

House Amendments to Senate Bill No. 2235

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

1 **AMEND** by striking Section 4 in its entirety, inserting in
2 lieu thereof the following:

3 "**SECTION 4.** Section 41-29-313, Mississippi Code of 1972, as
4 amended by House Bill 607, 2005 Regular Session, is amended as
5 follows:

6 41-29-313. (1) (a) Except as authorized in this section
7 and in Section 1 of House Bill 607, 2005 Regular Session, it is
8 unlawful for any person to knowingly or intentionally:

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

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

19 (b) The term "precursor drug or chemical" means a drug
20 or chemical that, in addition to legitimate uses, may be used in
21 manufacturing a controlled substance in violation of this chapter.
22 The term includes any salt, optical isomer or salt of an optical
23 isomer, whenever the existence of a salt, optical isomer or salt
24 of optical isomer is possible within the specific chemical
25 designation. The chemicals or drugs listed in this section are
26 included by whatever official, common, usual, chemical or trade
27 name designated. A "precursor drug or chemical" includes, but is
28 not limited to, the following:

- 29 (i) Ether;
- 30 (ii) Anhydrous ammonia;
- 31 (iii) Ammonium nitrate;
- 32 (iv) Pseudoephedrine;
- 33 (v) Ephedrine;
- 34 (vi) Denatured alcohol (Ethanol);
- 35 (vii) Lithium;
- 36 (viii) Freon;
- 37 (ix) Hydrochloric acid;
- 38 (x) Hydriodic acid;
- 39 (xi) Red phosphorous;
- 40 (xii) Iodine;
- 41 (xiii) Sodium metal;
- 42 (xiv) Sodium hydroxide;
- 43 (xv) Muriatic acid;
- 44 (xvi) Sulfuric acid;
- 45 (xvii) Hydrogen chloride gas;
- 46 (xviii) Potassium;
- 47 (xix) Methanol;
- 48 (xx) Isopropyl alcohol;
- 49 (xxi) Hydrogen peroxide;
- 50 (xxii) Hexanes;
- 51 (xxiii) Heptanes;
- 52 (xxiv) Acetone;
- 53 (xxv) Toluene;
- 54 (xxvi) 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 or to break, cut, or in any manner damage the
63 valve or locking mechanism on an anhydrous ammonia tank with the

64 intent to steal or unlawfully take or carry away anhydrous
65 ammonia.

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

71 (ii) The possession of any amount of anhydrous
72 ammonia in a container unauthorized for containment of anhydrous
73 ammonia pursuant to Section 75-57-9 shall be prima facie evidence
74 of intent to use the anhydrous ammonia to unlawfully manufacture a
75 controlled substance.

76 (c) (i) It is unlawful for any person to purchase,
77 possess, transfer or distribute two hundred fifty (250) dosage
78 units or fifteen (15) grams in weight (dosage unit and weight as
79 defined in Section 41-29-139) of pseudoephedrine or ephedrine,
80 knowing, or under circumstances where one reasonably should know,
81 that the pseudoephedrine or ephedrine will be used to unlawfully
82 manufacture a controlled substance.

83 (ii) Except as provided in this subparagraph,
84 possession of one or more products containing more than
85 twenty-four (24) grams of ephedrine or pseudoephedrine shall
86 constitute a rebuttable presumption of intent to use the product
87 as a precursor to methamphetamine or another controlled substance.
88 The rebuttable presumption established by this subparagraph shall
89 not apply to the following persons who are lawfully possessing the
90 identified drug products in the course of legitimate business:

91 1. A retail distributor of the drug products
92 described in this subparagraph possessing a valid business license
93 or wholesaler;

94 2. A wholesale drug distributor, or its
95 agents, licensed by the Mississippi State Board of Pharmacy;

96 3. A manufacturer of drug products described
97 in this subparagraph, or its agents, licensed by the Mississippi
98 State Board of Pharmacy;

99 4. A pharmacist licensed by the Mississippi
100 State Board of Pharmacy; or

101 5. A licensed health care professional
102 possessing the drug products described in this subparagraph (ii)
103 in the course of carrying out his profession.

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

109 * * *

110 (3) Nothing in this section shall preclude any farmer from
111 storing or using any of the listed precursor drugs or chemicals
112 listed in this section in the normal pursuit of farming
113 operations.

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

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

121 (6) Any person who violates the provisions of this section
122 when the offense occurs in any hotel or apartment building or
123 complex may be subject to a term of imprisonment or a fine, or
124 both, of twice that provided in this section. For the purposes of
125 this subsection (6), the following terms shall have the meanings
126 ascribed to them:

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

131 (b) "Apartment building" means any building * * *
132 having four (4) or more dwelling units, including, without
133 limitation, a condominium building.

134 (7) Any person who violates the provisions of this section
135 who has in his possession any firearm, either at the time of the
136 commission of the offense or at the time any arrest is made, may
137 be subject to a term of imprisonment or a fine, or both, of twice
138 that provided in this section.

139 (8) Any person who violates the provisions of this section
140 upon any premises upon which any booby trap has been installed or
141 rigged may be subject to a term of imprisonment or a fine, or
142 both, of twice that provided in this section. For the purposes of
143 this subsection, the term "booby trap" means any concealed or
144 camouflaged device designed to cause bodily injury when triggered
145 by any action of a person making contact with the device. The
146 term includes guns, ammunition or explosive devices attached to
147 trip wires or other triggering mechanisms, sharpened stakes,
148 nails, spikes, electrical devices, lines or wires with hooks
149 attached, and devices designed for the production of toxic fumes
150 or gases.

151 **AMEND further** the title on line 8 by inserting after the
152 comma thereon the following: "AS AMENDED BY HOUSE BILL 607, 2005
153 REGULAR SESSION,"

HR40\SB2235A.1J
AMENDMENT NO. 2

1 **AMEND** by striking lines 466 through 479 in their entirety and
2 inserting in lieu thereof the following:

3 "If the criminal case is initiated by an officer of the * * *
4 Bureau of Narcotics and more than one (1) law enforcement agency
5 participates in the underlying criminal case out of which the
6 forfeiture arises, the proceeds shall be divided equitably between
7 or among the Bureau of Narcotics and other participating law
8 enforcement agencies and shall be deposited and credited to the
9 budgets of the participating law enforcement agencies. In the
10 event that the Bureau of Narcotics and the other participating law
11 enforcement agencies cannot agree on an equitable division of the

12 proceeds, a petition shall be filed by any one of them in the
13 court in which the civil forfeiture case is brought and the court
14 shall make an equitable division."

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Don Richardson
Clerk of the House of Representatives