

By: Senator(s) Huggins

To: Public Health and Welfare

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2205

1 AN ACT TO AMEND SECTION 41-29-105, MISSISSIPPI CODE OF 1972,  
2 TO DEFINE CONTROLLED SUBSTANCE ANALOGUE FOR PURPOSES OF THE  
3 UNIFORM CONTROLLED SUBSTANCES ACT; TO AMEND SECTION 41-29-139,  
4 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE MANUFACTURE,  
5 DELIVERY, SALE AND POSSESSION OF A CONTROLLED SUBSTANCE ANALOGUE  
6 SHALL BE TREATED AS A SCHEDULE I SUBSTANCE FOR PURPOSES OF  
7 CRIMINAL PENALTIES, AND TO INCLUDE CONTROLLED SUBSTANCE ANALOGUES  
8 IN THOSE STATUTES PROVIDING CRIMINAL PENALTIES FOR TRAFFICKING IN  
9 CONTROLLED SUBSTANCES; TO AMEND SECTION 97-3-97, MISSISSIPPI CODE  
10 OF 1972, TO INCLUDE THE USE OF CONTROLLED SUBSTANCES AND  
11 CONTROLLED SUBSTANCE ANALOGUE AS A CRIMINAL ELEMENT TO  
12 INCAPACITATE A PERSON UNDER THE RAPE STATUTE; TO AMEND SECTION  
13 41-29-313, MISSISSIPPI CODE OF 1972, TO ADD GAMMA-BUTYROLACTONE  
14 AND BUTANOLIDE TO LISTED CHEMICALS WHICH MAY BE USED AS A  
15 CONTROLLED SUBSTANCE OR CONTROLLED SUBSTANCE ANALOGUE; TO AMEND  
16 SECTIONS 41-29-127, 41-29-129, 41-29-142, 41-29-144, 41-29-145,  
17 41-29-146, 41-29-152, 41-29-153, 41-29-154, 41-29-169, 41-29-171,  
18 41-29-176, 41-29-177, 41-29-179, 63-1-71 AND 63-1-83, MISSISSIPPI  
19 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** Section 41-29-105, Mississippi Code of 1972, is  
22 amended as follows:

23 41-29-105. The following words and phrases, as used in this  
24 article, shall have the following meanings, unless the context  
25 otherwise requires:

26 (a) "Administer" means the direct application of a  
27 controlled substance, whether by injection, inhalation, ingestion  
28 or any other means, to the body of a patient or research subject  
29 by:

30 (1) A practitioner (or, in his presence, by his  
31 authorized agent); or

32 (2) The patient or research subject at the  
33 direction and in the presence of the practitioner.

34 (b) "Agent" means an authorized person who acts on  
35 behalf of or at the direction of a manufacturer, distributor or



36 dispenser. Such word does not include a common or contract  
37 carrier, public warehouseman or employee of the carrier or  
38 warehouseman. This definition shall not be applied to the term  
39 "agent" when such term clearly designates a member or officer of  
40 the Bureau of Narcotics or other law enforcement organization.

41 (c) "Board" means the Mississippi State Board of  
42 Medical Licensure.

43 (d) "Bureau" means the Mississippi Bureau of Narcotics.  
44 However, where the title "Bureau of Drug Enforcement" occurs, said  
45 term shall also refer to the Mississippi Bureau of Narcotics.

46 (e) "Commissioner" means the Commissioner of the  
47 Department of Public Safety.

48 (f) "Controlled substance" means a drug, substance or  
49 immediate precursor in Schedules I through V of Sections 41-29-113  
50 through 41-29-121 or a controlled substance analogue as defined in  
51 this section.

52 (g) "Controlled substance analogue" means a substance  
53 that is intended for human consumption and that either:

54 (i) Has a chemical structure substantially similar  
55 to the chemical structure of a drug or substance in Schedule I or  
56 II of Sections 41-29-113 and 41-29-115; or

57 (ii) Produces a stimulant, depressant or  
58 hallucinogenic effect on the control nervous system substantially  
59 similar to the stimulant, depressant or hallucinogenic effect on  
60 the central nervous system produced by a drug or substance in  
61 Schedule I or II of Sections 41-29-113 and 41-29-115; or

62 (iii) Is represented or intended to have a  
63 stimulant, depressant or hallucinogenic effect on the central  
64 nervous system substantially similar to the stimulant, depressant  
65 or hallucinogenic effect on the central nervous system produced by  
66 a drug or substance in Schedule I or II of Sections 41-29-113 and  
67 41-29-115.



