

By: Representatives Moss, Bailey, Clarke,
Dedeaux, Hudson, Robinson (63rd), Rogers
(61st), Scott

To: Public Health and Human
Services

HOUSE BILL NO. 1387

1 AN ACT TO AMEND SECTION 33-15-5, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE PANDEMICS AND EPIDEMICS WITHIN THE DEFINITION OF THE TERM
3 "NATURAL EMERGENCY" FOR THE PURPOSES OF THE MISSISSIPPI EMERGENCY
4 MANAGEMENT LAW; TO AMEND SECTION 33-15-11, MISSISSIPPI CODE OF
5 1972, TO ALLOW THE GOVERNOR TO DIRECT THE STATE DEPARTMENT OF
6 HEALTH TO CARRY OUT CERTAIN FUNCTIONS RELATIVE TO THE DISPOSAL OF
7 DANGEROUS WASTES OR OTHER CONTAMINATED PROPERTY IN THE WAKE OF A
8 PANDEMIC, EPIDEMIC OR ACT OF TERRORISM; TO AMEND SECTION 41-3-15,
9 MISSISSIPPI CODE OF 1972, TO DIRECT THE STATE BOARD OF HEALTH TO
10 ADOPT RULES AND REGULATIONS NECESSARY FOR COMPLIANCE WITH THIS
11 ACT; TO AMEND SECTION 41-23-1, MISSISSIPPI CODE OF 1972, TO
12 REQUIRE VETERINARIANS, CERTAIN STOCK DEALERS AND PHARMACISTS TO
13 REPORT TO THE DEPARTMENT OF HEALTH ANY DISEASES THAT MAY BE CAUSED
14 BY BIOTERRORISM, EPIDEMIC OR PANDEMIC DISIASE; TO AMEND SECTION
15 41-23-5, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DEPARTMENT OF
16 HEALTH TO TAKE RESPONSIBILITY FOR DEATH INVESTIGATIONS IN CERTAIN
17 CIRCUMSTANCES; TO CREATE A NEW SECTION 41-39-55, MISSISSIPPI CODE
18 OF 1972, TO PROVIDE WHEN THE DEPARTMENT OF HEALTH MAY TAKE CHARGE
19 OF CORPSES FOLLOWING A PANDEMIC, EPIDEMIC OR ACT OF TERRORISM; AND
20 FOR RELATED PURPOSES.

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

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

24 33-15-5. The following words, whenever used in this article
25 shall, unless a different meaning clearly appears from the
26 context, have the following meanings:

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

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

31 (c) "Emergency management" means the preparation for,
32 the mitigation of, the response to, and the recovery from
33 emergencies and disasters. Specific emergency management
34 responsibilities include, but are not limited to:

35 (i) Reduction of vulnerability of people and
36 communities of this state to damage, injury and loss of life and

37 property resulting from natural, technological or man-made
38 emergencies or hostile military paramilitary action.

39 (ii) Preparation for prompt and efficient response
40 and recovery to protect lives and property affected by
41 emergencies.

42 (iii) Response to emergencies using all systems,
43 plans and resources necessary to preserve adequately the health,
44 safety and welfare of persons or property affected by the
45 emergency.

46 (iv) Recovery from emergencies by providing for
47 the rapid and orderly start of restoration and rehabilitation of
48 persons and property affected by emergencies.

49 (v) Provision of an emergency management system
50 embodying all aspects of preemergency preparedness and
51 postemergency response, recovery and mitigation.

52 (vi) Assistance in anticipation, recognition,
53 appraisal, prevention and mitigation of emergencies which may be
54 caused or aggravated by inadequate planning for, and regulation of
55 public and private facilities and land use.

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

59 (e) "State of war emergency" means the condition which
60 exists immediately, with or without a proclamation thereof by the
61 Governor, whenever this state or nation is attacked by an enemy of
62 the United States or upon receipt by the state of a warning from
63 the federal government indicating that such an attack is probable
64 or imminent.

65 (f) "State of emergency" means the duly proclaimed
66 existence of conditions of disaster or extreme peril to the safety
67 of persons or property within the state caused by air or water
68 pollution, fire, flood, storm, epidemic, earthquake, hurricane,
69 resource shortages, or other natural or man-made conditions other

70 than conditions causing a "state of war emergency," which
71 conditions by reasons of their magnitude are or are likely to be
72 beyond the control of the services, personnel, equipment and
73 facilities of any single county and/or municipality and requires
74 combined forces of the state to combat.

