

By: Senator(s) Burton

To: Veterans and Military  
Affairs; Judiciary, Division  
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SENATE BILL NO. 2128

1 AN ACT TO AMEND SECTION 33-15-11, MISSISSIPPI CODE OF 1972,  
2 TO REQUIRE THE CONTINUANCE OF A STATE OF EMERGENCY TO BE  
3 PROCLAIMED IN WRITING BY THE GOVERNOR; TO CREATE SECTION 33-15-55,  
4 MISSISSIPPI CODE OF 1972, TO PROVIDE LIMITED IMMUNITY FROM CIVIL  
5 AND CRIMINAL TRESPASS FOR PERSONS ENGAGED IN EMERGENCY MANAGEMENT  
6 ON PRIVATE LANDS; AND FOR RELATED PURPOSES.

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

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

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

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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

123           (13) Authorize any agency or arm of the state to create  
124 a special emergency management revolving fund, accept donations,  
125 contributions, fees, grants, including federal funds, as may be  
126 necessary for such agency or arm of the state to administer its



127 functions of this article as set forth in the Executive Order of  
128 the Governor.

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

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

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

140 (17) To proclaim a state of emergency in an area  
141 affected or likely to be affected thereby when he finds that the  
142 conditions described in Section 33-15-5(g) exist, or when he is  
143 requested to do so by the mayor of a municipality or by the  
144 president of the board of supervisors of a county, or when he  
145 finds that a local authority is unable to cope with the emergency.  
146 Such proclamation shall be in writing and shall take effect  
147 immediately upon its execution by the Governor. As soon  
148 thereafter as possible, such proclamation shall be filed with the  
149 Secretary of State and be given widespread notice and publicity.  
150 The Governor, upon advice of the director, shall review the need  
151 for continuing the state of emergency at least every thirty (30)  
152 days until the emergency is terminated and shall proclaim in  
153 writing any continuance of the state of emergency. The Governor  
154 shall proclaim a reduction of area or the termination of the state  
155 of emergency at the earliest possible date that conditions  
156 warrant.

157 (18) To declare an emergency impact area when he finds  
158 that the conditions described in Section 33-15-5(o) exist. The  
159 proclamation shall be in writing and shall take effect immediately



160 upon its execution by the Governor. As soon as possible, the  
161 proclamation shall be filed with the Secretary of State and be  
162 given widespread notice and publicity. The Governor shall review  
163 the need for continuing the declaration of emergency impact area  
164 at least every thirty (30) days until the emergency is terminated,  
165 and shall proclaim the reduction of the emergency impact area or  
166 termination of the declaration of emergency impact area at the  
167 earliest date or dates possible.

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

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

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

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



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

196           **SECTION 2.** The following shall be codified as Section  
197 33-15-55, Mississippi Code of 1972:

198           33-15-55. (1) For the purposes of this section, the term  
199 "authorized representative" means a person employed by the state,  
200 federal government, or any city or municipality of this state who  
201 is acting at the direction and on the behalf of the agency and  
202 engaged in emergency management as defined under Section 33-15-5.

203           (2) Authorized representatives may enter in or upon public  
204 or private lands or waters, except buildings, while in the lawful  
205 performance of emergency management duties without civil or  
206 criminal liability for trespass. The authorized representative  
207 shall make a good-faith attempt to announce and identify himself  
208 and his intentions before entering upon private property and must  
209 present documentation sufficient to identify him as an authorized  
210 representative engaged in emergency management to anyone  
211 requesting such identification, including, but not limited to, an  
212 identification card issued by the State of Mississippi by and  
213 through the Mississippi Emergency Management Agency.

214           (3) Authorized representatives may enter into private  
215 buildings while in the lawful performance of emergency management  
216 duties during a state of emergency as declared by the Governor  
217 without civil or criminal liability for trespass. Such authorized  
218 emergency management duties include, but are not limited to,  
219 search and rescue as well as damage assessments necessary to  
220 determine eligibility for state and federal aid. The authorized  
221 representative shall make a good-faith attempt to announce and  
222 identify himself and his intentions before entering into a private  
223 building and must present documentation sufficient to identify him  
224 as an authorized representative engaged in emergency management to



225 anyone requesting such identification, including, but not limited  
226 to, an identification card issued by the State of Mississippi by  
227 and through the Mississippi Emergency Management Agency.

228 (4) The provisions of this section do not relieve an  
229 authorized representative from any civil or criminal liability for  
230 trespass if the entry in or upon the property extends beyond the  
231 property or area that is necessary to actually perform the  
232 emergency management duties.

233 (5) Authorized representatives, except in cases of willful  
234 misconduct, shall not be liable for damage to property as a result  
235 of authorized activity as defined under Section 33-15-21.

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

