

By: Senator(s) Albritton

To: Judiciary, Division B

SENATE BILL NO. 2235

1 AN ACT TO AMEND SECTION 41-29-313, MISSISSIPPI CODE OF 1972,
2 TO EXPAND THE LIST OF POSSIBLE PRECURSOR DRUGS AND CHEMICALS
3 POSSESSED IN VIOLATION OF LAW FOR THE MANUFACTURE OF
4 METHAMPHETAMINE, AND TO MAKE MANUFACTURE OF THE PRECURSORS
5 THEMSELVES UNLAWFUL; TO AMEND SECTION 49-17-603, MISSISSIPPI CODE
6 OF 1972, TO CONFORM INTERNAL REFERENCES; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 41-29-313, Mississippi Code of 1972, is
9 amended as follows:

10 41-29-313. (1) (a) Except as authorized in this section,
11 it is unlawful for any person to knowingly or intentionally:

12 (i) Purchase, possess, transfer, manufacture,
13 attempt to manufacture or distribute any two (2) or more of the
14 listed precursor chemicals or drugs in any amount with the intent
15 to unlawfully manufacture a controlled substance;

16 (ii) Purchase, possess, transfer, manufacture,
17 attempt to manufacture or distribute any two (2) or more of the
18 listed precursor chemicals or drugs in any amount, knowing, or
19 under circumstances where one reasonably should know, that the
20 listed precursor chemical or drug will be used to unlawfully
21 manufacture a controlled substance;

22 (b) The term "precursor drug or chemical" means a drug
23 or chemical that, in addition to legitimate uses, may be used in
24 manufacturing a controlled substance in violation of this chapter.
25 The term includes any salt, optical isomer or salt of an optical
26 isomer, whenever the existence of a salt, optical isomer or salt
27 of optical isomer is possible within the specific chemical
28 designation. The chemicals or drugs listed in this section are
29 included by whatever official, common, usual, chemical or trade

30 name designated. A "precursor drug or chemical" includes, but is
31 not limited to, the following:

- 32 (i) Ether;
- 33 (ii) Anhydrous ammonia;
- 34 (iii) Pseudoephedrine;
- 35 (iv) Ephedrine;
- 36 (v) Denatured alcohol (Ethanol);
- 37 (vi) Lithium;
- 38 (vii) Freon;
- 39 (viii) Hydrochloric acid;
- 40 (ix) Hydriodic acid;
- 41 (x) Red phosphorous;
- 42 (xi) Iodine;
- 43 (xii) Sodium metal;
- 44 (xiii) Muriatic acid;
- 45 (xiv) Sulfuric acid;
- 46 (xv) Hydrogen chloride gas;
- 47 (xvi) Potassium;
- 48 (xvii) Methanol;
- 49 (xviii) Isopropyl alcohol;
- 50 (xix) Hexanes;
- 51 (xx) Heptanes;
- 52 (xxi) Acetone;
- 53 (xxii) Toluene;
- 54 (xxiii) Xylenes.

55 (c) Any person who violates this subsection (1), upon
56 conviction, is guilty of a felony and may be imprisoned for a
57 period not to exceed thirty (30) years and shall be fined not less
58 than Five Thousand Dollars (\$5,000.00) nor more than One Million
59 Dollars (\$1,000,000.00), or both fine and imprisonment.

60 (2) (a) It is unlawful for any person to knowingly or
61 intentionally steal or unlawfully take or carry away any amount of
62 anhydrous ammonia.

63 (b) It is unlawful for any person to purchase, possess,
64 transfer or distribute any amount of anhydrous ammonia, knowing,
65 or under circumstances where one reasonably should know, that the
66 anhydrous ammonia will be used to unlawfully manufacture a
67 controlled substance.

68 (c) It is unlawful for any person to purchase, possess,
69 transfer or distribute two hundred fifty (250) dosage units or
70 fifteen (15) grams in weight (dosage unit and weight as defined in
71 Section 41-29-139) of pseudoephedrine or ephedrine, knowing, or
72 under circumstances where one reasonably should know, that the
73 pseudoephedrine or ephedrine will be used to unlawfully
74 manufacture a controlled substance.

75 (d) Any person who violates this subsection (2), upon
76 conviction, is guilty of a felony and may be imprisoned for a
77 period not to exceed five (5) years and shall be fined not more
78 than Five Thousand Dollars (\$5,000.00), or both fine and
79 imprisonment.

