

By: Representative Ladner

To: Public Health and Human Services

HOUSE BILL NO. 131

1 AN ACT TO AMEND SECTION 33-15-5, MISSISSIPPI CODE OF 1972, TO
 2 REVISE THE DEFINITIONS OF "STATE OF EMERGENCY," "LOCAL EMERGENCY"
 3 AND "NATURAL EMERGENCY" IN THE MISSISSIPPI EMERGENCY MANAGEMENT
 4 LAW TO INCLUDE "AN EPIDEMIC" AND "A PANDEMIC"; TO AMEND SECTION
 5 33-15-11, MISSISSIPPI CODE OF 1972, TO PROVIDE A MAXIMUM TIME
 6 PERIOD FOR ANY STATE OF EMERGENCY OR DECLARATION OF EMERGENCY
 7 IMPACT AREA; TO PROHIBIT CONTINUATIONS OF SUCH EMERGENCIES EXCEPT
 8 BY LEGISLATIVE ENACTMENT; TO CREATE NEW SECTION 41-39-17,
 9 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE DEPARTMENT OF
 10 HEALTH TO RECEIVE AND STORE DEAD HUMAN BODIES WHEN THE GOVERNOR
 11 PROCLAIMS A STATE OF EMERGENCY AND INSUFFICIENT FACILITIES EXIST
 12 IN COUNTIES AND MUNICIPALITIES TO RECEIVE AND STORE THE BODIES; TO
 13 AMEND SECTIONS 41-61-61 AND 41-61-69, MISSISSIPPI CODE OF 1972, TO
 14 CONFORM TO THE PRECEDING SECTIONS; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 33-15-5, Mississippi Code of 1972, is
 17 amended as follows:

18 33-15-5. The following words, whenever used in this article
 19 shall, unless a different meaning clearly appears from the
 20 context, have the following meanings:

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

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



25 (c) "Emergency management" means the preparation for,
26 the mitigation of, the response to, and the recovery from
27 emergencies and disasters. Specific emergency management
28 responsibilities include, but are not limited to:

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

33 (ii) Preparation for prompt and efficient response
34 and recovery to protect lives and property affected by
35 emergencies.

36 (iii) Response to emergencies using all systems,
37 plans and resources necessary to preserve adequately the health,
38 safety and welfare of persons or property affected by the
39 emergency.

40 (iv) Recovery from emergencies by providing for
41 the rapid and orderly start of restoration and rehabilitation of
42 persons and property affected by emergencies.

43 (v) Provision of an emergency management system
44 embodying all aspects of preemergency preparedness and
45 postemergency response, recovery and mitigation.

46 (vi) Assistance in anticipation, recognition,
47 appraisal, prevention and mitigation of emergencies which may be
48 caused or aggravated by inadequate planning for, and regulation of
49 public and private facilities and land use.



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

53 (e) "State of war emergency" means the condition which
54 exists immediately, with or without a proclamation thereof by the
55 Governor, whenever this state or nation is attacked by an enemy of
56 the United States or upon receipt by the state of a warning from
57 the federal government indicating that such an attack is probable
58 or imminent.

59 (f) "State of emergency" means the duly proclaimed
60 existence of conditions of disaster or extreme peril to the safety
61 or health of persons or property within the state caused by air or
62 water pollution, fire, flood, storm, epidemic, pandemic,
63 earthquake, hurricane, resource shortages, or other natural or
64 man-made conditions other than conditions causing a "state of war
65 emergency," which conditions by reasons of their magnitude are or
66 are likely to be beyond the control of the services, personnel,
67 equipment and facilities of any single county and/or municipality
68 and requires combined forces of the state to combat.

69 (g) "Local emergency" means the duly proclaimed
70 existence of conditions of disaster or extreme peril to the safety
71 or health of persons and property within the territorial limits of
72 a county and/or municipality caused by such conditions as air or
73 water pollution, fire, flood, storm, epidemic, pandemic,
74 earthquake, hurricane, resource shortages or other natural or



75 man-made conditions, which conditions are or are likely to be
76 beyond the control of the services, personnel, equipment and
77 facilities of the political subdivision and require the combined
78 forces of other subdivisions or of the state to combat.

