

By: Representative Read

To: Public Health and  
Welfare

HOUSE BILL NO. 1163  
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 41-29-109, 41-29-125, 41-29-133,  
2 41-29-157, 41-29-159, 41-29-167 AND 41-29-171, MISSISSIPPI CODE OF  
3 1972, TO PROVIDE THAT UNDER THE UNIFORM CONTROLLED SUBSTANCES LAW,  
4 THE MISSISSIPPI BOARD OF NURSING IS RESPONSIBLE FOR THE LEGITIMATE  
5 DRUG TRAFFIC AMONG NURSES; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. Section 41-29-109, Mississippi Code of 1972, is  
8 amended as follows:

9 41-29-109. The Mississippi Bureau of Narcotics shall have  
10 the full cooperation and use of facilities and personnel of the  
11 State Board of Pharmacy, the State Board of Medical Licensure, the  
12 State Board of Dental Examiners, the Mississippi Board of Nursing,  
13 the district and county attorneys, and of the Attorney General's  
14 office.

15 It shall be the duty of all duly sworn peace officers of the  
16 State of Mississippi to enforce the provisions of this article  
17 with reference to illicit narcotic and drug traffic. The  
18 provisions of this article may likewise be enforced by agents of  
19 the United States Drug Enforcement Administration.

20 SECTION 2. Section 41-29-125, Mississippi Code of 1972, is  
21 amended as follows:

22 41-29-125. The State Board of Pharmacy may promulgate rules  
23 and regulations relating to the registration and control of the  
24 manufacture, distribution and dispensing of controlled substances  
25 within this state.

26 (a) Every person who manufactures, distributes or  
27 dispenses any controlled substance within this state, or who  
28 proposes to engage in the manufacture, distribution or dispensing

29 of any controlled substance within this state, must obtain a  
30 registration issued by the State Board of Pharmacy, the State  
31 Board of Medical Licensure, the State Board of Dental Examiners or  
32 the Mississippi Board of Nursing, as appropriate, in accordance  
33 with its rules. Such registration shall be obtained annually or  
34 biennially, as specified by the issuing board, and a reasonable  
35 fee may be charged by the issuing board for such registration.

36 (b) Persons registered by the State Board of Pharmacy,  
37 with the consent of the United States Drug Enforcement  
38 Administration and the State Board of Medical Licensure, the State  
39 Board of Dental Examiners or the Mississippi Board of Nursing, to  
40 manufacture, distribute, dispense or conduct research with  
41 controlled substances may possess, manufacture, distribute,  
42 dispense or conduct research with those substances to the extent  
43 authorized by their registration and in conformity with the other  
44 provisions of this article.

45 (c) The following persons need not register and may  
46 lawfully possess controlled substances under this article:

47 (1) An agent or employee of any registered  
48 manufacturer, distributor or dispenser of any controlled substance  
49 if he is acting in the usual course of his business or employment;

50 (2) A common or contract carrier or warehouseman,  
51 or an employee thereof, whose possession of any controlled  
52 substance is in the usual course of business or employment;

53 (3) An ultimate user or a person in possession of  
54 any controlled substance pursuant to a lawful order of a  
55 practitioner or in lawful possession of a Schedule V substance as  
56 defined in Section 41-29-121.

57 (d) The State Board of Pharmacy may waive by rule the  
58 requirement for registration of certain manufacturers,  
59 distributors or dispensers if it finds it consistent with the  
60 public health and safety.

61 (e) A separate registration is required at each  
62 principal place of business or professional practice where the  
63 applicant manufactures, distributes or dispenses controlled  
64 substances.

65 (f) The State Board of Pharmacy, the Mississippi Bureau  
66 of Narcotics, the State Board of Medical Licensure, the State  
67 Board of Dental Examiners and the Mississippi Board of Nursing may  
68 inspect the establishment of a registrant or applicant for  
69 registration in accordance with the regulations of these agencies  
70 as approved by the board.

71 SECTION 3. Section 41-29-133, Mississippi Code of 1972, is  
72 amended as follows:

73 41-29-133. Persons registered to manufacture, distribute, or  
74 dispense controlled substances under this article shall keep  
75 records and maintain inventories in conformance with the  
76 record-keeping and inventory requirements of federal law and with  
77 any additional rules the State Board of Pharmacy, the State Board  
78 of Medical Licensure, the State Board of Dental Examiners or the  
79 Mississippi Board of Nursing may issue.

