

By: Clarke, Bailey, Banks, Fleming,
Holloway, Thomas, Thornton, Wallace, West

To: Judiciary B

HOUSE BILL NO. 839

1 AN ACT TO AMEND SECTION 97-37-23, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE LIST OF UNLAWFUL DESTRUCTIVE EXPLOSIVE OR INCENDIARY
3 DEVICES; TO AMEND SECTION 97-37-25, MISSISSIPPI CODE OF 1972, TO
4 REVISE THE PUNISHMENT FOR UNLAWFUL USE OF EXPLOSIVES; AND FOR
5 RELATED PURPOSES.

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

7 SECTION 1. Section 97-37-23, Mississippi Code of 1972, is
8 amended as follows:[CSQ1]

9 97-37-23. (1) It is unlawful for any person to have in his
10 possession:

11 (a) Dynamite caps, nitroglycerin caps, fuses,
12 detonators, dynamite, nitroglycerin, explosives, gas or stink
13 bombs, or other similar explosives peculiarly possessed and
14 adapted to aid in the commission of a crime; except such person or
15 persons who are engaged in a lawful business which ordinarily
16 requires the use thereof in the ordinary and usual conduct of such
17 business, and who possess said articles for the purpose of use in
18 said business;

19 (b) Any:

20 (i) Bomb;

21 (ii) Grenade;

22 (iii) Rocket having a propellant charge of more

23 than four (4) ounces;

24 (iv) Missile having an explosive or incendiary
25 charge of more than one-quarter (1/4) ounce;

26 (v) Mine;

27 (vi) Any type of weapon by whatever name known
28 which will, or which may be readily converted to, expel a
29 projectile by the action of an explosive or other propellant, the
30 barrel or barrels of which have a bore of more than one-half (1/2)
31 inch in diameter, except a shotgun or shotgun shell that is
32 suitable for sporting purposes;

33 (vii) Any combination of parts either designed or
34 intended for use in converting any device into one or more of the
35 destructive devices described in this paragraph (b); or

36 (viii) Any device that consists of or includes a
37 breakable container including a flammable liquid or compound and a
38 wick composed of any material which, when ignited, is capable of
39 igniting such flammable liquid or compound and can be carried or
40 thrown by one (1) individual acting alone; and

41 (c) Upon conviction of any person thereof, he shall be
42 punished by imprisonment in the Penitentiary for a term not to
43 exceed five (5) years. The possession of such explosives by one
44 who does not customarily use same in his regular and ordinary
45 occupational activities shall be prima facie evidence of an
46 intention to use same for such unlawful purposes.

47 (2) It shall be the duty of any sheriff, constable, marshal,
48 or policeman in a municipality, or any person vested with general
49 police authority, who has reason to believe and does believe that
50 the above described explosives are being transported or possessed
51 for aid in the commission of a crime, forthwith to make a
52 reasonable search of such person or vehicle, and to seize such
53 explosives and to at once arrest the person or persons having

54 possession or control thereof. Such officer or officers
55 proceeding in good faith shall not be liable either civilly or
56 criminally for such a search and seizure without a warrant, so
57 long as said search and seizure is conducted in a reasonable
58 manner, it appearing that the officer or officers had reason to
59 believe and did believe that the law was being violated at the
60 time such search was instituted. And the officer or officers
61 making such search shall be competent to testify as a witness or
62 witnesses as to all facts ascertained by means of said reasonable
63 search or seizure, and all such explosives seized shall be
64 admitted in evidence. But this section shall not authorize the
65 search of a residence or home, or room, or building, or the
66 premises belonging to or in the possession lawfully of the party
67 suspected, without a search warrant.

68 (3) In order to invoke the exception provided in subsection
69 (1) for persons who possess explosive articles for business
70 purposes, such person must comply with the provisions of this
71 subsection as follows:

72 (a) One or more individuals shall be designated by the
73 owner of a business employing explosive articles subject to this
74 section as the custodian for such articles; and

75 (b) The custodian shall notify the sheriff of any
76 county wherein such articles are utilized or employed by
77 registering with the sheriff in writing prior to such use and
78 including in such registration:

79 (i) The business name and address of the owner of
80 the articles;

81 (ii) The name, address and local address of the

82 custodian;

83 (iii) The location of the job site where such
84 articles shall be employed;

85 (iv) In the event subject articles will not be in
86 the immediate possession of the custodian, the custodian shall
87 advise the sheriff of the specific location where such articles
88 are left or stored;

89 (v) Whenever business operations subject to this
90 section or the storage of articles subject to this section occur
91 within an incorporated municipality, the mayor or chief of police
92 shall also be notified as required by this subsection.

93 (4) Any person who fails to comply with the provisions of
94 subsection (3) of this section shall, upon conviction thereof, be
95 punished by imprisonment in the state penitentiary for a term not
96 to exceed one (1) year or by a fine in an amount not to exceed Ten
97 Thousand Dollars (\$10,000.00), or by both.

98 (5) The provisions of subsections (3) and (4) of this
99 section are supplemental to any other statutory provision,
100 ordinances of local governments or liabilities or duties otherwise
101 imposed by law.

102 SECTION 2. Section 97-37-25, Mississippi Code of 1972, is
103 amended as follows:[CSQ2]

104 97-37-25. It shall be unlawful for any person at any time to
105 bomb or to plant or place any bomb or other explosive matter or
106 thing in, upon or near any building, residence, ship, vessel,
107 boat, railroad station, railroad car or coach, bus station, or
108 depot, bus, truck, aircraft, or other vehicle, gas and oil
109 stations and pipelines, radio station or radio equipment or other

110 means of communication, warehouse or any electric plant or water
111 plant, telephone exchange or any of the lines belonging thereto,
112 wherein a person or persons are located or being transported, or
113 where there is being manufactured, stored, assembled or shipped or
114 in the preparation of shipment any goods, wares, merchandise or
115 anything of value, with the felonious intent to hurt or harm any
116 person or property, and upon conviction thereof shall be
117 imprisoned for life in the state Penitentiary if the penalty is so
118 fixed by the jury; and in cases where the jury fails to fix the
119 penalty at imprisonment for life in the state Penitentiary the
120 court shall fix the penalty at imprisonment in the state
121 Penitentiary for any term as the court, in its discretion, may
122 determine, but not to be less than five (5) years.

123 SECTION 3. This act shall take effect and be in force from
124 and after July 1, 2000.