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

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

87 (j) "Natural emergency" means an emergency caused by a
88 natural event, including, but not limited to, an epidemic, a
89 pandemic, a hurricane, a storm, a flood, severe wave action, a
90 drought or an earthquake.

91 (k) "Technological emergency" means an emergency caused
92 by a technological failure or accident, including, but not limited
93 to, an explosion, transportation accident, radiological accident,
94 or chemical or other hazardous material incident.

95 (l) "Local emergency management agency" means an
96 organization created to discharge the emergency management
97 responsibilities and functions of a political subdivision.

98 (m) "Disaster" means any natural, technological or
99 civil emergency as defined in this section that causes damage of



100 sufficient severity and magnitude to result in a declaration of an
101 emergency by a county or municipality, the Governor or the
102 President of the United States. Disasters shall be identified by
103 the severity of resulting damage, as follows:

104 (i) "Catastrophic disaster" means a disaster that
105 will require massive state and federal assistance, including
106 immediate military involvement.

107 (ii) "Major disaster" means a disaster that will
108 likely exceed local capabilities and require a broad range of
109 state and federal assistance.

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

114 (n) "Disaster Reservist" means any person hired on a
115 temporary basis pursuant to State Personnel Board policies and
116 procedures regulating personal service contracts, that is hired to
117 perform specific tasks related to a Governor's State of Emergency,
118 or by an emergency or disaster declaration of the President of the
119 United States, by the agency, and is assigned to perform such
120 duties as may be required under the direction of the appropriate
121 agency supervisor.

122 (o) "Emergency impact area" means the area of the state
123 in which market conditions exist due to a state of emergency



124 creating a likelihood that prices ordinarily charged for goods and
125 services could be raised unfairly due to the underlying emergency.

126 (p) "Political subdivision" means a local government
127 created by the State of Mississippi to assist in fulfilling the
128 state's obligations. The term "political subdivision" includes
129 levee districts.

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

132 33-15-11. (a) The Governor shall have general direction and
133 control of the activities of the Emergency Management Agency and
134 Council and shall be responsible for the carrying out of the
135 provisions of this article, and in the event of a man-made,
136 technological or natural disaster or emergency beyond local
137 control, may assume direct operational control over all or any
138 part of the emergency management functions within this state.

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

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

147 (2) To work with the Mississippi Emergency Management
148 Agency in preparing a comprehensive plan and program for the



149 emergency management of this state, such plan and program to be
150 integrated into and coordinated with the emergency management
151 plans of the federal government and of other states to the fullest
152 possible extent, and to coordinate the preparation of plans and
153 programs for emergency management by the political subdivisions of
154 this state, such local plans to be integrated into and coordinated
155 with the emergency management plan and program of this state to
156 the fullest possible extent.

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



173 (4) To cooperate with the President and the heads of
174 the Armed Forces, and the Emergency Management Agency of the
175 United States, and with the officers and agencies of other states
176 in matters pertaining to the emergency management of the state and
177 nation and the incidents thereof; and in connection therewith, to
178 take any measures which he may deem proper to carry into effect
179 any request of the President and the appropriate federal officers
180 and agencies, for any action looking to emergency management,
181 including the direction or control of (a) blackouts and practice
182 blackouts, air raid drills, mobilization of emergency management
183 forces, and other tests and exercises, (b) warnings and signals
184 for drills or attacks and the mechanical devices to be used in
185 connection therewith, (c) the effective screening or extinguishing
186 of all lights and lighting devices and appliances, (d) shutting
187 off water mains, gas mains, electric power connections and the
188 suspension of all other utility services, (e) the conduct of
189 civilians and the movement and cessation of movement of
190 pedestrians and vehicular traffic during, prior and subsequent to
191 drills or attack, (f) public meetings or gatherings under
192 emergency conditions, and (g) the evacuation and reception of the
193 civilian population.

194 (5) To take such action and give such directions to
195 state and local law enforcement officers and agencies as may be
196 reasonable and necessary for the purpose of securing compliance



197 with the provisions of this article and with the orders, rules and
198 regulations made pursuant thereto.

199 (6) To employ such measures and give such directions to
200 the state or local boards of health as may be reasonably necessary
201 for the purpose of securing compliance with the provisions of this
202 article or with the findings or recommendations of such boards of
203 health by reason of conditions arising from enemy attack or the
204 threat of enemy attack or natural, man-made or technological
205 disaster.

