

**58-37d-5 Prohibited acts -- First degree felony.**

- (1) A person who violates Subsection 58-37d-4(1)(a), (b), (e), (f), or (h) is guilty of a first degree felony if the trier of fact also finds any one of the following conditions occurred in conjunction with that violation:
- (a) possession of a firearm;
  - (b) use of a booby trap;
  - (c) illegal possession, transportation, or disposal of hazardous or dangerous material or while transporting or causing to be transported materials in furtherance of a clandestine laboratory operation, there was created a substantial risk to human health or safety or a danger to the environment;
  - (d) intended laboratory operation was to take place or did take place within 500 feet of a residence, place of business, church, or school;
  - (e) clandestine laboratory operation actually produced any amount of a specified controlled substance; or
  - (f) intended clandestine laboratory operation was for the production of cocaine base or methamphetamine base.
- (2) If the trier of fact finds that two or more of the conditions listed in Subsections (1)(a) through (f) of this section occurred in conjunction with the violation, at sentencing for the first degree felony:
- (a) probation shall not be granted;
  - (b) the execution or imposition of sentence shall not be suspended; and
  - (c) the court shall not enter a judgment for a lower category of offense.

Amended by Chapter 115, 2003 General Session