

By: Senator(s) Albritton

To: Judiciary, Division B

SENATE BILL NO. 2862

1 AN ACT TO AMEND SECTION 41-29-313, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE AN ENHANCED PENALTY FOR VIOLATION OF THE
3 METHAMPHETAMINE PRECURSOR LAW WHEN IN POSSESSION OF A FIREARM OR
4 ON BOOBY TRAPPED PREMISES; AND FOR RELATED PURPOSES.

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

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

8 41-29-313. (1) (a) Except as authorized in this section,
9 it is unlawful for any person to knowingly or intentionally:

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

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

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

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

27 (b) It is unlawful for any person to purchase, possess,
28 transfer or distribute any amount of anhydrous ammonia, knowing,

29 or under circumstances where one reasonably should know, that the
30 anhydrous ammonia will be used to unlawfully manufacture a
31 controlled substance.

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

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

44 (3) The terms "listed precursor drug or chemical" means a
45 precursor drug or chemical that, in addition to legitimate uses,
46 may be used in manufacturing a controlled substance in violation
47 of this chapter. Such term includes any salt, optical isomer or
48 salt of an optical isomer, whenever the existence of such salt,
49 optical isomer or salt of optical isomer is possible within the
50 specific chemical designation. The chemicals or drugs listed in
51 this section are included by whatever official, common, usual,
52 chemical or trade name designated. The following are "listed
53 precursor drugs or chemicals":

- 54 (a) Ether;
- 55 (b) Anhydrous ammonia;
- 56 (c) Pseudoephedrine;
- 57 (d) Ephedrine;
- 58 (e) Denatured alcohol (Ethanol);
- 59 (f) Lithium;
- 60 (g) Freon;
- 61 (h) Hydrochloric acid;

- 62 (i) Hydriodic acid;
- 63 (j) Red phosphorous;
- 64 (k) Iodine;
- 65 (l) Sodium metal;
- 66 (m) Muriatic acid;
- 67 (n) Sulfuric acid;
- 68 (o) Hydrogen chloride gas;
- 69 (p) Potassium;
- 70 (q) Methanol;
- 71 (r) Isopropyl alcohol;
- 72 (s) Hexanes;
- 73 (t) Heptanes;
- 74 (u) Acetone;
- 75 (v) Toluene;
- 76 (w) Xylenes.

77 (4) Nothing in this section shall preclude any farmer from
78 storing or using any of the listed precursor drugs or chemicals
79 listed in this section in the normal pursuit of farming
80 operations.

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

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

88 (7) Any person who violates the provisions of this section
89 when the offense occurs in any hotel or apartment building or
90 complex may be subject to a term of imprisonment or a fine, or
91 both, of twice that provided in this section. For the purposes of
92 this subsection (7), the following terms shall have the meanings
93 ascribed to them:

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

98 (b) "Apartment building" means any building, including,
99 without limitation, a condominium building, having four (4) or
100 more dwelling units.

101 (8) Any person who violates the provisions of this section
102 who has in his possession any firearm, either at the time of the
103 commission of the offense or at the time any arrest is made, may
104 be subject to a term of imprisonment or a fine, or both, of twice
105 that provided in this section.

106 (9) Any person who violates the provisions of this section
107 upon any premises upon which any booby trap has been installed or
108 rigged may be subject to a term of imprisonment or a fine, or
109 both, of twice that provided in this section. For the purposes of
110 this subsection (9), the term "booby trap" means any concealed or
111 camouflaged device designed to cause bodily injury when triggered
112 by any action of a person making contact with the device. The
113 term includes guns, ammunition or explosive devices attached to
114 trip wires or other triggering mechanisms, sharpened stakes,
115 nails, spikes, electrical devices, lines or wires with hooks
116 attached, and devices designed for the production of toxic fumes
117 or gases.

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