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

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

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

220 (10) On behalf of this state to enter into reciprocal
221 aid agreements or compacts with other states and the federal



222 government, either on a statewide basis or local political
223 subdivision basis or with a neighboring state or province of a
224 foreign country. Such mutual aid arrangements shall be limited to
225 the furnishings or exchange of food, clothing, medicine and other
226 supplies; engineering services; emergency housing; police
227 services; national or state guards while under the control of the
228 state; health, medical and related services; firefighting, rescue,
229 transportation and construction services and equipment; personnel
230 necessary to provide or conduct these services; and such other
231 supplies, equipment, facilities, personnel and services as may be
232 needed; the reimbursement of costs and expenses for equipment,
233 supplies, personnel and similar items for mobile support units,
234 firefighting and police units and health units; and on such terms
235 and conditions as are deemed necessary.

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

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

245 (13) Authorize any agency or arm of the state to create
246 a special emergency management revolving fund, accept donations,



247 contributions, fees, grants, including federal funds, as may be
248 necessary for such agency or arm of the state to administer its
249 functions of this article as set forth in the Executive Order of
250 the Governor.

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

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

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

262 (17) To proclaim a state of emergency in an area
263 affected or likely to be affected thereby when he finds that the
264 conditions described in Section 33-15-5(g) exist, or when he is
265 requested to do so by the mayor of a municipality or by the
266 president of the board of supervisors of a county, or when he
267 finds that a local authority is unable to cope with the emergency.
268 Such proclamation shall be in writing and shall take effect
269 immediately upon its execution by the Governor. As soon
270 thereafter as possible, such proclamation shall be filed with the
271 Secretary of State and be given widespread notice and publicity.



272 The Governor shall not proclaim more than one (1) state of
273 emergency during the same time period in the same area and/or
274 arising out of the same or similar conditions described in this
275 paragraph (17). The Governor, upon advice of the director, shall
276 review the need for continuing the state of emergency at least
277 every * * * fifteen (15) days. No state of emergency may be
278 continued or effective for more than forty-five (45) days from the
279 date of issuance, unless the Legislature authorizes the
280 continuation of the state of emergency by the enactment of
281 legislation for that purpose. For purposes of this paragraph
282 (17), any changes, amendments or supplements to a proclamation for
283 a state of emergency shall be considered to be part of the
284 original state of emergency and shall be subject to the forty-five
285 (45) day limitation of this paragraph.

286 (18) To declare an emergency impact area when he finds
287 that the conditions described in Section 33-15-5(o) exist. The
288 proclamation shall be in writing and shall take effect immediately
289 upon its execution by the Governor. As soon as possible, the
290 proclamation shall be filed with the Secretary of State and be
291 given widespread notice and publicity. The Governor shall not
292 declare more than one (1) emergency impact area during the same
293 time period in the same area and/or arising out of the same or
294 similar conditions described in Section 33-15-5(o). The Governor
295 shall review the need for continuing the declaration of emergency
296 impact area at least every * * * fifteen (15) days. No



297 declaration of emergency impact area may be continued or effective
298 for more than forty-five (45) days, unless the Legislature
299 authorizes the continuation of the declaration of emergency impact
300 area by the enactment of legislation for that purpose. For
301 purposes of this paragraph (18), any changes, amendments or
302 supplements to a proclamation for a declaration of emergency
303 impact area shall be considered to be part of the original
304 declaration of emergency impact area and shall be subject to the
305 forty-five (45) day limitation of this paragraph.

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

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

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



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

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

334 (5) To authorize, upon guidance from the State
335 Department of Health, physicians, nurse practitioners, physician
336 assistants, and registered nurses licensed in other states to
337 perform professional services in the State of Mississippi under
338 conditions that the Governor considers appropriate for a period
339 not to exceed the duration of any state of emergency or state of
340 war emergency.

341 (d) This section does not authorize the Governor or a
342 designee of the Governor to act in contravention of Section
343 33-7-303.