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

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

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

93 (j) "Natural emergency" means an emergency caused by a
94 natural event, including, but not limited to, a hurricane, a
95 storm, a flood, severe wave action, a drought or an earthquake.
96 The term "natural emergency" also includes pandemics and
97 epidemics.

98 (k) "Technological emergency" means an emergency caused
99 by a technological failure or accident, including, but not limited
100 to, an explosion, transportation accident, radiological accident,
101 or chemical or other hazardous material incident.

102 (1) "Local emergency management agency" means an
103 organization created to discharge the emergency management
104 responsibilities and functions of a political subdivision.

105 (m) "Disaster" means any natural, technological or
106 civil emergency as defined in this section that causes damage of
107 sufficient severity and magnitude to result in a declaration of an
108 emergency by a county or municipality, the Governor or the
109 President of the United States. Disasters shall be identified by
110 the severity of resulting damage, as follows:

111 (i) "Catastrophic disaster" means a disaster that
112 will require massive state and federal assistance, including
113 immediate military involvement.

114 (ii) "Major disaster" means a disaster that will
115 likely exceed local capabilities and require a broad range of
116 state and federal assistance.

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

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

129 (o) "Emergency impact area" means the area of the state
130 in which market conditions exist due to a state of emergency
131 creating a likelihood that prices ordinarily charged for goods and
132 services could be raised unfairly due to the underlying emergency.

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

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

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

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

150 (2) To work with the Mississippi Emergency Management
151 Agency in preparing a comprehensive plan and program for the
152 emergency management of this state, such plan and program to be
153 integrated into and coordinated with the emergency management
154 plans of the federal government and of other states to the fullest
155 possible extent, and to coordinate the preparation of plans and
156 programs for emergency management by the political subdivisions of
157 this state, such local plans to be integrated into and coordinated
158 with the emergency management plan and program of this state to
159 the fullest possible extent.

160 (3) In accordance with such plan and program for
161 emergency management of this state, to ascertain the requirements
162 of the state or the political subdivisions thereof for food or
163 clothing or other necessities of life in the event of attack or
164 natural or man-made or technological disasters and to plan for and
165 procure supplies, medicines, materials and equipment, and to use
166 and employ from time to time any of the property, services and
167 resources within the state, for the purposes set forth in this

168 article; to make surveys of the industries, resources and
169 facilities within the state as are necessary to carry out the
170 purposes of this article; to institute training programs and
171 public information programs, and to take all other preparatory
172 steps, including the partial or full mobilization of emergency
173 management organizations in advance of actual disaster, to insure
174 the furnishing of adequately trained and equipped forces of
175 emergency management personnel in time of need.

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

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

200 with the provisions of this article and with the orders, rules and
201 regulations made pursuant thereto.

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

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

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

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

223 (10) On behalf of this state to enter into reciprocal
224 aid agreements or compacts with other states and the federal
225 government, either on a statewide basis or local political
226 subdivision basis or with a neighboring state or province of a
227 foreign country. Such mutual aid arrangements shall be limited to
228 the furnishings or exchange of food, clothing, medicine and other
229 supplies; engineering services; emergency housing; police
230 services; national or state guards while under the control of the
231 state; health, medical and related services; fire fighting,
232 rescue, transportation and construction services and equipment;

233 personnel necessary to provide or conduct these services; and such
234 other supplies, equipment, facilities, personnel and services as
235 may be needed; the reimbursement of costs and expenses for
236 equipment, supplies, personnel and similar items for mobile
237 support units, fire fighting and police units and health units;
238 and on such terms and conditions as are deemed necessary.

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

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

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

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

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

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

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

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

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

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

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

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

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

319 (d) (1) Following the declaration of an emergency on the
320 grounds of a natural disaster arising out of an epidemic or
321 pandemic, or man-made disaster arising out of an act of terrorism,
322 the Governor may direct the appropriate licensing authority, in
323 conjunction with the State Board of Health, to exercise the
324 following powers for the duration of the emergency regarding the
325 licensure and deployment of health personnel:

326 (i) To require in-state health care providers to
327 assist in the performance of vaccination, treatment, examination
328 or testing of any individual as a condition of licensure,

329 authorization or the ability to continue to function as a health
330 care provider in this state;

331 (ii) To appoint and prescribe the duties of
332 out-of-state emergency health care providers as may be reasonable
333 and necessary for emergency response; and

334 (iii) To authorize the medical examiner or coroner
335 to appoint and prescribe the duties of such emergency assistant
336 medical examiners or coroners as may be required for the proper
337 performance of the duties of the office.