80 SECTION 4. Section 41-29-157, Mississippi Code of 1972, is  
81 amended as follows:

82 41-29-157. (a) Issuance and execution of administrative  
83 inspection warrants and search warrants shall be as follows,  
84 except as provided in subsection (c) of this section:

85 (1) A judge of any state court of record, or any  
86 justice court judge within his jurisdiction, and upon proper oath  
87 or affirmation showing probable cause, may issue warrants for the  
88 purpose of conducting administrative inspections authorized by  
89 this article or rules thereunder, and seizures of property  
90 appropriate to the inspections. For purposes of the issuance of  
91 administrative inspection warrants, probable cause exists upon  
92 showing a valid public interest in the effective enforcement of  
93 this article or rules thereunder, sufficient to justify

94 administrative inspection of the area, premises, building or  
95 conveyance in the circumstances specified in the application for  
96 the warrant. All such warrants shall be served during normal  
97 business hours;

98 (2) A search warrant shall issue only upon an affidavit  
99 of a person having knowledge or information of the facts alleged,  
100 sworn to before the judge or justice court judge and establishing  
101 the grounds for issuing the warrant. If the judge or justice  
102 court judge is satisfied that grounds for the application exist or  
103 that there is probable cause to believe they exist, he shall issue  
104 a warrant identifying the area, premises, building or conveyance  
105 to be searched, the purpose of the search, and, if appropriate,  
106 the type of property to be searched, if any. The warrant shall:

107 (A) State the grounds for its issuance and the  
108 name of each person whose affidavit has been taken in support  
109 thereof;

110 (B) Be directed to a person authorized by Section  
111 41-29-159 to execute it;

112 (C) Command the person to whom it is directed to  
113 inspect the area, premises, building or conveyance identified for  
114 the purpose specified, and if appropriate, direct the seizure of  
115 the property specified;

116 (D) Identify the item or types of property to be  
117 seized, if any;

118 (E) Direct that it be served and designate the  
119 judge or magistrate to whom it shall be returned;

120 (3) A warrant issued pursuant to this section must be  
121 executed and returned within ten (10) days of its date unless,  
122 upon a showing of a need for additional time, the court orders  
123 otherwise. If property is seized pursuant to a warrant, a copy  
124 shall be given to the person from whom or from whose premises the  
125 property is taken, together with a receipt for the property taken.  
126 The return of the warrant shall be made promptly, accompanied by a

127 written inventory of any property taken. The inventory shall be  
128 made in the presence of the person executing the warrant and of  
129 the person from whose possession or premises the property was  
130 taken, if present, or in the presence of at least one (1) credible  
131 person other than the person executing the warrant. A copy of the  
132 inventory shall be delivered to the person from whom or from whose  
133 premises the property was taken and to the applicant for the  
134 warrant;

135 (4) The judge or justice court judge who has issued a  
136 warrant shall attach thereto a copy of the return and all papers  
137 returnable in connection therewith and file them with the clerk of  
138 the appropriate state court for the judicial district in which the  
139 inspection was made.

140 (b) The Mississippi Bureau of Narcotics, the State Board of  
141 Pharmacy, \* \* \* the State Board of Medical Licensure, the State  
142 Board of Dental Examiners or the Mississippi Board of Nursing may  
143 make administrative inspections of controlled premises in  
144 accordance with the following provisions:

145 (1) For purposes of this section only, "controlled  
146 premises" means:

147 (A) Places where persons registered or exempted  
148 from registration requirements under this article are required to  
149 keep records; and

150 (B) Places including factories, warehouses,  
151 establishments and conveyances in which persons registered or  
152 exempted from registration requirements under this article are  
153 permitted to hold, manufacture, compound, process, sell, deliver,  
154 or otherwise dispose of any controlled substance.

155 (2) When authorized by an administrative inspection  
156 warrant issued in accordance with the conditions imposed in this  
157 section, an officer or employee designated by the Mississippi  
158 Bureau of Narcotics, the State Board of Pharmacy, the State Board  
159 of Medical Licensure, the State Board of Dental Examiners or the

160 Mississippi Board of Nursing, upon presenting the warrant and  
161 appropriate credentials to the owner, operator or agent in charge,  
162 may enter controlled premises for the purpose of conducting an  
163 administrative inspection.

164 (3) When authorized by an administrative inspection  
165 warrant, an officer or employee designated by the Mississippi  
166 Bureau of Narcotics, the State Board of Pharmacy, the State Board  
167 of Medical Licensure, the State Board of Dental Examiners or the  
168 Mississippi Board of Nursing may:

169 (A) Inspect and copy records required by this  
170 article to be kept;

171 (B) Inspect, within reasonable limits and in a  
172 reasonable manner, controlled premises and all pertinent  
173 equipment, finished and unfinished material, containers and  
174 labeling found therein, and, except as provided in paragraph (5)  
175 of this subsection, all other things therein, including records,  
176 files, papers, processes, controls and facilities bearing on  
177 violation of this article; and

178 (C) Inventory any stock of any controlled  
179 substance therein and obtain samples thereof.

