

By: Senator(s) Albritton

To: Judiciary, Division B

SENATE BILL NO. 2476

1 AN ACT TO PLACE RESTRICTIONS ON THE SALE OF METHAMPHETAMINE  
 2 PRECURSORS; TO PROVIDE CRIMINAL OFFENSES AND PENALTIES; TO  
 3 PROHIBIT THE POSSESSION OF PRECURSORS WITH THE INTENT TO CREATE  
 4 METHAMPHETAMINE OR OTHER CONTROLLED SUBSTANCES; TO PROVIDE  
 5 PENALTIES; TO PROVIDE FOR UNIFORM APPLICATION OF THE PROVISIONS OF  
 6 THIS ACT; TO REQUIRE THE BUREAU OF NARCOTICS TO CREATE A PROGRAM  
 7 RELATED TO THE METHAMPHETAMINE PROBLEM TO ASSIST RETAILERS IN  
 8 REPORTING SUSPICIOUS ACTIVITIES; TO AMEND SECTION 41-29-313,  
 9 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
 10 PURPOSES.

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

12 **SECTION 1.** (1) No retail establishment or individual shall  
 13 transfer, sell, deliver or provide more than two (2) packages or  
 14 six (6) grams of pseudoephedrine base, ephedrine base or  
 15 phenylpropanolamine base product in a single retail sales  
 16 transaction to a consumer.

17 (2) This section does not apply to pediatric products  
 18 primarily intended for administration, according to label  
 19 instructions, to children under twelve (12) years of age, either:

20 (a) In solid dosage form when individual dosage units  
 21 do not exceed fifteen (15) milligrams of ephedrine,  
 22 pseudoephedrine or phenylpropanolamine; or

23 (b) In liquid form when recommended dosage units,  
 24 according to label instructions, do not exceed fifteen (15)  
 25 milligrams of ephedrine, pseudoephedrine or phenylpropanolamine  
 26 per five (5) milliliters of liquid product; or

27 (c) In liquid form that are primarily intended for  
 28 administration to children under two (2) years of age for whom the  
 29 recommended dosage does not exceed two (2) milliliters and that  
 30 have a total package content of not more than one (1) fluid ounce.

31 (3) The retail sale of nonliquid pseudoephedrine, ephedrine  
32 or phenylpropanolamine product is limited to:

33 (a) Sales in packages containing not more than a total  
34 of three (3) grams of pseudoephedrine base, ephedrine base or  
35 phenylpropanolamine base; and

36 (b) Sales in blister packs, each blister containing not  
37 more than two (2) dosage units, or when the use of blister packs  
38 is technically infeasible, sales in unit dose packets or pouches.

39 (4) Any retail establishment not currently licensed or  
40 registered by the Mississippi State Board of Pharmacy which sells  
41 pseudoephedrine, ephedrine or phenylpropanolamine products shall  
42 submit a notice of intent to sell with the Mississippi State Board  
43 of Pharmacy indicating the establishment's intent to sell  
44 pseudoephedrine, ephedrine or phenylpropanolamine products.

45 (5) A person is guilty of unlawful distribution of a  
46 methamphetamine precursor when he knowingly and unlawfully sells,  
47 transfers, distributes or dispenses any product containing  
48 ephedrine, pseudoephedrine or phenylpropanolamine, if the person  
49 knows that the purchaser will use the product as a precursor to  
50 methamphetamine or another controlled illegal substance or if the  
51 person sells, transfers, distributes or dispenses the product with  
52 reckless disregard as to how the product will be used.

53 (a) Unlawful distribution of a methamphetamine  
54 precursor is a felony subject to a fine of not more than Five  
55 Thousand Dollars (\$5,000.00) or imprisonment for not more than  
56 five (5) years, or both, for the first offense and subject to a  
57 fine of not more than Twenty-five Thousand Dollars (\$25,000.00) or  
58 imprisonment for not more than twenty (20) years, or both, for a  
59 second or subsequent offense.

60 (b) A retailer who is the general owner or operator of  
61 an establishment that sells pseudoephedrine, ephedrine or  
62 phenylpropanolamine products shall not be penalized pursuant to  
63 this section if the retailer documents that an employee training

64 program was conducted to train employees on compliance with this  
65 section.

66 **SECTION 2.** (1) A person is guilty of unlawful possession of  
67 a methamphetamine precursor when he knowingly and unlawfully  
68 possesses a product containing ephedrine, pseudoephedrine or  
69 phenylpropanolamine with intent to use the product as a precursor  
70 to methamphetamine or another controlled substance.

71 (2) Except as provided herein, possession of one or more  
72 products containing more than twenty-four (24) grams of ephedrine,  
73 pseudoephedrine or phenylpropanolamine, or their salts, isomers or  
74 salts of isomers shall constitute a rebuttable presumption of the  
75 intent to use the product as a precursor to methamphetamine or  
76 another controlled substance. The rebuttable presumption  
77 established by this subsection shall not apply to the following  
78 persons who are lawfully possessing the identified drug products  
79 in the course of legitimate business:

80 (a) A retail distributor of the drug products described  
81 in subsection (2) possessing a valid business license or  
82 wholesaler;

83 (b) A wholesale drug distributor, or its agents,  
84 licensed by the Mississippi State Board of Pharmacy;

85 (c) A manufacturer of drug products described in  
86 subsection (2), or its agents, licensed by the Mississippi State  
87 Board of Pharmacy;

88 (d) A pharmacist licensed by the Mississippi State  
89 Board of Pharmacy; or

90 (e) A licensed health care professional possessing the  
91 drug products described in subsection (2) in the course of  
92 carrying out his profession.

