

By: Senator(s) Tollison, Albritton, Burton,  
Butler, Chassaniol, Dawkins, Dearing,  
Gollott, Harden, Jackson (11th), Jordan,  
Pickering, Thames, White, Williamson

To: Judiciary, Division B

SENATE BILL NO. 2450

1 AN ACT TO AMEND SECTION 41-29-153, MISSISSIPPI CODE OF 1972,  
2 TO REVISE CIVIL FORFEITURE UNDER THE CONTROLLED SUBSTANCES ACT TO  
3 ENCOMPASS METHAMPHETAMINE PRECURSORS; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 41-29-153, Mississippi Code of 1972, is  
6 amended as follows:

7 41-29-153. (a) The following are subject to forfeiture:

8 (1) All controlled substances which have been  
9 manufactured, distributed, dispensed or acquired in violation of  
10 this article or in violation of Article 5 of this chapter;

11 (2) All raw materials, products and equipment of any  
12 kind which are used, or intended for use, in manufacturing,  
13 compounding, processing, delivering, importing, or exporting any  
14 controlled substance in violation of this article or in violation  
15 of Article 5 of this chapter;

16 (3) All property which is used, or intended for use, as  
17 a container for property described in paragraph (1) or (2) of this  
18 section;

19 (4) All conveyances, including aircraft, vehicles or  
20 vessels, which are used, or intended for use, to transport, or in  
21 any manner to facilitate the transportation, sale, receipt,  
22 possession or concealment of property described in paragraph (1)  
23 or (2) of this section, however:

24 A. No conveyance used by any person as a common  
25 carrier in the transaction of business as a common carrier is  
26 subject to forfeiture under this section unless it appears that

27 the owner or other person in charge of the conveyance is a  
28 consenting party or privy to a violation of this article;

29           B. No conveyance is subject to forfeiture under  
30 this section by reason of any act or omission proved by the owner  
31 thereof to have been committed or omitted without his knowledge or  
32 consent; if the confiscating authority has reason to believe that  
33 the conveyance is a leased or rented conveyance, then the  
34 confiscating authority shall notify the owner of the conveyance  
35 within five (5) days of the confiscation;

36           C. A forfeiture of a conveyance encumbered by a  
37 bona fide security interest is subject to the interest of the  
38 secured party if he neither had knowledge of nor consented to the  
39 act or omission;

40           D. A conveyance is not subject to forfeiture for a  
41 violation of Section 41-29-139(c)(2)(A), (B) or (C);

42           (5) All money, deadly weapons, books, records, and  
43 research products and materials, including formulas, microfilm,  
44 tapes and data which are used, or intended for use, in violation  
45 of this article or in violation of Article 5 of this chapter;

46           (6) All drug paraphernalia as defined in Section  
47 41-29-105(v); and

48           (7) Everything of value, including real estate,  
49 furnished, or intended to be furnished, in exchange for a  
50 controlled substance in violation of this article, all proceeds  
51 traceable to such an exchange, and all monies, negotiable  
52 instruments, businesses or business investments, securities, and  
53 other things of value used, or intended to be used, to facilitate  
54 any violation of this article. All monies, coin and currency  
55 found in close proximity to forfeitable controlled substances, to  
56 forfeitable drug manufacturing or distributing paraphernalia, or  
57 to forfeitable records of the importation, manufacture or  
58 distribution of controlled substances are presumed to be

59 forfeitable under this paragraph; the burden of proof is upon  
60 claimants of the property to rebut this presumption.

61           A. No property shall be forfeited under the  
62 provisions of subsection (a)(7) of this section, to the extent of  
63 the interest of an owner, by reason of any act or omission  
64 established by him to have been committed or omitted without his  
65 knowledge or consent.

66           B. Neither personal property encumbered by a bona  
67 fide security interest nor real estate encumbered by a bona fide  
68 mortgage, deed of trust, lien or encumbrance shall be forfeited  
69 under the provisions of subsection (a)(7) of this section, to the  
70 extent of the interest of the secured party or the interest of the  
71 mortgagee, holder of a deed of trust, lien or encumbrance by  
72 reason of any act or omission established by him to have been  
73 committed or omitted without his knowledge or consent.

74           (b) Property subject to forfeiture may be seized by the  
75 bureau, local law enforcement officers, enforcement officers of  
76 the Mississippi Department of Transportation, highway patrolmen,  
77 the board, or the State Board of Pharmacy upon process issued by  
78 any appropriate court having jurisdiction over the property.  
79 Seizure without process may be made if:

80           (1) The seizure is incident to an arrest or a search  
81 under a search warrant or an inspection under an administrative  
82 inspection warrant;

83           (2) The property subject to seizure has been the  
84 subject of a prior judgment in favor of the state in a criminal  
85 injunction or forfeiture proceeding based upon this article;

86           (3) The bureau, the board, local law enforcement  
87 officers, enforcement officers of the Mississippi Department of  
88 Transportation, or highway patrolmen, or the State Board of  
89 Pharmacy have probable cause to believe that the property is  
90 directly or indirectly dangerous to health or safety; or

91           (4) The bureau, local law enforcement officers,  
92 enforcement officers of the Mississippi Department of  
93 Transportation, highway patrolmen, the board, or the State Board  
94 of Pharmacy have probable cause to believe that the property was  
95 used or is intended to be used in violation of this article.

96           (c) Controlled substances listed in Schedule I of Section  
97 41-29-113 that are possessed, transferred, sold, or offered for  
98 sale in violation of this article are contraband and shall be  
99 seized and summarily forfeited to the state. Controlled  
100 substances listed in the said Schedule I, which are seized or come  
101 into the possession of the state, the owners of which are unknown,  
102 are contraband and shall be summarily forfeited to the state.

103           (d) Species of plants from which controlled substances in  
104 Schedules I and II of Sections 41-29-113 and 41-29-115 may be  
105 derived which have been planted or cultivated in violation of this  
106 article, or of which the owners or cultivators are unknown, or  
107 which are wild growths, may be seized and summarily forfeited to  
108 the state.

109           (e) The failure, upon demand by the bureau and/or local law  
110 enforcement officers, or their authorized agents, or highway  
111 patrolmen designated by the bureau, the board, or the State Board  
112 of Pharmacy, of the person in occupancy or in control of land or  
113 premises upon which the species of plants are growing or being  
114 stored, to produce an appropriate registration, or proof that he  
115 is the holder thereof, constitutes authority for the seizure and  
116 forfeiture of the plants.

117           **SECTION 2.** This act shall take effect and be in force from  
118 and after July 1, 2007.