80 * * *

81 (3) Nothing in this section shall preclude any farmer from
82 storing or using any of the listed precursor drugs or chemicals
83 listed in this section in the normal pursuit of farming
84 operations.

85 (4) Nothing in this section shall preclude any wholesaler,
86 retailer or pharmacist from possessing or selling the listed
87 precursor drugs or chemicals in the normal pursuit of business.

88 (5) Any person who violates the provisions of this section
89 with children under the age of eighteen (18) years present may be
90 subject to a term of imprisonment or a fine, or both, of twice
91 that provided in this section.

92 (6) Any person who violates the provisions of this section
93 when the offense occurs in any hotel or apartment building or
94 complex may be subject to a term of imprisonment or a fine, or
95 both, of twice that provided in this section. For the purposes of

96 this subsection (6), the following terms shall have the meanings
97 ascribed to them:

98 (a) "Hotel" means a hotel, inn, motel, tourist court,
99 apartment house, rooming house, or any other place where sleeping
100 accommodations are furnished or offered for pay if four (4) or
101 more rooms are available for transient guests.

102 (b) "Apartment building" means any building * * *
103 having four (4) or more dwelling units, including, without
104 limitation, a condominium building.

105 **SECTION 2.** Section 49-17-603, Mississippi Code of 1972, is
106 amended as follows:

107 49-17-603. (1) The definitions used in this section are
108 expressly limited to this section only, and the inclusion of
109 indoor air in the definition of "waste" does not expand the
110 jurisdiction of the Commission on Environmental Quality or the
111 Department of Environmental Quality to include the regulation of
112 indoor air:

113 (a) "By-product" means a substance produced without a
114 separate intent during the manufacture, processing, use or
115 disposal of another substance or mixture; and

116 (b) "Waste" means all liquid, gaseous, solid,
117 radioactive or other substances that may pollute or tend to
118 pollute any waters of the state or soil within the state, and any
119 particulate matter, dust, fumes, gas, mist, smoke or vapor, or any
120 combination thereof, that may pollute or tend to pollute air in
121 the state, including indoor air.

122 (2) The generation of waste in any quantity by any person
123 caused by the mixing, combining, processing or cooking together of
124 two (2) or more precursor drugs or chemicals listed in Section
125 41-29-313 * * * is unlawful unless:

126 (a) The person has first obtained a generator
127 identification number pursuant to the Resource Conservation and

128 Recovery Act, 42 USCS Section 6901 et seq., and the regulations
129 promulgated thereunder; or

130 (b) The person has first obtained a treatment, storage
131 or disposal permit pursuant to the Resource Conservation and
132 Recovery Act, 42 USCS Section 6901 et seq., and the regulations
133 promulgated thereunder; or

134 (c) The process that generated the waste also, as part
135 of the same process:

136 (i) Created a product that is not illegal to
137 possess pursuant to Section 41-29-139(c);

138 (ii) Created a by-product that is not illegal to
139 possess pursuant to Section 41-29-139(c), while not at the same
140 time producing a controlled substance; or

141 (iii) Was a process of servicing, maintaining or
142 cleaning an item or product that is not illegal to possess
143 pursuant to Section 41-29-139(c).

144 (3) Any person who violates this section, upon conviction,
145 is guilty of a felony and may be imprisoned for a period not to
146 exceed thirty (30) years and shall be fined not less than Five
147 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
148 (\$1,000,000.00), or may be both fined and imprisoned.

149 (4) Nothing in this section shall preclude any farmer or
150 manufacturer from storing or using any of the listed precursor
151 drugs or chemicals listed in Section 41-29-313 in the normal
152 pursuit of farming or manufacturing operations.

153 (5) Nothing in this section shall preclude any wholesaler,
154 retailer or pharmacist from possessing or selling precursor drugs
155 or chemicals listed in Section 41-29-313 in the normal pursuit of
156 business.

157 (6) Except as may be otherwise provided, a property owner or
158 occupant of land shall not be criminally or civilly liable for the
159 generation of waste caused by the criminal acts of persons other
160 than the property owner or occupant of such land if the property

161 owner or occupant did not have prior knowledge of the criminal
162 activity.

163 **SECTION 3.** This act shall take effect and be in force from
164 and after July 1, 2005.