

By: Senator(s) Albritton

To: Judiciary, Division B

SENATE BILL NO. 2322

1 AN ACT TO SPECIFY THE ELEMENTS OF A DEFENSE OF ENTRAPMENT AND
2 RESTRICT THE AVAILABILITY OF THE DEFENSE; AND FOR RELATED
3 PURPOSES.

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

5 **SECTION 1.** (1) It is an affirmative defense to a criminal
6 charge that the person was entrapped. To claim entrapment, the
7 person must admit by the person's testimony or other evidence the
8 substantial elements of the offense charged.

9 (2) A person who asserts an entrapment defense has the
10 burden of proving each of the following by clear and convincing
11 evidence:

12 (a) The idea of committing the offense was initiated by
13 law enforcement officers or their agents rather than by the
14 person.

15 (b) The law enforcement officers or their agents urged
16 and induced the person to commit the offense.

17 (c) The person was not predisposed to commit the type
18 of offense charged before the law enforcement officers or their
19 agents urged and induced the person to commit the offense.

20 (3) A person does not establish entrapment if the person was
21 predisposed to commit the offense and the law enforcement officers
22 or their agents merely provided the person with an opportunity to
23 commit the offense. It is not entrapment for law enforcement
24 officers or their agents merely to use a ruse or to conceal their
25 identity, nor is it entrapment for law enforcement officers or
26 their agents to supply, furnish or sell contraband to an
27 individual where:

28 (a) There is a reasonable indication, based on
29 information developed through informants or other means, that the
30 subject is engaging, has engaged, or is likely to engage in
31 illegal activity of a similar type; or

32 (b) The opportunity for illegal activity has been
33 structured so that there is reason for believing that persons
34 drawn to the opportunity, or brought to it, are predisposed to
35 engage in the contemplated illegal activity.

36 (4) The issue of entrapment shall be tried by the trier of
37 fact. The conduct of law enforcement officers and their agents
38 may be considered in determining if a person has proven
39 entrapment.

40 **SECTION 2.** This act shall take effect and be in force from
41 and after July 1, 2005.