68 For purposes of any state law, the illicit manufacturing,  
69 sale, possession or use of a controlled substance analogue shall  
70 be treated as if it were the Schedule I or II substance to which  
71 it is substantially similar in chemical structure, pharmacological  
72 effect, intended or represented effect.

73 Controlled substance analogue does not mean any of the  
74 following:

75 (1) Any substance for which there is an approved  
76 new drug application as defined under Section 505 of the federal  
77 Food, Drug and Cosmetic Act, or which is generally recognized as  
78 safe and effective for use pursuant to Sections 501, 502 and 503  
79 of the federal Food, Drug and Cosmetic Act and United States Code  
80 Title 21, Section 330 et. seq.

81 (2) With respect to a particular person, any  
82 substance for which an exemption is in effect for investigational  
83 use for that person pursuant to Section 505 of the federal Food,  
84 Drug and Cosmetic Act, to the extent that the conduct with respect  
85 to that substance is pursuant to the exemption.

86 (3) Any substance, before an exemption as  
87 specified in paragraph (2) takes effect with respect to the  
88 substance, to the extent the substance is not intended for human  
89 consumption.

90 (4) A controlled substance previously scheduled.

91 (h) "Counterfeit substance" means a controlled  
92 substance which, or the container or labeling of which, without  
93 authorization, bears the trademark, trade name, or other  
94 identifying mark, imprint, number or device, or any likeness  
95 thereof, of a manufacturer, distributor or dispenser other than  
96 the person who in fact manufactured, distributed or dispensed the  
97 substance.

98 (i) "Deliver" or "delivery" means the actual,  
99 constructive, or attempted transfer from one person to another of



100 a controlled substance or a controlled substance analogue, whether  
101 or not there is an agency relationship.

102         (j) "Director" means the Director of the Bureau of  
103 Narcotics.

104         (k) "Dispense" means to deliver a controlled substance  
105 to an ultimate user or research subject by or pursuant to the  
106 lawful order of a practitioner, including the prescribing,  
107 administering, packaging, labeling or compounding necessary to  
108 prepare the substance for that delivery.

109         (l) "Dispenser" means a practitioner who dispenses.

110         (m) "Distribute" means to deliver other than by  
111 administering or dispensing a controlled substance or a controlled  
112 substance analogue.

113         (n) "Distributor" means a person who distributes.

114         (o) "Drug" means (1) a substance recognized as a drug  
115 in the official United States Pharmacopoeia, official Homeopathic  
116 Pharmacopoeia of the United States, or official National  
117 Formulary, or any supplement to any of them; (2) a substance  
118 intended for use in the diagnosis, cure, mitigation, treatment, or  
119 prevention of disease in man or animals; (3) a substance (other  
120 than food) intended to affect the structure or any function of the  
121 body of man or animals; and (4) a substance intended for use as a  
122 component of any article specified in this paragraph. Such word  
123 does not include devices or their components, parts, or  
124 accessories.

125         (p) "Hashish" means the resin extracted from any part  
126 of the plants of the genus Cannabis and all species thereof or any  
127 preparation, mixture or derivative made from or with said resin.

128         (q) "Immediate precursor" means a substance which the  
129 board has found to be and by rule designates as being the  
130 principal compound commonly used or produced primarily for use,  
131 and which is an immediate chemical intermediary used or likely to



132 be used in the manufacture of a controlled substance, the control  
133 of which is necessary to prevent, curtail, or limit manufacture.

