

## 1 HOUSE BILL NO. 261

2 INTRODUCED BY L. JENT, BRANAE, CALLAHAN, LASLOVICH, NEWMAN, RASER

3 BY REQUEST OF THE ATTORNEY GENERAL

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE OFFENSE OF OPERATION OF AN UNLAWFUL  
6 CLANDESTINE LABORATORY FOR THE CRIMINAL PRODUCTION OR MANUFACTURE OF DANGEROUS  
7 DRUGS; PROVIDING PENALTIES; AND PROVIDING AN EFFECTIVE DATE."

8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10

11 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 and 2], the following definitions  
12 apply:

13 (1) "Booby trap" means any concealed or camouflaged device designed to cause bodily injury  
14 when triggered by any action of a person making contact with the device. "Booby trap" includes:

15 (a) guns, ammunition, or explosive devices that are attached to trip wires or other triggering  
16 mechanisms;

17 (b) sharpened stakes, nails, spikes, electrical devices, lines, or wires with hooks attached; and

18 (c) devices for the production of toxic fumes or gases.

19 ~~———— (2) "Clandestine laboratory operation" means:~~

20 ~~———— (a) the procurement, possession, or use of chemicals, supplies, equipment, or a laboratory location  
21 for the criminal production or manufacture of dangerous drugs as prohibited by 45-9-110;~~

22 ~~———— (b) the transportation of or arranging for the transportation of chemicals, supplies, or equipment  
23 for the criminal production or manufacture of dangerous drugs as prohibited by 45-9-110;~~

24 ~~———— (c) the setting up of equipment or supplies in preparation for the criminal production or  
25 manufacture of dangerous drugs as prohibited by 45-9-110; or~~

26 ~~———— (d) the distribution or disposal of chemicals, equipment, supplies, or products used in or produced  
27 by the criminal production or manufacture of dangerous drugs as prohibited by 45-9-110.~~

28 ~~———— (3) "Disposal" means abandoning, discharging, depositing, injecting, dumping, spilling, leaking,  
29 or placing any hazardous or dangerous material into or on any property, land, or water so that the material  
30 may enter the environment, be emitted into the air, or be discharged into any waters, including ground~~

1 ~~water.~~

2 ~~(4)(2)~~ "Equipment" or "laboratory equipment" means all products, components, or materials of  
 3 any kind when used, intended for use, or designed for use in the manufacture, preparation, production,  
 4 compounding, conversion, or processing of a dangerous drug as defined in 50-32-101. "Equipment" or  
 5 "laboratory equipment" includes but is not limited to:

6 (a) a reaction vessel;

7 (b) a separatory funnel or its equivalent;

8 (c) a glass condensor;

9 (d) an analytical balance or scale; or

10 (e) a heating mantle or other heat source.

11 ~~—— (5) "Hazardous or dangerous material" means any substance that because of its quantity,~~  
 12 ~~concentration, physical characteristics, or chemical characteristics may cause or significantly contribute~~  
 13 ~~to an increase in mortality or an increase in serious illness or may pose a substantial present or potential~~  
 14 ~~hazard to human health or the environment when improperly treated, stored, transported, disposed of, or~~  
 15 ~~otherwise improperly managed.~~

16 ~~(6)(3)~~ "Precursor to dangerous drugs" means any material, compound, mixture, or preparation that  
 17 contains any combination of the items listed in 45-9-107(1), except as exempted by 45-9-108.

