

By: Senator(s) Albritton

To: Judiciary, Division B

SENATE BILL NO. 2422

1 AN ACT TO AMEND SECTION 41-29-313, MISSISSIPPI CODE OF 1972,
2 TO MAKE A TECHNICAL CORRECTION TO THE AMOUNTS OF PSEUDOEPHEDRINE
3 WHICH ARE PRESUMED TO BE POSSESSED FOR THE PURPOSE OF ILLEGALLY
4 MANUFACTURING METHAMPHETAMINE; 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 and in Section 41-29-315, it is unlawful for any person to
10 knowingly or intentionally:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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