

By: White (29th)

To: Judiciary

SENATE BILL NO. 2519  
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 97-37-23, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE LIST OF DESTRUCTIVE EXPLOSIVE OR INCENDIARY DEVICES;  
3 TO AMEND SECTION 97-37-25, MISSISSIPPI CODE OF 1972, TO REVISE THE  
4 PUNISHMENT FOR UNLAWFUL USE OF EXPLOSIVES; AND FOR RELATED  
5 PURPOSES.

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

7 SECTION 1. Section 97-37-23, Mississippi Code of 1972, is  
8 amended as follows:[CSQ1]

9 97-37-23. (1) It is unlawful for any person to have in his  
10 possession:

11 (a) Dynamite caps, nitroglycerine caps, fuses,  
12 detonators, dynamite, nitroglycerine, explosives, gas or stink  
13 bombs, or other similar explosives peculiarly possessed and  
14 adapted to aid in the commission of a crime; except such person or  
15 persons who are engaged in a lawful business which ordinarily  
16 requires the use thereof in the ordinary and usual conduct of such  
17 business, and who possess said articles for the purpose of use in  
18 said business;

19 (b) Any:

20 (i) Bomb;

21 (ii) Grenade;

22 (iii) Rocket having a propellant charge of more  
23 than four (4) ounces;

24 (iv) Missile having an explosive or incendiary  
25 charge of more than one-quarter (1/4) ounce;

26 (v) Mine;

27 (vi) Any type of weapon by whatever name known

which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half (1/2) inch in diameter, except a shotgun or shotgun shell which is suitable for sporting purposes;

(vii) Any combination of parts either designed or intended for use in converting any device into one or more of the destructive devices described in this paragraph (b); or

(viii) Any device which consists of or includes a breakable container including a flammable liquid or compound and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound and can be carried or thrown by one (1) individual acting alone; and

(c) Upon conviction of any person thereof, he shall be punished by imprisonment in the penitentiary for a term not to exceed five (5) years. The possession of such explosives by one who does not customarily use same in his regular and ordinary occupational activities shall be prima facie evidence of an intention to use same for such unlawful purposes.

(2) It shall be the duty of any sheriff, constable, marshal, or policeman in a municipality, or any person vested with general police authority, who has reason to believe and does believe that the above described explosives are being transported or possessed for aid in the commission of a crime, forthwith to make a reasonable search of such person or vehicle, and to seize such explosives and to at once arrest the person or persons having possession or control thereof. Such officer or officers proceeding in good faith shall not be liable either civilly or criminally for such a search and seizure without a warrant, so long as said search and seizure is conducted in a reasonable manner, it appearing that the officer or officers had reason to believe and did believe that the law was being violated at the time such search was instituted. And the officer or officers

61 making such search shall be competent to testify as a witness or  
62 witnesses as to all facts ascertained by means of said reasonable  
63 search or seizure, and all such explosives seized shall be  
64 admitted in evidence. But this section shall not authorize the  
65 search of a residence or home, or room, or building, or the  
66 premises belonging to or in the possession lawfully of the party  
67 suspected, without a search warrant.

68 (3) In order to invoke the exception provided in subsection  
69 (1) for persons who possess explosive articles for business  
70 purposes, such person must comply with the provisions of this  
71 subsection as follows:

72 (a) One or more individuals shall be designated by the  
73 owner of a business employing explosive articles subject to this  
74 section as the custodian for such articles; and

75 (b) The custodian shall notify the sheriff of any  
76 county wherein such articles are utilized or employed by  
77 registering with the sheriff in writing prior to such use and  
78 including in such registration:

79 (i) The business name and address of the owner of  
80 the articles;

81 (ii) The name, address and local address of the  
82 custodian;

83 (iii) The location of the job site where such  
84 articles shall be employed;

85 (iv) In the event subject articles will not be in  
86 the immediate possession of the custodian, the custodian shall  
87 advise the sheriff of the specific location where such articles  
88 are left or stored;

89 (v) Whenever business operations subject to this  
90 section or the storage of articles subject to this section occur  
91 within an incorporated municipality, the mayor or chief of police  
92 shall also be notified as required by this subsection.

93 (4) Any person who fails to comply with the provisions of

subsection (3) of this section shall, upon conviction thereof, be punished by imprisonment in the state penitentiary for a term not to exceed one (1) year or by a fine in an amount not to exceed Ten Thousand Dollars (\$10,000.00), or by both.

(5) The provisions of subsections (3) and (4) of this section are supplemental to any other statutory provision, ordinances of local governments or liabilities or duties otherwise imposed by law.

SECTION 2. Section 97-37-25, Mississippi Code of 1972, is amended as follows:[CSQ2]

97-37-25. It shall be unlawful for any person at any time to bomb or to plant or place any bomb or other explosive matter or thing in, upon or near any building, residence, ship, vessel, boat, railroad station, railroad car or coach, bus station, or depot, bus, truck, aircraft, or other vehicle, gas and oil stations and pipelines, radio station or radio equipment or other means of communication, warehouse or any electric plant or water plant, telephone exchange or any of the lines belonging thereto, wherein a person or persons are located or being transported, or where there is being manufactured, stored, assembled or shipped or in the preparation of shipment any goods, wares, merchandise or anything of value, with the felonious intent to hurt or harm any person or property, and upon conviction thereof shall be imprisoned for life in the state penitentiary if the penalty is so fixed by the jury; and in cases where the jury fails to fix the penalty at imprisonment for life in the state penitentiary the court shall fix the penalty at imprisonment in the state penitentiary for any term as the court, in its discretion, may determine, but not to be less than five (5) years.

SECTION 3. This act shall take effect and be in force from and after July 1, 2000.