18

19 **NEW SECTION. Section 2. Operation of unlawful clandestine laboratory -- penalties.** (1) A person  
 20 commits the offense of operation of an unlawful clandestine laboratory if the person purposely or  
 21 knowingly ENGAGES IN:

22 ~~—— (a) possesses any precursor to dangerous drugs with the intent to engage in a clandestine~~  
 23 ~~laboratory operation;~~

24 ~~—— (b) possesses laboratory equipment or supplies with the intent to engage in a clandestine~~  
 25 ~~laboratory operation;~~

26 ~~—— (c) sells, distributes, or otherwise provides to any person any precursor to dangerous drugs,~~  
 27 ~~laboratory equipment, or laboratory supplies knowing they will be used for a clandestine laboratory~~  
 28 ~~operation.~~

29 (A) THE PROCUREMENT, POSSESSION, OR USE OF CHEMICALS, PRECURSORS TO DANGEROUS DRUGS, SUPPLIES,  
 30 EQUIPMENT, OR A LABORATORY LOCATION FOR THE CRIMINAL PRODUCTION OR MANUFACTURE OF DANGEROUS DRUGS AS

1 PROHIBITED BY 45-9-110:

2 (B) THE TRANSPORTATION OF OR ARRANGING FOR THE TRANSPORTATION OF CHEMICALS, PRECURSORS TO  
 3 DANGEROUS DRUGS, SUPPLIES, OR EQUIPMENT FOR THE CRIMINAL PRODUCTION OR MANUFACTURE OF DANGEROUS DRUGS

4 AS PROHIBITED BY 45-9-110; OR

5 (C) THE SETTING UP OF EQUIPMENT OR SUPPLIES IN PREPARATION FOR THE CRIMINAL PRODUCTION OR  
 6 MANUFACTURE OF DANGEROUS DRUGS AS PROHIBITED BY 45-9-110; OR

7 ~~\_\_\_\_\_ (D) THE SALE OR OTHER DISTRIBUTION OR DISPOSAL OF CHEMICALS, PRECURSORS TO DANGEROUS DRUGS,~~  
 8 ~~SUPPLIES, EQUIPMENT, OR PRODUCTS USED IN OR PRODUCED BY THE CRIMINAL PRODUCTION OR MANUFACTURE OF~~  
 9 ~~DANGEROUS DRUGS AS PROHIBITED BY 45-9-110.~~

10 (2) Except as provided in subsections (3) and (4), a person convicted of operation of an unlawful  
 11 clandestine laboratory shall be fined an amount not to exceed \$25,000, be imprisoned in a state prison  
 12 for a term not to exceed 20 years, or both.

13 (3) A person convicted of operation of an unlawful clandestine laboratory shall be fined an amount  
 14 not to exceed \$50,000, be imprisoned in a state prison for a term not to exceed 25 years, or both, if ~~the~~  
 15 ~~judge or jury finds that~~ [SECTION 1 OF HOUSE BILL NO. 521] IS COMPLIED WITH AND the operation of an unlawful  
 16 clandestine laboratory or any phase of the operation:

17 (a) created a substantial risk ~~to human health or safety or a danger to the environment~~ OF DEATH  
 18 OF OR SERIOUS BODILY INJURY TO ANOTHER;

19 (b) took place within 500 feet of a residence, business, church, or school; or

20 (c) took place in the presence of a person less than 18 years of age.

21 (4) A person convicted of operation of an unlawful clandestine laboratory shall be fined an amount  
 22 not to exceed \$100,000, be imprisoned in a state prison for a term not to exceed 40 years, or both, if ~~the~~  
 23 ~~judge or jury finds that~~ [SECTION 1 OF HOUSE BILL NO. 521] IS COMPLIED WITH AND the operation of an unlawful  
 24 clandestine laboratory or any phase of the operation involved the use of a firearm or booby trap.

25

26 NEW SECTION. Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified  
 27 as an integral part of Title 45, chapter 9, part 1, and the provisions of Title 45, ~~chapter 9, part 1,~~ apply  
 28 to [sections 1 and 2].

29

30 NEW SECTION. SECTION 4. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 521 IS NOT PASSED AND

1 APPROVED, THEN THE WORDS "[SECTION 1 OF HOUSE BILL NO. 521] IS COMPLIED WITH AND" MUST BE DELETED FROM  
2 SUBSECTIONS (3) AND (4) OF [SECTION 2 OF THIS ACT].

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4 NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2001.

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