93 (3) Unlawful possession of a methamphetamine precursor is a  
94 felony subject to a fine of not more than Five Thousand Dollars  
95 (\$5,000.00) or imprisonment for not more than five (5) years, or  
96 both, for the first offense and subject to a fine of not more than

97 Twenty-five Thousand Dollars (\$25,000.00) or imprisonment for not  
98 more than twenty (20) years, or both, for a second or subsequent  
99 offense.

100 **SECTION 3.** This act is applicable and uniform throughout  
101 this state and in all counties, cities, towns and political  
102 subdivisions, whether incorporated or unincorporated therein. A  
103 county, city or town may not adopt or enforce any ordinance,  
104 pertaining to this act, which prohibits conduct that is not  
105 prohibited under this act, or defining violations or penalties  
106 different from those provided under this act. However, this  
107 section does not preclude a county, city, town or political  
108 subdivision from revoking, canceling, suspending, or otherwise  
109 limiting a business or professional license it has issued for  
110 conduct that violates any provision of this act.

111 **SECTION 4.** (1) The Bureau of Narcotics shall develop and  
112 maintain a program to inform retailers about the methamphetamine  
113 problem in the state and devise procedures and forms for retailers  
114 to use in reporting to the Bureau of Narcotics suspicious  
115 purchases, thefts or other transactions involving any products  
116 under the retailer's control which contain a regulated precursor  
117 under the provisions of this act including, but not limited to,  
118 over-the-counter, nonprescription pseudoephedrine products.

119 (2) Reporting by retailers as required by this section shall  
120 be voluntary.

121 (3) Retailers participating in the program and reporting  
122 information to the Bureau of Narcotics in good faith pursuant to  
123 this section shall be immune from civil and criminal liability for  
124 a violation of this act.

125 **SECTION 5.** Section 41-29-313, Mississippi Code of 1972, is  
126 amended as follows:

127 41-29-313. (1) (a) Except as authorized in this section  
128 and as provided in Sections 1 through 4 of this act, it is  
129 unlawful for any person to knowingly or intentionally:

130                   (i) Purchase, possess, transfer or distribute any  
131 two (2) or more of the listed precursor chemicals or drugs in any  
132 amount with the intent to unlawfully manufacture a controlled  
133 substance;

134                   (ii) Purchase, possess, transfer or distribute any  
135 two (2) or more of the listed precursor chemicals or drugs in any  
136 amount, knowing, or under circumstances where one reasonably  
137 should know, that the listed precursor chemical or drug will be  
138 used to unlawfully manufacture a controlled substance.

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

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

147                   (b) It is unlawful for any person to purchase, possess,  
148 transfer or distribute any amount of anhydrous ammonia, knowing,  
149 or under circumstances where one reasonably should know, that the  
150 anhydrous ammonia will be used to unlawfully manufacture a  
151 controlled substance.

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

159                   (d) Any person who violates this subsection (2), upon  
160 conviction, is guilty of a felony and may be imprisoned for a  
161 period not to exceed five (5) years and shall be fined not more

162 than Five Thousand Dollars (\$5,000.00), or both fine and  
163 imprisonment.

164 (3) The terms "listed precursor drug or chemical" means a  
165 precursor drug or chemical that, in addition to legitimate uses,  
166 may be used in manufacturing a controlled substance in violation  
167 of this chapter. Such term includes any salt, optical isomer or  
168 salt of an optical isomer, whenever the existence of such salt,  
169 optical isomer or salt of optical isomer is possible within the  
170 specific chemical designation. The chemicals or drugs listed in  
171 this section are included by whatever official, common, usual,  
172 chemical or trade name designated. The following are "listed  
173 precursor drugs or chemicals":

- 174 (a) Ether;
- 175 (b) Anhydrous ammonia;
- 176 (c) Pseudoephedrine;
- 177 (d) Ephedrine;
- 178 (e) Denatured alcohol (Ethanol);
- 179 (f) Lithium;
- 180 (g) Freon;
- 181 (h) Hydrochloric acid;
- 182 (i) Hydriodic acid;
- 183 (j) Red phosphorous;
- 184 (k) Iodine;
- 185 (l) Sodium metal;
- 186 (m) Muriatic acid;
- 187 (n) Sulfuric acid;
- 188 (o) Hydrogen chloride gas;
- 189 (p) Potassium;
- 190 (q) Methanol;
- 191 (r) Isopropyl alcohol;
- 192 (s) Hexanes;
- 193 (t) Heptanes;
- 194 (u) Acetone;

195 (v) Toluene;

196 (w) Xylenes.

197 (4) Nothing in this section shall preclude any farmer from  
198 storing or using any of the listed precursor drugs or chemicals  
199 listed in this section in the normal pursuit of farming  
200 operations.

201 (5) Nothing in this section shall preclude any wholesaler,  
202 retailer or pharmacist from possessing or selling the listed  
203 precursor drugs or chemicals in the normal pursuit of business.

204 (6) Any person who violates the provisions of this section  
205 with children under the age of eighteen (18) years present may be  
206 subject to a term of imprisonment or a fine, or both, of twice  
207 that provided in this section.

208 (7) Any person who violates the provisions of this section  
209 when the offense occurs in any hotel or apartment building or  
210 complex may be subject to a term of imprisonment or a fine, or  
211 both, of twice that provided in this section. For the purposes of  
212 this subsection (7), the following terms shall have the meanings  
213 ascribed to them:

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

218 (b) "Apartment building" means any building, including,  
219 without limitation, a condominium building, having four (4) or  
220 more dwelling units.

221 **SECTION 6.** This act shall take effect and be in force from  
222 and after July 1, 2005.