

By: White (29th)

To: Judiciary

SENATE BILL NO. 2519
(As Sent to Governor)

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) Except for persons who are engaged in lawful
10 business activities or persons who are engaged in educational
11 activities conducted by educational institutions, it is unlawful
12 for any person to have in his possession:

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

21 (b) Any:

22 (i) Bomb;

23 (ii) Grenade;

24 (iii) Rocket having a propellant charge of more
25 than four (4) ounces;

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

28 (v) Mine;

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

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

37 (viii) Or other similar explosives peculiarly
38 possessed and adapted to aid in the commission of a crime; and

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

45 (2) It shall be the duty of any sheriff, constable, marshal,
46 or policeman in a municipality, or any person vested with general
47 police authority, who has reason to believe and does believe that
48 the above described explosives are being transported or possessed
49 for aid in the commission of a crime, forthwith to make a
50 reasonable search of such person or vehicle, and to seize such
51 explosives and to at once arrest the person or persons having
52 possession or control thereof. Such officer or officers
53 proceeding in good faith shall not be liable either civilly or
54 criminally for such a search and seizure without a warrant, so
55 long as said search and seizure is conducted in a reasonable
56 manner, it appearing that the officer or officers had reason to
57 believe and did believe that the law was being violated at the
58 time such search was instituted. And the officer or officers
59 making such search shall be competent to testify as a witness or
60 witnesses as to all facts ascertained by means of said reasonable

61 search or seizure, and all such explosives seized shall be
62 admitted in evidence. But this section shall not authorize the
63 search of a residence or home, or room, or building, or the
64 premises belonging to or in the possession lawfully of the party
65 suspected, without a search warrant.

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

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

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

77 (i) The business name and address of the owner of
78 the articles;

79 (ii) The name, address and local address of the
80 custodian;

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

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

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

91 (4) Any person who fails to comply with the provisions of
92 subsection (3) of this section shall, upon conviction thereof, be
93 punished by imprisonment in the state penitentiary for a term not

94 to exceed one (1) year or by a fine in an amount not to exceed Ten
95 Thousand Dollars (\$10,000.00), or by both.

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

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

102 97-37-25. It shall be unlawful for any person at any time to
103 bomb or to plant or place any bomb or other explosive matter or
104 thing in, upon or near any building, residence, ship, vessel,
105 boat, railroad station, railroad car or coach, bus station, or
106 depot, bus, truck, aircraft, or other vehicle, gas and oil
107 stations and pipelines, radio station or radio equipment or other
108 means of communication, warehouse or any electric plant or water
109 plant, telephone exchange or any of the lines belonging thereto,
110 wherein a person or persons are located or being transported, or
111 where there is being manufactured, stored, assembled or shipped or
112 in the preparation of shipment any goods, wares, merchandise or
113 anything of value, with the felonious intent to hurt or harm any
114 person or property, and upon conviction thereof shall be
115 imprisoned for life in the state penitentiary if the penalty is so
116 fixed by the jury; and in cases where the jury fails to fix the
117 penalty at imprisonment for life in the state penitentiary the
118 court shall fix the penalty at imprisonment in the state
119 penitentiary for any term as the court, in its discretion, may
120 determine, but not to be less than five (5) years.

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