344 **SECTION 3.** The following shall be codified as Section
345 41-39-17, Mississippi Code of 1972:



346 41-39-17. (1) When the Governor has proclaimed a state of
347 emergency for reasons of natural, technological or man-made
348 disaster, or state of war emergency as defined in Section 33-15-5,
349 and the State Department of Health has determined that there are
350 insufficient facilities or trained personnel in any county to
351 receive and store dead human bodies, the State Department of
352 Health shall have the authority to take possession of the bodies
353 and perform any functions that would be the responsibility of a
354 county coroner respecting such bodies.

355 (2) When the State Department of Health assumes
356 responsibilities as authorized by subsection (1) of this section,
357 the State Health Officer shall issue a finding setting out the
358 reasons for taking such action, and shall set out what actions the
359 department will take with respect to the receipt, storage and
360 disposal of any human dead bodies received.

361 **SECTION 4.** Section 41-61-61, Mississippi Code of 1972, is
362 amended as follows:

363 41-61-61. (1) Upon the death of any person where that death
364 affects the public interest, the medical examiner of the county in
365 which the body of the deceased is found or, if death occurs in a
366 moving conveyance, where the conveyance stops and death is
367 pronounced, shall be notified promptly by any person having
368 knowledge or suspicion of such a death, as provided in subsection
369 (1) of Section 41-61-59. The medical examiner shall then notify
370 the State Medical Examiner, in accordance with Section



371 41-61-63(2) (a). Except as otherwise provided by Section 3 of this
372 act, no person shall disturb the body at the scene of such a death
373 until authorized by the medical examiner, unless the medical
374 examiner is unavailable and it is determined by an appropriate law
375 enforcement officer that the presence of the body at the scene
376 would risk the integrity of the body or provide a hazard to the
377 safety of others. For the limited purposes of this section,
378 expression of an opinion that death has occurred may be made by a
379 nurse, an emergency medical technician, or any other competent
380 person, in the absence of a physician.

381 (2) The discovery of anatomical material suspected of being
382 part of the human body shall be promptly reported either (a) to
383 the medical examiner of the county in which the material is found,
384 who shall report the discovery to the State Medical Examiner, or
385 (b) to the State Medical Examiner.

386 (3) A person who willfully moves, distributes or conceals a
387 body or body part in violation of this section is guilty of a
388 misdemeanor, and may be punished by a fine of not more than Five
389 Hundred Dollars (\$500.00), or by imprisonment for not more than
390 six (6) months in the county jail, or by both such fine and
391 imprisonment.

392 (4) Upon oral or written authorization of the medical
393 examiner, if an autopsy is to be performed, the body shall be
394 transported directly to an autopsy facility in a suitable secure
395 conveyance, and the expenses of transportation shall be paid by



396 the county for which the service is provided. The county may
397 contract with individuals or make available a vehicle to the
398 medical examiner or law enforcement personnel for transportation
399 of bodies.

400 **SECTION 5.** Section 41-61-69, Mississippi Code of 1972, is
401 amended as follows:

402 41-61-69. (1) Except as otherwise provided in Section 1 of
403 this act, no person knowing or having reason to know that a death
404 may be under the jurisdiction of the medical examiner shall
405 embalm, bury or cremate the body without the permission of the
406 medical examiner. Any person violating the provisions of this
407 section shall be guilty of a misdemeanor, and may be punished by a
408 fine of not more than Five Hundred Dollars (\$500.00), or by
409 imprisonment for not more than six (6) months in the county jail,
410 or by both such fine and imprisonment.

411 (2) A dead body shall not be cremated or buried at sea
412 unless a medical examiner certifies that he has been informed of
413 or inquired into the cause and the manner of death and has the
414 opinion that no further examination is necessary. This subsection
415 shall not apply to deaths occurring less than twenty-four (24)
416 hours after birth or to death of patient resulting only from
417 natural disease and occurring in a licensed hospital unless the
418 death falls within the jurisdiction of the medical examiner. The
419 State Medical Examiner shall be authorized to adopt rules creating
420 additional exceptions to this subsection. For making this



421 certification, the medical examiner or his deputy shall be
422 entitled to charge a fee of Twenty-five Dollars (\$25.00), to be
423 paid by the applicant, unless such medical examiner or his deputy
424 has filed a written report of such death as provided in Section
425 41-61-73, Mississippi Code of 1972, and received a fee therefor
426 paid by the county.

427 **SECTION 6.** This act shall take effect and be in force from
428 and after July 1, 2022.