338 (2) (i) The appointment of out-of-state emergency
339 health care providers under this subsection (d) may be for a
340 limited or unlimited time, but must not exceed the termination of
341 the state of public health emergency. The appropriate licensing
342 authority may terminate the out-of-state appointments at any time
343 or for any reason, provided that any termination will not
344 jeopardize the health, safety, and welfare of the people of this
345 state.

346 (ii) The appropriate licensing authority may waive
347 any or all licensing requirements, permits, or fees required by
348 law and applicable orders, rules or regulations for health care
349 providers from other jurisdictions to practice in this state.

350 (iii) Any out-of-state emergency health care
351 provider appointed under this subsection (d) shall not be held
352 liable for any civil damages as a result of medical care or
353 treatment related to the emergency response unless the damages
354 result from providing, or failing to provide, medical care or
355 treatment under circumstances demonstrating a reckless disregard
356 for the consequences so as to affect the life or health of the
357 patient.

358 (3) (i) The appointment of emergency assistant medical
359 examiners or coroners under this subsection (d) may be for a
360 limited or unlimited time, but must not exceed the termination of
361 the state of public health emergency. The medical examiner or

362 coroner may terminate the emergency appointments at any time or
363 for any reason, provided that any such termination will not impede
364 the performance of the duties of the office.

365 (ii) The medical examiner or coroner may waive any
366 or all licensing requirements, permits, or fees required by law
367 and applicable orders, rules or regulations for the performance of
368 these duties.

369 (iii) Any person appointed under this subsection
370 (d) who in good faith performs the assigned duties is not liable
371 for any civil damages for any personal injury as the result of any
372 act or omission, except acts or omissions amounting to gross
373 negligence or willful or wanton misconduct.

374 (4) All powers granted by this subsection (d) shall
375 terminate at the conclusion of the emergency.

376 (e) Following the declaration of an emergency on the grounds
377 of a natural disaster arising out of an epidemic or pandemic, or
378 man-made disaster arising out of an act of terrorism, the Governor
379 may direct the State Department of Health to take the following
380 measures respecting property both real and personal that may have
381 been contaminated:

382 (1) To close, compel evacuation, decontaminate, or
383 cause to be decontaminated, any facility of which there is
384 reasonable cause to believe that it may endanger the public
385 health;

386 (2) To decontaminate, or cause to be decontaminated, or
387 destroy any material of which there is reasonable cause to believe
388 that it may endanger the public health;

389 (3) To adopt measures for the safe disposal of
390 infectious waste as may be reasonable and necessary to respond to
391 the emergency. Those measures may include, but are not limited
392 to, the collection, storage, handling, destruction, transportation
393 and disposal of infectious waste;

394 (4) To require any business or facility authorized to
395 collect, store, handle, destroy, treat, transport and dispose of
396 infectious waste under the laws of this state, and any landfill
397 business or other property, to accept infectious waste or provide
398 service or the use of the business, facility or property if that
399 action is reasonable and necessary to respond to the emergency as
400 a condition of licensure, authorization or the ability to continue
401 doing business in the state in such a business or facility. The
402 use of the business or facility or property may include
403 transferring the management and operation of the business or
404 facility or property to the public health authority for a limited
405 period of time not to exceed the period of the declared emergency.
406 In extraordinary cases, the State Department of Health may request
407 that the Governor exercise his powers under paragraph (3) of
408 subsection (c) of this section to commandeer the business or
409 facility if the public health demand that action;

410 (5) All bags, boxes or other containers containing
411 infectious wastes shall by regulation of the State Department of
412 Health clearly identify the type of infectious waste contained in
413 such bag, box or other container;

414 (6) To the extent practicable and consistent with the
415 requirements of the public's health, the State Department of
416 Health shall, before destroying any property, institute
417 appropriate civil proceedings against the property to be destroyed
418 in accordance with existing laws of the state, or any court rules
419 or common law principles regarding those actions. Any property
420 acquired by the department through those proceedings shall after
421 entry of decree be disposed of by destruction as the court may
422 direct.

423 All powers granted by this subsection (e) shall terminate at
424 the conclusion of the declared emergency.

425 **SECTION 3.** Section 41-3-15, Mississippi Code of 1972, is
426 amended as follows:

427 41-3-15. (1) There shall be a State Department of Health
428 which shall be organized into such bureaus and divisions as are
429 considered necessary by the executive officer, and shall be
430 assigned appropriate functions as are required of the State Board
431 of Health by law, subject to the approval of the board.

