

1 HB91
2 134496-1
3 By Representatives Greer, Johnson (W), Rich, Williams (D),
4 Henry and Johnson (K)
5 RFD: Judiciary
6 First Read: 07-FEB-12
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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 rented
22 property such as an apartment, rental house, or
23 lodging.

24 This bill would also provide a mandatory
25 sentence of 25 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

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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 enhanced
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 clandestine laboratory operation was to take
14 place on or did take place on rented property, including, but
15 not limited to, an apartment, rental house, or any form of
16 lodging such as a hotel or motel room.

17 "(b) Unlawful manufacture of a controlled substance
18 in the first degree is a Class A felony, except a person
19 convicted of violating this section for the production of
20 methamphetamine, its salts, isomers, and salts of its isomers,
21 on rental property, including a hotel or motel room, shall be
22 sentenced to a mandatory term of imprisonment of 25 years
23 without parole, probation, or a suspended sentence and shall
24 be required to pay all reasonable costs, if any, associated
25 with the remediation of the site of any clandestine drug
26 laboratory."

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

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