b) of this subsection, the circuit
334 court shall issue a permanent injunction against a county or
335 municipality prohibiting it from enforcing the ordinance or posted
336 written notice. Any county or municipal official under whose
337 jurisdiction the violation occurred may be civilly liable in a sum
338 not to exceed One Thousand Dollars (\$1,000.00), plus all
339 reasonable attorney's fees and costs incurred by the party
340 bringing the suit. Public funds may not be used to defend or



341 reimburse officials who are found by the court to have violated
342 this section.

343 (6) No county or municipality or their officers or employees
344 may participate in any program in which individuals are given a
345 thing of value provided by another individual or other entity in
346 exchange for surrendering a firearm to the county, municipality or
347 other governmental body unless:

348 (a) The county or municipality has adopted an ordinance
349 authorizing the participation of the county or municipality, or
350 participation by an officer or employee of the county or
351 municipality in such a program; and

352 (b) Any ordinance enacted pursuant to this section must
353 require that any firearm received shall be offered for sale at
354 auction as provided by Sections 19-3-85 and 21-39-21 to
355 federally-licensed firearms dealers, with the proceeds from such
356 sale at auction reverting to the general operating fund of the
357 county, municipality or other governmental body. Any firearm
358 remaining in possession of the county, municipality or other
359 governmental body after attempts to sell at auction may be
360 disposed of in a manner that the body deems appropriate.

361 **SECTION 5.** This act shall take effect and be in force from
362 and after July 1, 2014.

