MISSISSIPPI LEGISLATURE REGULAR SESSION 2014

By: Representatives DeBar, Steverson, Crawford, Dixon, Baria, Moak, Miles, Bain, Oberhousen, Rogers (61st), Weathersby

To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 705

AN ACT TO AMEND SECTION 33-7-303, MISSISSIPPI CODE OF 1972, TO EXPLICITLY RESTRICT THE POWER TO CONFISCATE FIREARMS AND AMMUNITIONS IN AN EMERGENCY; TO PROVIDE EXCEPTIONS; TO ENACT DEFINITIONS; TO AMEND SECTIONS 45-9-53 AND 33-15-11, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

(b) For the purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) To work with the Mississippi Emergency Management Agency in preparing a comprehensive plan and program for the emergency management of this state, such plan and program to be integrated into and coordinated with the emergency management plans of the federal government and of other states to the fullest

possible extent, and to coordinate the preparation of plans and programs for emergency management by the political subdivisions of this state, such local plans to be integrated into and coordinated with the emergency management plan and program of this state to the fullest possible extent.

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

(4) To cooperate with the President and the heads of the Armed Forces, and the Emergency Management Agency of the United States, and with the officers and agencies of other states in matters pertaining to the emergency management of the state and

nation and the incidents thereof; and in connection therewith, to take any measures which he may deem proper to carry into effect any request of the President and the appropriate federal officers and agencies, for any action looking to emergency management, including the direction or control of (a) blackouts and practice blackouts, air raid drills, mobilization of emergency management forces, and other tests and exercises, (b) warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith, (c) the effective screening or extinguishing of all lights and lighting devices and appliances, (d) shutting off water mains, gas mains, electric power connections and the suspension of all other utility services, (e) the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior and subsequent to drills or attack, (f) public meetings or gatherings under emergency conditions, and (g) the evacuation and reception of the civilian population.

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

(6) To employ such measures and give such directions to the state or local boards of health as may be reasonably necessary for the purpose of securing compliance with the provisions of this

article or with the findings or recommendations of such boards of health by reason of conditions arising from enemy attack or the threat of enemy attack or natural, man-made or technological disaster.

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

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

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

(10) On behalf of this state to enter into reciprocal aid agreements or compacts with other states and the federal government, either on a statewide basis or local political subdivision basis or with a neighboring state or province of a foreign country. Such mutual aid arrangements shall be limited to the furnishings or exchange of food, clothing, medicine and other supplies; engineering services; emergency housing; police

services; national or state guards while under the control of the state; health, medical and related services; fire fighting, rescue, transportation and construction services and equipment; personnel necessary to provide or conduct these services; and such other supplies, equipment, facilities, personnel and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel and similar items for mobile support units, fire fighting and police units and health units; and on such terms and conditions as are deemed necessary.

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

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

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

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

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

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

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

reduction of area or the termination of the state of emergency at the earliest possible date that conditions warrant.

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

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

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

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

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

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

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

SECTION 4. This act shall take effect and be in force from and after July 1, 2014.