

By: Senator(s) Nunnelee

To: Veterans and Military  
AffairsCOMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2400

1 AN ACT TO AMEND SECTION 33-15-11, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THE TIME A DECLARATION OF EMERGENCY IS EFFECTIVE, AND  
3 TO AUTHORIZE THE GOVERNOR TO COLLECT INFORMATION FOR AN ASSESSMENT  
4 OF VULNERABILITIES WITHIN THE BORDERS OF MISSISSIPPI AS IT  
5 PERTAINS TO THE NATION AND STATE'S SECURITY AND HOMELAND DEFENSE;  
6 TO AMEND SECTION 75-24-25, MISSISSIPPI CODE OF 1972, TO CLARIFY  
7 THE CRITERIA FOR PRICE RESTRICTIONS DURING A STATE OF EMERGENCY;  
8 AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 33-15-11, Mississippi Code of 1972, is  
11 amended as follows:

12 33-15-11. (a) The Governor shall have general direction and  
13 control of the activities of the Emergency Management Agency and  
14 Council and shall be responsible for the carrying out of the  
15 provisions of this article, and in the event of a man-made,  
16 technological or natural disaster or emergency beyond local  
17 control, may assume direct operational control over all or any  
18 part of the emergency management functions within this state.

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

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

27 (2) To work with the Mississippi Emergency Management  
28 Agency in preparing a comprehensive plan and program for the  
29 emergency management of this state, such plan and program to be  
30 integrated into and coordinated with the emergency management



31 plans of the federal government and of other states to the fullest  
32 possible extent, and to coordinate the preparation of plans and  
33 programs for emergency management by the political subdivisions of  
34 this state, such local plans to be integrated into and coordinated  
35 with the emergency management plan and program of this state to  
36 the fullest possible extent.

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

53           (4) To cooperate with the President and the heads of  
54 the Armed Forces, and the Emergency Management Agency of the  
55 United States, and with the officers and agencies of other states  
56 in matters pertaining to the emergency management of the state and  
57 nation and the incidents thereof; and in connection therewith, to  
58 take any measures which he may deem proper to carry into effect  
59 any request of the President and the appropriate federal officers  
60 and agencies, for any action looking to emergency management,  
61 including the direction or control of (a) blackouts and practice  
62 blackouts, air raid drills, mobilization of emergency management  
63 forces, and other tests and exercises, (b) warnings and signals



64 for drills or attacks and the mechanical devices to be used in  
65 connection therewith, (c) the effective screening or extinguishing  
66 of all lights and lighting devices and appliances, (d) shutting  
67 off water mains, gas mains, electric power connections and the  
68 suspension of all other utility services, (e) the conduct of  
69 civilians and the movement and cessation of movement of  
70 pedestrians and vehicular traffic during, prior and subsequent to  
71 drills or attack, (f) public meetings or gatherings under  
72 emergency conditions, and (g) the evacuation and reception of the  
73 civilian population.

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

79 (6) To employ such measures and give such directions to  
80 the state or local boards of health as may be reasonably necessary  
81 for the purpose of securing compliance with the provisions of this  
82 article or with the findings or recommendations of such boards of  
83 health by reason of conditions arising from enemy attack or the  
84 threat of enemy attack or natural, man-made or technological  
85 disaster.

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

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



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

100           (10) On behalf of this state to enter into reciprocal  
101 aid agreements or compacts with other states and the federal  
102 government, either on a statewide basis or local political  
103 subdivision basis or with a neighboring state or province of a  
104 foreign country. Such mutual aid arrangements shall be limited to  
105 the furnishings or exchange of food, clothing, medicine and other  
106 supplies; engineering services; emergency housing; police  
107 services; national or state guards while under the control of the  
108 state; health, medical and related services; fire fighting,  
109 rescue, transportation and construction services and equipment;  
110 personnel necessary to provide or conduct these services; and such  
111 other supplies, equipment, facilities, personnel and services as  
112 may be needed; the reimbursement of costs and expenses for  
113 equipment, supplies, personnel and similar items for mobile  
114 support units, fire fighting and police units and health units;  
115 and on such terms and conditions as are deemed necessary.

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

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

125           (13) Authorize any agency or arm of the state to create  
126 a special emergency management revolving fund, accept donations,  
127 contributions, fees, grants, including federal funds, as may be  
128 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 the termination of the state of emergency at the earliest possible date that conditions warrant.

(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,



161 technological or natural disaster where such disaster is beyond  
162 local control:

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

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

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

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

185           **SECTION 2.** Section 75-24-25, Mississippi Code of 1972, is  
186 amended as follows:

187           75-24-25. (1) For the purposes of this section, the  
188 following terms shall have the meanings herein ascribed:

189           (a) "Person" means a natural person, corporation,  
190 trust, partnership, incorporated or unincorporated association, or  
191 any other legal entity.

192           (b) "State of emergency" means the duly proclaimed  
193 existence of conditions of disaster or extreme peril to the safety



of persons or property within the state caused by air or water pollution, fire, flood, storm, epidemic, earthquake, hurricane, resource shortages or other natural or man-made conditions other than conditions causing a "state of war emergency," which conditions by reasons of their magnitude are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single county and/or municipality and require combined forces of the state to combat.

(c) "Local emergency" means the duly proclaimed existence of conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a county and/or municipality caused by such conditions as air or water pollution, fire, flood, storm, epidemic, earthquake, hurricane, resource shortages or other natural or man-made conditions, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of the political subdivision and require the combined forces of other subdivisions or of the state to combat.

(d) "Value received" means the consideration or payment given for the purchase of goods and services.

(2) Whenever, under the Mississippi Emergency Management Law, Sections 33-15-1 through 33-15-49, a state of emergency or a local emergency is declared to exist in this state, then the value received for all goods and services sold within the designated emergency area shall not exceed the prices ordinarily charged for comparable goods or services in the same market area at or immediately before the declaration of a state of emergency or local emergency. However, the value received may include: any reasonable expenses, \* \* \* the cost of the goods and services which are necessarily incurred in procuring such goods and services during a state of emergency or local emergency, and a reasonable profit margin consistent with that received on the



226 goods and services prior to the declaration of state of emergency  
227 or local emergency.

228       (3) Any person who knowingly and willfully violates  
229 subsection (2) of this section, when the value unlawfully received  
230 is Two Hundred Fifty Dollars (\$250.00) or more, shall be guilty of  
231 a felony and upon conviction shall be punished by confinement for  
232 a term of not less than one (1) year nor more than five (5) years  
233 or a fine of not more than Five Thousand Dollars (\$5,000.00), or  
234 both.

235       (4) Any person who knowingly and willfully violates  
236 subsection (2) of this section, when the value unlawfully received  
237 is less than Two Hundred Fifty Dollars (\$250.00), shall be guilty  
238 of a misdemeanor and upon conviction shall be fined not more than  
239 One Thousand Dollars (\$1,000.00) or by imprisonment in the county  
240 jail for a term not to exceed six (6) months, or both.

241       (5) In addition to the criminal penalties prescribed in  
242 subsections (3) and (4), any knowing and willful violation of  
243 subsection (2) of this section shall be considered an unfair or  
244 deceptive trade practice subject to and governed by all the  
245 procedures and remedies available under the provisions of this  
246 chapter for enforcement of prohibited acts and practices contained  
247 therein.

248       (6) No person can be in violation of subsection (2) of this  
249 section for actions that occurred prior to the declaration of a  
250 state of emergency or local emergency.

251       **SECTION 3.** This act shall take effect and be in force from  
252 and after its passage.