432 (2) The State Board of Health shall have the authority to
433 establish an Office of Rural Health within the department. The
434 duties and responsibilities of this office shall include the
435 following:

436 (a) To collect and evaluate data on rural health
437 conditions and needs;

438 (b) To engage in policy analysis, policy development
439 and economic impact studies with regard to rural health issues;

440 (c) To develop and implement plans and provide
441 technical assistance to enable community health systems to respond
442 to various changes in their circumstances;

443 (d) To plan and assist in professional recruitment and
444 retention of medical professionals and assistants; and

445 (e) To establish information clearinghouses to improve
446 access to and sharing of rural health care information.

447 (3) The State Board of Health shall have general supervision
448 of the health interests of the people of the state and to exercise
449 the rights, powers and duties of those acts which it is authorized
450 by law to enforce.

451 (4) The State Board of Health shall have authority:

452 (a) To make investigations and inquiries with respect
453 to the causes of disease and death, and to investigate the effect
454 of environment, including conditions of employment and other
455 conditions which may affect health, and to make such other
456 investigations as it may deem necessary for the preservation and
457 improvement of health.

458 (b) To make such sanitary investigations as it may,
459 from time to time, deem necessary for the protection and

460 improvement of health and to investigate nuisance questions which
461 affect the security of life and health within the state.

462 (c) To direct and control sanitary and quarantine
463 measures for dealing with all diseases within the state possible
464 to suppress same and prevent their spread.

465 (d) To obtain, collect and preserve such information
466 relative to mortality, morbidity, disease and health as may be
467 useful in the discharge of its duties or may contribute to the
468 prevention of disease or the promotion of health in this state.

469 (e) To enter into contracts or agreements with any
470 other state or federal agency, or with any private person,
471 organization or group capable of contracting, if it finds such
472 action to be in the public interest.

473 (f) To charge and collect reasonable fees for health
474 services, including immunizations, inspections and related
475 activities, and the board shall charge fees for such
476 services; * * * however, if it is determined that a person
477 receiving services is unable to pay the total fee, the board shall
478 collect any amount such person is able to pay.

479 (g) To accept gifts, trusts, bequests, grants,
480 endowments or transfers of property of any kind.

481 (h) To receive monies coming to it by way of fees for
482 services or by appropriations.

483 (i) (i) To establish standards for, issue permits and
484 exercise control over, any cafes, restaurants, food or drink
485 stands, sandwich manufacturing establishments, and all other
486 establishments, other than churches, church-related and private
487 schools, and other nonprofit or charitable organizations, where
488 food or drink is regularly prepared, handled and served for pay;
489 and

490 (ii) To require that a permit be obtained from the
491 Department of Health before such persons begin operation. If any
492 such person fails to obtain the permit required herein, the State

493 Board of Health, after due notice and opportunity for a hearing,
494 may impose a monetary penalty not to exceed One Thousand Dollars
495 (\$1,000.00) for each violation. However, the department is not
496 authorized to impose a monetary penalty against any person whose
497 gross annual prepared food sales are less than Five Thousand
498 Dollars (\$5,000.00). Money collected by the board under this item
499 shall be deposited to the credit of the State General Fund of the
500 State Treasury. This subparagraph (ii) shall stand repealed on
501 July 1, 2007.

502 (j) To promulgate rules and regulations and exercise
503 control over the production and sale of milk pursuant to the
504 provisions of Sections 75-31-41 through 75-31-49.

505 (k) On presentation of proper authority, to enter into
506 and inspect any public place or building where the State Health
507 Officer or his representative deems it necessary and proper to
508 enter for the discovery and suppression of disease and for the
509 enforcement of any health or sanitary laws and regulations in the
510 state.

511 (l) To conduct investigations, inquiries and hearings,
512 and to issue subpoenas for the attendance of witnesses and the
513 production of books and records at any hearing when authorized and
514 required by statute to be conducted by the State Health Officer or
515 the State Board of Health.

516 (m) To employ, subject to the regulations of the State
517 Personnel Board, qualified professional personnel in the subject
518 matter or fields of each bureau, and such other technical and
519 clerical staff as may be required for the operation of the
520 department. The executive officer shall be the appointing
521 authority for the department, and shall have the power to delegate
522 the authority to appoint or dismiss employees to appropriate
523 subordinates, subject to the rules and regulations of the State
524 Personnel Board.

525 (n) To promulgate rules and regulations, and to collect
526 data and information, on (i) the delivery of services through the
527 practice of telemedicine; and (ii) the use of electronic records
528 for the delivery of telemedicine services.

529 (o) To enforce and regulate domestic and imported fish
530 as authorized under Section 69-7-601 et seq.

