

By: Representatives DeBar, Steverson,
Crawford, Dixon, Baria, Moak, Miles, Bain,
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To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 705

1 AN ACT TO AMEND SECTION 33-7-303, MISSISSIPPI CODE OF 1972,
2 TO EXPLICITLY RESTRICT THE POWER TO CONFISCATE FIREARMS AND
3 AMMUNITIONS IN AN EMERGENCY; TO PROVIDE EXCEPTIONS; TO ENACT
4 DEFINITIONS; TO AMEND SECTIONS 45-9-53 AND 33-15-11, MISSISSIPPI
5 CODE OF 1972, TO CONFORM; AND 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) Confiscate or seize a firearm, ammunition, or
20 components of firearms or components of ammunition from a person
21 who is in lawful possession of such firearm, ammunition, or
22 components of firearms or components of ammunition; or

23 (ii) Impose additional restrictions as to the
24 lawful possession, transfer, sale, carrying, storage, display or
25 use of firearms, ammunition, or components of firearms or
26 components of ammunition.

27 (b) For the purposes of this subsection:

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

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

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

35 45-9-53. (1) This section and Section 45-9-51 do not affect
36 the authority that a county or municipality may have under another
37 law:

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

41 (b) To regulate the discharge of firearms within the
42 limits of the county or municipality. A county or municipality
43 may not apply a regulation relating to the discharge of firearms



44 or other weapons in the extraterritorial jurisdiction of the
45 county or municipality or in an area annexed by the county or
46 municipality after September 1, 1981, if the firearm or other
47 weapon is:

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

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

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

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

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

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

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



68 (d) To regulate the use of firearms in cases of
69 insurrection, riots and natural disasters in which the city finds
70 such regulation necessary to protect the health and safety of the
71 public. However, the provisions of this section shall not apply
72 to the lawful possession of firearms * * *, ammunition or
73 components of firearms or components of ammunition 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, 2014.

