

By: Senator(s) Nunnelee

To: Veterans and Military  
Affairs

## SENATE BILL NO. 2400

1 AN ACT TO AMEND SECTION 33-15-11, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY TIME A DECLARATION OF EMERGENCY IS EFFECTIVE; TO AMEND  
3 SECTION 75-24-25, MISSISSIPPI CODE OF 1972, TO CLARIFY THE  
4 CRITERIA FOR PRICE RESTRICTIONS DURING A STATE OF EMERGENCY; AND  
5 FOR RELATED PURPOSES.

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

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

9 33-15-11. (a) The Governor shall have general direction and  
10 control of the activities of the Emergency Management Agency and  
11 Council and shall be responsible for the carrying out of the  
12 provisions of this article, and in the event of a man-made,  
13 technological or natural disaster or emergency beyond local  
14 control, may assume direct operational control over all or any  
15 part of the emergency management functions within this state.

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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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



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

(15) 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.

(16) 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, 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.

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

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

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

(b) "State of emergency" means the duly proclaimed 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



192 facilities of any single county and/or municipality and require  
193 combined forces of the state to combat.

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

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

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

220 (3) Any person who knowingly and willfully violates  
221 subsection (2) of this section, when the value unlawfully received  
222 is Two Hundred Fifty Dollars (\$250.00) or more, shall be guilty of  
223 a felony and upon conviction shall be punished by confinement for  
224 a term of not less than one (1) year nor more than five (5) years



225 or a fine of not more than Five Thousand Dollars (\$5,000.00), or  
226 both.

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

233 (5) In addition to the criminal penalties prescribed in  
234 subsections (3) and (4), any knowing and willful violation of  
235 subsection (2) of this section shall be considered an unfair or  
236 deceptive trade practice subject to and governed by all the  
237 procedures and remedies available under the provisions of this  
238 chapter for enforcement of prohibited acts and practices contained  
239 therein.

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

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