531 (5) (a) The State Board of Health shall have the authority,
532 in its discretion, to establish programs to promote the public
533 health, to be administered by the State Department of Health.
534 Specifically, such programs may include, but shall not be limited
535 to, programs in the following areas:

536 (i) Maternal and child health;

537 (ii) Family planning;

538 (iii) Pediatric services;

539 (iv) Services to crippled and disabled children;

540 (v) Control of communicable and noncommunicable
541 disease;

542 (vi) Child care licensure;

543 (vii) Radiological health;

544 (viii) Dental health;

545 (ix) Milk sanitation;

546 (x) Occupational safety and health;

547 (xi) Food, vector control and general sanitation;

548 (xii) Protection of drinking water;

549 (xiii) Sanitation in food handling establishments
550 open to the public;

551 (xiv) Registration of births and deaths and other
552 vital events;

553 (xv) Such public health programs and services as
554 may be assigned to the State Board of Health by the Legislature or
555 by executive order; and

556 (xvi) Regulation of domestic and imported fish for
557 human consumption.

558 (b) The State Board of Health and State Department of
559 Health shall not be authorized to sell, transfer, alienate or
560 otherwise dispose of any of the home health agencies owned and
561 operated by the department on January 1, 1995, and shall not be
562 authorized to sell, transfer, assign, alienate or otherwise
563 dispose of the license of any of those home health agencies,
564 except upon the specific authorization of the Legislature by an
565 amendment to this section. However, this paragraph (b) shall not
566 prevent the board or the department from closing or terminating
567 the operation of any home health agency owned and operated by the
568 department, or closing or terminating any office, branch office or
569 clinic of any such home health agency, or otherwise discontinuing
570 the providing of home health services through any such home health
571 agency, office, branch office or clinic, if the board first
572 demonstrates that there are other providers of home health
573 services in the area being served by the department's home health
574 agency, office, branch office or clinic that will be able to
575 provide adequate home health services to the residents of the area
576 if the department's home health agency, office, branch office or
577 clinic is closed or otherwise discontinues the providing of home
578 health services. This demonstration by the board that there are
579 other providers of adequate home health services in the area shall
580 be spread at length upon the minutes of the board at a regular or
581 special meeting of the board at least thirty (30) days before a
582 home health agency, office, branch office or clinic is proposed to
583 be closed or otherwise discontinue the providing of home health
584 services.

585 (c) The State Department of Health may undertake such
586 technical programs and activities as may be required for the
587 support and operation of such programs, including maintaining
588 physical, chemical, bacteriological and radiological laboratories,
589 and may make such diagnostic tests for diseases and tests for the

590 evaluation of health hazards as may be deemed necessary for the
591 protection of the people of the state.

592 (6) (a) The State Board of Health shall administer the
593 local governments and rural water systems improvements loan
594 program in accordance with the provisions of Section 41-3-16.

595 (b) The State Board of Health shall have authority:

596 (i) To enter into capitalization grant agreements
597 with the United States Environmental Protection Agency, or any
598 successor agency thereto;

599 (ii) To accept capitalization grant awards made
600 under the federal Safe Drinking Water Act, as amended;

601 (iii) To provide annual reports and audits to the
602 United States Environmental Protection Agency, as may be required
603 by federal capitalization grant agreements; and

604 (iv) To establish and collect fees to defray the
605 reasonable costs of administering the revolving fund or emergency
606 fund if the State Board of Health determines that such costs will
607 exceed the limitations established in the federal Safe Drinking
608 Water Act, as amended. The administration fees may be included in
609 loan amounts to loan recipients for the purpose of facilitating
610 payment to the board; however, such fees may not exceed five
611 percent (5%) of the loan amount.

612 (7) The State Board of Health shall adopt any and all
613 regulations or rules necessary to insure compliance with House
614 Bill No. 1387, 2007 Regular Session.

615 **SECTION 4.** Section 41-23-1, Mississippi Code of 1972, is
616 amended as follows:

617 41-23-1. (1) The State Board of Health shall adopt rules
618 and regulations (a) defining and classifying communicable diseases
619 and other diseases that are a danger to health based upon the
620 characteristics of the disease; and (b) establishing reporting,
621 monitoring and preventive procedures for those diseases.

