

By: Representative Franks

To: Judiciary A

HOUSE BILL NO. 894

1 AN ACT TO AMEND SECTION 41-29-313, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THE MEASUREMENT OF PRECURSORS; AND FOR RELATED
3 PURPOSES.

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

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

7 41-29-313. (1) (a) Except as authorized in this section
8 and in Section 41-29-315, it is unlawful for any person to
9 knowingly or intentionally:

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

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

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

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

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

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

61 (2) (a) It is unlawful for any person to knowingly or
62 intentionally steal or unlawfully take or carry away any amount of
63 anhydrous ammonia or to break, cut, or in any manner damage the
64 valve or locking mechanism on an anhydrous ammonia tank with the
65 intent to steal or unlawfully take or carry away anhydrous
66 ammonia.

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

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

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

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

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

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

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

101 4. A pharmacist licensed by the Mississippi
102 State Board of Pharmacy; or

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

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

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

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

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

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

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

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

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

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

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

152 **SECTION 2.** This act shall take effect and be in force from
153 and after July 1, 2006.