180 (4) This section does not prevent the inspection  
181 without a warrant of books and records pursuant to an  
182 administrative subpoena, nor does it prevent entries and  
183 administrative inspections, including seizures of property,  
184 without a warrant:

185 (A) If the owner, operator or agent in charge of  
186 the controlled premises consents;

187 (B) In situations presenting imminent danger to  
188 health or safety;

189 (C) In situations involving inspection of  
190 conveyances if there is reasonable cause to believe that the  
191 mobility of the conveyance makes it impracticable to obtain a  
192 warrant;

193                   (D) In any other exceptional or emergency  
194 circumstance where time or opportunity to apply for a warrant is  
195 lacking; or

196                   (E) In all other situations in which a warrant is  
197 not constitutionally required.

198           (5) An inspection authorized by this section shall not  
199 extend to financial data, sales data, other than shipment data, or  
200 pricing data unless the owner, operator or agent in charge of the  
201 controlled premises consents in writing.

202           (c) Any agent of the bureau authorized to execute a search  
203 warrant involving controlled substances, the penalty for which is  
204 imprisonment for more than one (1) year, may, without notice of  
205 his authority and purpose, break open an outer door or inner door,  
206 or window of a building, or any part of the building, if the judge  
207 issuing the warrant:

208                   (1) Is satisfied that there is probable cause to  
209 believe that:

210                           (A) The property sought may, and, if such notice  
211 is given, will be easily and quickly destroyed or disposed of; or

212                           (B) The giving of such notice will immediately  
213 endanger the life or safety of the executing officer or another  
214 person; and

215                   (2) Has included in the warrant a direction that the  
216 officer executing the warrant shall not be required to give such  
217 notice.

218           Any officer acting under such warrant shall, as soon as  
219 practical, after entering the premises, identify himself and give  
220 the reasons and authority for his entrance upon the premises.

221           Search warrants which include the instruction that the  
222 executing officer shall not be required to give notice of  
223 authority and purpose as authorized by this subsection shall be  
224 issued only by the county court or county judge in vacation,  
225 chancery court or by the chancellor in vacation, by the circuit

226 court or circuit judge in vacation, or by a justice of the  
227 Mississippi Supreme Court.

228 This subsection shall expire and stand repealed from and  
229 after July 1, 1974, except that the repeal shall not affect the  
230 validity or legality of any search authorized under this  
231 subsection and conducted prior to July 1, 1974.

232 SECTION 5. Section 41-29-159, Mississippi Code of 1972, is  
233 amended as follows:

234 41-29-159. (a) Any officer or employee of the Mississippi  
235 Bureau of Narcotics, investigative unit of the State Board of  
236 Pharmacy, investigative unit of the State Board of Medical  
237 Licensure, investigative unit of the State Board of Dental  
238 Examiners, investigative unit of the Mississippi Board of Nursing,  
239 any duly sworn peace officer of the State of Mississippi, any  
240 enforcement officer of the Mississippi Department of  
241 Transportation, or any highway patrolman, may, while engaged in  
242 the performance of his statutory duties:

243 (1) Carry firearms;

244 (2) Execute and serve search warrants, arrest warrants,  
245 subpoenas, and summonses issued under the authority of this state;

246 (3) Make arrests without warrant for any offense under  
247 this article committed in his presence, or if he has probable  
248 cause to believe that the person to be arrested has committed or  
249 is committing a crime; and

250 (4) Make seizures of property pursuant to this article.

251 (b) As divided among the Mississippi Bureau of Narcotics,  
252 the State Board of Pharmacy, the State Board of Medical Licensure,  
253 the State Board of Dental Examiners and the Mississippi Board of  
254 Nursing, the primary responsibility of the illicit street traffic  
255 or other illicit traffic of drugs is delegated to agents of the  
256 Mississippi Bureau of Narcotics. The State Board of Pharmacy is  
257 delegated the responsibility of regulating and checking the  
258 legitimate drug traffic among pharmacists, pharmacies, hospitals,



259 nursing homes, drug manufacturers, and any other related  
260 professions and facilities with the exception of the medical,  
261 dental, nursing and veterinary professions. The State Board of  
262 Medical Licensure is responsible for the legitimate drug traffic  
263 among \* \* \* physicians, podiatrists and veterinarians. The  
264 Mississippi Board of Dental Examiners is responsible for the  
265 legitimate drug traffic among dentists and dental hygienists. The  
266 Mississippi Board of Nursing is responsible for the legitimate  
267 drug traffic among nurses.