622 (2) Upon the death of any person who has been diagnosed as
623 having Human Immunodeficiency Virus/Acquired Immune Deficiency
624 Syndrome (HIV/AIDS) or any Class 1 disease as designated by the
625 State Board of Health, in a hospital or other health care
626 facility, in all other cases where there is an attending
627 physician, and in cases in which the medical examiner, as defined
628 in Section 41-61-53(f), investigates and certifies the cause of
629 death, the attending physician, the person in charge of the
630 hospital or health care facility, or the medical examiner, as the
631 case may be, shall report as soon as practicable to the Executive
632 Officer of the State Board of Health or to other authorities the
633 cause or contributing cause of death as required by the State
634 Board of Health. Such reporting shall be according to procedures
635 as required by the State Board of Health.

636 (3) Upon the death of any person who has been diagnosed as
637 having Human Immunodeficiency Virus/Acquired Immune Deficiency
638 Syndrome (HIV/AIDS), where there is not an attending physician,
639 any family member or other person making disposition of the body
640 who knows that such decedent had been diagnosed as having HIV/AIDS
641 shall report this fact to the medical examiner as defined in
642 Section 41-61-53(f), who shall report as soon as practicable to
643 the Executive Officer of the State Board of Health or to other
644 authorities the cause or contributing cause of death as required
645 by the State Board of Health. Such reporting shall be according
646 to procedures as required by the State Board of Health.

647 (4) Every practicing or licensed physician, or person in
648 charge of a hospital, health care facility, insurance company
649 which causes to be performed blood tests for underwriting purposes
650 or laboratory, shall report immediately to the Executive Officer
651 of the State Board of Health or to other authorities as required
652 by the State Board of Health every case of such diseases as shall
653 be required to be reported by the State Board of Health. Such
654 reporting shall be according to procedures, and shall include such

655 information about the case, as shall be required by the State
656 Board of Health. Insurance companies having such blood test
657 results shall report immediately to the Executive Officer of the
658 State Board of Health or to other authorities as required by the
659 State Board of Health every case of such diseases as shall be
660 required to be reported by the State Board of Health. The
661 insurance company shall notify the individual on whom the blood
662 test was performed in writing by certified mail of an adverse
663 underwriting decision based upon the results of such individual's
664 blood test but shall not disclose the specific results of such
665 blood tests to the individual. The insurance company shall also
666 inform the individual on whom the blood test was performed that
667 the results of the blood test will be sent to the physician
668 designated by the individual at the time of application and that
669 such physician should be contacted for information regarding the
670 blood test results. If a physician was not designated at the time
671 of application, the insurance company shall request that the
672 individual name a physician to whom a copy of the blood test can
673 be sent.

674 (5) Any practicing or licensed physician, or person in
675 charge of a hospital or health care facility, who knows that a
676 patient has a medical condition specified by the Department of
677 Health as requiring special precautions by health care providers,
678 shall report this fact and the need for appropriate precautions to
679 any other institution or provider of health care services to whom
680 such patient is transferred or referred, according to regulations
681 established by the State Board of Health.

682 (6) Any practicing or licensed physician or person in charge
683 of a hospital, health care facility or laboratory who fails to
684 make the reports required under this section regarding Human
685 Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
686 (HIV/AIDS) or any Class 1 disease or condition as designated by
687 the State Board of Health shall be reported to the Board of

688 Medical Licensure, in the case of a physician, or to the
689 applicable licensing agency in the case of institutions, and such
690 failure shall be grounds for suspension of license.

691 (7) In accordance with regulations of the State Board of
692 Health, every veterinarian, livestock owner, veterinary diagnostic
693 laboratory director or other person having the care of animals
694 shall report animals having or suspected of having any disease
695 that may be caused by bioterrorism, epidemic or pandemic disease,
696 or novel and highly fatal infectious agents or biological or other
697 toxins that might pose a substantial risk of a significant number
698 of human or animal fatalities or incidents of permanent or
699 long-term disability. The State Board of Health shall by
700 regulation determine which diseases or other conditions shall be
701 reportable.

702 (8) (a) In accordance with regulations of the State Board
703 of Health, persons registered to dispense controlled substances
704 under Section 41-29-101 et seq. shall report any unusual or
705 increased prescription rates, unusual types of prescriptions, or
706 unusual trends in pharmacy visits that may be caused by
707 bioterrorism, epidemic or pandemic disease, or novel and highly
708 fatal infectious agents or biological or other toxins that might
709 pose a substantial risk of a significant number of human
710 fatalities or incidents of permanent or long-term disability.
711 Prescription-related events that suggest a report include, but are
712 not limited to: an unusual increase in the number of
713 prescriptions to treat fever, respiratory or gastrointestinal
714 complaints; an unusual increase in the number of prescriptions for
715 antibiotics; an unusual increase in the number of requests for
716 information on over-the-counter pharmaceuticals to treat fever,
717 respiratory or gastrointestinal complaints; and any prescription
718 that treats a disease that is relatively uncommon and has
719 bioterrorism potential. The report shall be transmitted to the
720 State Department of Health in a format prescribed by the

