

1 SB36  
2 145611-1  
3 By Senator Whatley  
4 RFD: Judiciary  
5 First Read: 05-FEB-13  
6 PFD: 01/08/2013

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8 SYNOPSIS: Under existing law, a person commits the  
9 crime of unlawful manufacture of a controlled  
10 substance in the first degree if he or she  
11 manufactures a controlled substance or possesses  
12 certain precursor substances and meets other  
13 delineated criteria, such as possessing a firearm  
14 or operating a clandestine drug laboratory within  
15 500 feet of a residence or a school.

16 This bill would expand the crime of unlawful  
17 manufacture of a controlled substance in the first  
18 degree to include a person manufacturing a  
19 controlled substance or possessing certain  
20 precursor substances and operating or planning to  
21 operate a clandestine drug laboratory on rental  
22 property such as an apartment, rental house, or  
23 lodging.

24 This bill would also provide an additional  
25 sentence of five years of imprisonment without  
26 parole, probation, or a suspended sentence for the  
27 manufacture of methamphetamine on rented property

1 and would require an individual operating a  
2 clandestine drug laboratory to pay all reasonable  
3 costs associated with remediating the site where  
4 the laboratory was located.

5 Amendment 621 of the Constitution of Alabama  
6 of 1901, now appearing as Section 111.05 of the  
7 Official Recompilation of the Constitution of  
8 Alabama of 1901, as amended, prohibits a general  
9 law whose purpose or effect would be to require a  
10 new or increased expenditure of local funds from  
11 becoming effective with regard to a local  
12 governmental entity without enactment by a 2/3 vote  
13 unless: it comes within one of a number of  
14 specified exceptions; it is approved by the  
15 affected entity; or the Legislature appropriates  
16 funds, or provides a local source of revenue, to  
17 the entity for the purpose.

18 The purpose or effect of this bill would be  
19 to require a new or increased expenditure of local  
20 funds within the meaning of the amendment. However,  
21 the bill does not require approval of a local  
22 governmental entity or enactment by a 2/3 vote to  
23 become effective because it comes within one of the  
24 specified exceptions contained in the amendment.

25  
26 A BILL  
27 TO BE ENTITLED

1 AN ACT

2  
3 To amend Section 13A-12-218, Code of Alabama 1975,  
4 to expand the crime of unlawful manufacture of a controlled  
5 substance in the first degree; to provide for additional  
6 criminal penalties; to require restitution; and in connection  
7 therewith would have as its purpose or effect the requirement  
8 of a new or increased expenditure of local funds within the  
9 meaning of Amendment 621 of the Constitution of Alabama of  
10 1901, now appearing as Section 111.05 of the Official  
11 Recompilation of the Constitution of Alabama of 1901, as  
12 amended.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 13A-12-218, Code of Alabama 1975,  
15 is amended to read as follows:

16 "§13A-12-218.

17 "(a) A person commits the crime of unlawful  
18 manufacture of a controlled substance in the first degree if  
19 he or she violates Section 13A-12-217 and two or more of the  
20 following conditions occurred in conjunction with that  
21 violation:

22 "(1) Possession of a firearm.

23 "(2) Use of a booby trap.

24 "(3) Illegal possession, transportation, or disposal  
25 of hazardous or dangerous materials or while transporting or  
26 causing to be transported materials in furtherance of a  
27 clandestine laboratory operation, there was created a

1 substantial risk to human health or safety or a danger to the  
2 environment.

3 "(4) A clandestine laboratory operation was to take  
4 place or did take place within 500 feet of a residence, place  
5 of business, church, or school.

6 "(5) A clandestine laboratory operation actually  
7 produced any amount of a specified controlled substance.

8 "(6) A clandestine laboratory operation was for the  
9 production of controlled substances listed in Schedule I or  
10 Schedule II.

11 "(7) A person under the age of 17 was present during  
12 the manufacturing process.

13 "(8) A person operating a clandestine laboratory was  
14 committing a criminal trespass on residential property or a  
15 clandestine laboratory operation was to take place on or did  
16 take place on rental property, including, but not limited to,  
17 an apartment, rental house, or any form of lodging such as a  
18 hotel or motel room.

19 "(b) Unlawful manufacture of a controlled substance  
20 in the first degree is a Class A felony, except a person  
21 convicted of violating this section for the production of  
22 methamphetamine, its salts, isomers, and salts of its isomers,  
23 committing a criminal trespass on residential property or  
24 taking place on rental property, including a hotel or motel  
25 room, shall be sentenced to an additional term of imprisonment  
26 of five years without parole, probation, or a suspended  
27 sentence and shall be required to pay all reasonable costs, if

1 any, associated with the remediation of the site of any  
2 clandestine drug laboratory."

3           Section 2. Although this bill would have as its  
4 purpose or effect the requirement of a new or increased  
5 expenditure of local funds, the bill is excluded from further  
6 requirements and application under Amendment 621, now  
7 appearing as Section 111.05 of the Official Recompilation of  
8 the Constitution of Alabama of 1901, as amended, because the  
9 bill defines a new crime or amends the definition of an  
10 existing crime.

11           Section 3. This act shall become effective on the  
12 first day of the third month following its passage and  
13 approval by the Governor, or its otherwise becoming law.