268 (c) The provisions of this section shall not be construed to  
269 limit or preclude the detection or arrest of persons in violation  
270 of Section 41-29-139 by any local law enforcement officer,  
271 sheriff, deputy sheriff or peace officer.

272 (d) Agents of the bureau are \* \* \* authorized to investigate  
273 the circumstances of deaths which are caused by drug overdose or  
274 which are believed to be caused by drug overdose.

275 (e) Any person who shall impersonate in any way the director  
276 or any agent, or who shall in any manner hold himself out as  
277 being, or represent himself as being, an officer or agent of the  
278 Mississippi Bureau of Narcotics shall be guilty of a misdemeanor,  
279 and upon conviction thereof shall be punished by a fine of not  
280 less than One Hundred Dollars (\$100.00) nor more than Five Hundred  
281 Dollars (\$500.00) or by imprisonment for not more than one (1)  
282 year, or by both such fine and imprisonment.

283 SECTION 6. Section 41-29-167, Mississippi Code of 1972, is  
284 amended as follows:

285 41-29-167. (a) The State Board of Medical Licensure, the  
286 Mississippi Bureau of Narcotics, the State Board of  
287 Pharmacy, \* \* \* the State Board of Dental Examiners and the  
288 Mississippi Board of Nursing shall cooperate with federal and  
289 other state agencies in discharging their responsibilities  
290 concerning traffic in controlled substances and in suppressing the  
291 abuse of controlled substances. To this end, they may:

292 (1) Arrange for the exchange of information among  
293 governmental officials concerning the use and abuse of controlled  
294 substances;

295 (2) Coordinate and cooperate in training programs  
296 concerning controlled substance law enforcement at local and state  
297 levels;

298 (3) Cooperate with the United States Drug Enforcement  
299 Administration by establishing a centralized unit to accept,  
300 catalogue, file and collect statistics, including records of drug  
301 dependent persons and other controlled substance law offenders  
302 within the state, and make the information available for federal,  
303 state and local law enforcement purposes; and

304 (4) Conduct programs of eradication aimed at destroying  
305 wild or illicit growth of plant species from which controlled  
306 substances may be extracted.

307 (b) Results, information and evidence received from the  
308 United States Drug Enforcement Administration relating to the  
309 regulatory functions of this article, including results of  
310 inspections conducted by it may be relied and acted upon by the  
311 Mississippi Bureau of Narcotics, the State Board of Pharmacy, the  
312 State Board of Medical Licensure, the State Board of Dental  
313 Examiners and the Mississippi Board of Nursing in the exercise of  
314 their regulatory functions under this article.

315 SECTION 7. Section 41-29-171, Mississippi Code of 1972, is  
316 amended as follows:

317 41-29-171. (a) The Mississippi Bureau of Narcotics, the  
318 State Board of Pharmacy, the State Board of Medical Licensure,  
319 the State Board of Dental Examiners and the Mississippi Board of  
320 Nursing shall encourage research on misuse and abuse of controlled  
321 substances. In connection with the research, and in furtherance  
322 of the enforcement of this article they may:

323           (1) Establish methods to assess accurately the effects  
324 of controlled substances and identify and characterize those with  
325 potential for abuse;

326           (2) Make studies and undertake programs of research to:

327                   (A) Develop new or improved approaches,  
328 techniques, systems, equipment and devices to strengthen the  
329 enforcement of this article;

330                   (B) Determine patterns of misuse and abuse of  
331 controlled substances and the social effects thereof; and

332                   (C) Improve methods for preventing, predicting,  
333 understanding and dealing with the misuse and abuse of controlled  
334 substances;

335           (3) Enter into contracts with public agencies,  
336 institutions of higher education, and private organizations or  
337 individuals for the purpose of conducting research,  
338 demonstrations, or special projects which bear directly on misuse  
339 and abuse of controlled substances.

340           (b) The Mississippi Bureau of Narcotics and the State Board  
341 of Education may enter into contracts for educational and research  
342 activities without performance bonds.

343           (c) The board may authorize the possession and distribution  
344 of controlled substances by persons engaged in research. Persons  
345 who obtain this authorization are exempt from state prosecution  
346 for possession and distribution of controlled substances to the  
347 extent of the authorization.

348           SECTION 8. This act shall take effect and be in force from  
349 and after July 1, 2001.