721 department and shall include as much of the following information
722 as possible:

723 (i) Recipient's name, when feasible to submit;

724 (ii) Recipient's identification number;

725 (iii) National Drug Code number of the substance
726 dispensed;

727 (iv) Date of the dispensation;

728 (v) Quantity of the substance dispensed;

729 (vi) Prescriber's United States Drug Enforcement
730 Administration registration number; and

731 (vii) Dispenser's registration number and
732 location.

733 (b) The information collected under paragraph (a) of
734 this subsection shall be confidential and shall not be open to the
735 public. Access to the information shall be limited to:

736 (i) Bureau of Narcotics agents and special
737 contract agents of the bureau retained under Section 41-29-112;

738 (ii) The United States Drug Enforcement
739 Administration Diversion Group Supervisor; and

740 (iii) The executive director or chief investigator
741 as designated by each board of the State Boards of Dental
742 Examiners, Pharmacy, Medical Licensure, Nursing, and Veterinary
743 Medicine; however, the executive director or chief investigator of
744 each of these boards shall be limited to access to information
745 relevant to licensees of his employing board.

746 (c) Any person authorized to dispense controlled
747 substances as described in paragraph (a) of this subsection who
748 fails to comply with this provision of law shall be guilty of a
749 misdemeanor and shall, upon conviction, be fined in an amount not
750 to exceed One Thousand Dollars (\$1,000.00) or imprisoned in the
751 county jail for a period not to exceed six (6) months, or both.

752 (d) The State Department of Health shall have the
753 authority to investigate any person required to comply with this

754 section and any pharmacy that, in the opinion of the department,
755 employs persons who have failed to comply with this subsection (8)
756 and may petition the chancery court of any county in which the
757 person is employed, or where the pharmacy may be located, for any
758 order or writ necessary to obtain compliance with the provisions
759 of this subsection.

760 (e) The State Board of Health shall have the authority
761 to adopt regulations that set out the types of conduct that must
762 be reported under the authority of this subsection (8).

763 (9) Any person other than a practicing or licensed
764 physician, or person in charge of a hospital or health care
765 facility, willfully failing to make the reports required under
766 this section shall be guilty of a misdemeanor and, upon
767 conviction, shall be punished by a fine of not more than Five
768 Hundred Dollars (\$500.00) or by confinement in the county jail for
769 not more than thirty (30) days, or both.

770 (10) The provisions of this section are cumulative and
771 supplemental to any other provision of law, and a conviction or
772 penalty imposed under this section shall not preclude any other
773 action at law, proceedings for professional discipline or other
774 criminal proceedings.

775 (11) Notwithstanding any law of this state to the contrary,
776 the State Board of Health is authorized to establish the rules by
777 which exceptions may be made to the confidentiality provisions of
778 the laws of this state for the notification of third parties of an
779 individual's infection with any Class 1 or Class 2 disease, as
780 designated by the State Board of Health, when exposure is
781 indicated or there exists a threat to the public health and
782 welfare. All notifications authorized by this section shall be
783 within the rules established according to this subsection. All
784 persons who receive notification of the infectious condition of an
785 individual under this subsection and the rules established under
786 this subsection shall hold such information in the strictest of

787 confidence and privilege, shall not reveal the information to
788 others, and shall take only those actions necessary to protect the
789 health of the infected person or other persons where there is a
790 foreseeable, real or probable risk of transmission of the disease.

791 (12) Each public or private correctional facility housing
792 state offenders, federal offenders or offenders from any other
793 jurisdiction shall require all offenders in the facility to be
794 tested for tuberculosis and Human Immunodeficiency Virus (HIV) in
795 conjunction with the rules and regulations of the State Department
796 of Health. The reporting shall be according to procedures and
797 shall include any information about the case that is required by
798 the State Board of Health. In order to carry out the provisions
799 of this section, the following shall apply:

800 (a) Any such public or private correctional facility
801 may contract with the Mississippi Department of Corrections, the
802 Mississippi State Department of Health, or other such appropriate
803 state, federal or local entity for the inspection, monitoring or
804 provision of any assistance necessary or desirable to maintain
805 appropriate facilities for the purpose of identification,
806 prevention, and treatment of communicable diseases and other
807 conditions considered prejudicial to public health; and

808 (b) Any such public or private correctional facility
809 shall grant representatives of the State Department of Health, in
810 the discharge of its duties, access to all areas of the facility
811 and to the offenders and staff at all times. The facility shall
812 reimburse the State Department of Health for all costs incurred
813 for the control of communicable diseases or other conditions
814 prejudicial to public health in the facility and for the costs
815 incurred for the control of communicable diseases or other
816 conditions prejudicial to public health spreading from the
817 facility, staff or inmates to other individuals or property in the
818 county or state.

819 **SECTION 5.** Section 41-23-5, Mississippi Code of 1972, is
820 amended as follows:

821 41-23-5. (1) The State Department of Health shall have the
822 authority to investigate and control the causes of epidemic,
823 infectious and other disease affecting the public health,
824 including the authority to establish, maintain and enforce
825 isolation and quarantine, and in pursuance thereof, to exercise
826 such physical control over property and individuals as the
827 department may find necessary for the protection of the public
828 health.

829 (2) If the Governor declares an emergency on the grounds of
830 a natural disaster arising out of an epidemic or pandemic, or
831 man-made disaster arising out of an act of terrorism,
832 notwithstanding any provision of law to the contrary, the State
833 Department of Health shall have such authority as the State Health
834 Officer deems proper and necessary to protect the public health,
835 to investigate and certify the causes of any deaths that have
836 occurred in any area described in the Governor's declaration of
837 emergency and may appoint private physicians to conduct those
838 investigations or utilize the personnel or facilities of the
839 Office of the State Medical Examiner in instances in which the
840 State Health Officer deems that action appropriate.

841 **SECTION 6.** The following shall be codified as Section
842 41-39-55, Mississippi Code of 1972:

843 41-39-55. (1) If the Governor declares an emergency on the
844 grounds of a natural disaster arising out of an epidemic or
845 pandemic, or man-made disaster arising out of an act of terrorism,
846 the State Department of Health shall direct coroners, medical
847 examiners and funeral directors, for such period as the state of
848 emergency exists, to exercise, in addition to existing powers, the
849 following powers regarding the safe disposal of human remains:

850 (a) To take possession or control of any human remains
851 that cannot be safely handled otherwise;

852 (b) To order the disposal of human remains of a person
853 who has died of an infectious disease through burial or cremation
854 within twenty-four (24) hours after death;

855 (c) To require any business or facility authorized to
856 embalm, bury, cremate, inter, disinter, transport and dispose of
857 human remains under the laws of this state to accept any human
858 remains or provide the use of its business or facility if these
859 actions are reasonable and necessary for emergency response. When
860 necessary during the period of time of the public health
861 emergency, the department must coordinate with the business or
862 facility on the management or supervision of the business or
863 facility; and

864 (d) To procure, by order or otherwise, any business or
865 facility authorized to embalm, bury, cremate, inter, disinter,
866 transport and dispose of human remains under the laws of this
867 state as may be reasonable and necessary for emergency response,
868 with the right to take immediate possession thereof.

869 (2) Where possible, existing provisions set forth in the
870 State Operations Plan for the safe disposal of human remains must
871 be used in a public health emergency. Where the State Operations
872 Plan is not sufficient to handle the safe disposal of human
873 remains for a public health emergency, the department, in
874 coordination with coroners, medical examiners and funeral
875 directors, must adopt and enforce measures to provide for the safe
876 disposal of human remains as may be reasonable and necessary for
877 emergency response. These measures may include, but are not
878 limited to, the embalming, burial, cremation, interment,
879 disinterment, transportation and disposal of human remains.

880 (3) All human remains before disposal must be clearly
881 labeled with all available information to identify the decedent
882 and the circumstances of death. Any human remains of a deceased
883 person with an infectious disease must have an external, clearly

884 visible tag indicating that the human remains are infected and, if
885 known, the infectious disease.

886 (4) Every person in charge of disposing of any human remains
887 must maintain a written record of each set of human remains and
888 all available information to identify the decedent and the
889 circumstances of death and disposal. If the human remains cannot
890 be identified, before disposal, a qualified person must, to the
891 extent possible, take fingerprints and one or more photographs of
892 the human remains, and collect a DNA specimen. All information
893 gathered under this subsection must be promptly forwarded to the
894 department. Identification must be handled by the agencies that
895 have laboratories suitable for DNA identification.

896 (5) The State Board of Health shall have the authority to
897 issue such regulations as are reasonably necessary to carry out
898 the purposes of this section.

899 **SECTION 7.** This act shall take effect and be in force from
900 and after July 1, 2007.