134 (r) "Manufacture" means the production, preparation,  
135 propagation, compounding, conversion or processing of a controlled  
136 substance or a controlled substance analogue, either directly or  
137 indirectly, by extraction from substances of natural origin, or  
138 independently by means of chemical synthesis, or by a combination  
139 of extraction and chemical synthesis, and includes any packaging  
140 or repackaging of the substance or labeling or relabeling of its  
141 container. The term "manufacture" does not include the  
142 preparation, compounding, packaging or labeling of a controlled  
143 substance in conformity with applicable state and local law:

144 (1) By a practitioner as an incident to his  
145 administering or dispensing of a controlled substance in the  
146 course of his professional practice; or

147 (2) By a practitioner, or by his authorized agent  
148 under his supervision, for the purpose of, or as an incident to,  
149 research, teaching or chemical analysis and not for sale.

150 (s) "Marihuana" means all parts of the plant of the  
151 genus Cannabis and all species thereof, whether growing or not,  
152 the seeds thereof, and every compound, manufacture, salt,  
153 derivative, mixture or preparation of the plant or its seeds,  
154 excluding hashish.

155 (t) "Narcotic drug" means any of the following, whether  
156 produced directly or indirectly by extraction from substances of  
157 vegetable origin, or independently by means of chemical synthesis,  
158 or by a combination of extraction and chemical synthesis:

159 (1) Opium and opiate, and any salt, compound,  
160 derivative or preparation of opium or opiate;

161 (2) Any salt, compound, isomer, derivative or  
162 preparation thereof which is chemically equivalent or identical  
163 with any of the substances referred to in clause 1, but not  
164 including the isoquinoline alkaloids of opium;



165 (3) Opium poppy and poppy straw; and  
166 (4) Cocaine, coca leaves and any salt, compound,  
167 derivative or preparation of cocaine, coca leaves, and any salt,  
168 compound, isomer, derivative or preparation thereof which is  
169 chemically equivalent or identical with any of these substances,  
170 but not including decocainized coca leaves or extractions of coca  
171 leaves which do not contain cocaine or ecgonine.

172 (u) "Opiate" means any substance having an  
173 addiction-forming or addiction-sustaining liability similar to  
174 morphine or being capable of conversion into a drug having  
175 addiction-forming or addiction-sustaining liability. It does not  
176 include, unless specifically designated as controlled under  
177 Section 41-29-111, the dextrorotatory isomer of  
178 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). Such  
179 word does include its racemic and levorotatory forms.

180 (v) "Opium poppy" means the plant of the species  
181 Papaver somniferum L., except its seeds.

182 (w) "Paraphernalia" means all equipment, products and  
183 materials of any kind which are used, intended for use, or  
184 designed for use, in planting, propagating, cultivating, growing,  
185 harvesting, manufacturing, compounding, converting, producing,  
186 processing, preparing, testing, analyzing, packaging, repackaging,  
187 storing, containing, concealing, injecting, ingesting, inhaling or  
188 otherwise introducing into the human body a controlled substance  
189 or a controlled substance analogue in violation of the Uniform  
190 Controlled Substances Law. It includes, but is not limited to:

191 (i) Kits used, intended for use, or designed for  
192 use in planting, propagating, cultivating, growing or harvesting  
193 of any species of plant which is a controlled substance or a  
194 controlled substance analogue or from which a controlled substance  
195 or a controlled substance analogue can be derived;

196 (ii) Kits used, intended for use, or designed for  
197 use in manufacturing, compounding, converting, producing,



198 processing or preparing controlled substances or controlled  
199 substance analogues;

200 (iii) Isomerization devices used, intended for use  
201 or designed for use in increasing the potency of any species of  
202 plant which is a controlled substance or a controlled substance  
203 analogue;

204 (iv) Testing equipment used, intended for use, or  
205 designed for use in identifying or in analyzing the strength,  
206 effectiveness or purity of controlled substances or controlled  
207 substance analogues;

208 (v) Scales and balances used, intended for use or  
209 designed for use in weighing or measuring controlled substances or  
210 controlled substance analogues;

211 (vi) Diluents and adulterants, such as quinine  
212 hydrochloride, mannitol, mannite, dextrose and lactose, used,  
213 intended for use or designed for use in cutting controlled  
214 substances or controlled substance analogues;

215 (vii) Separation gins and sifters used, intended  
216 for use or designed for use in removing twigs and seeds from, or  
217 in otherwise cleaning or refining, marihuana;

218 (viii) Blenders, bowls, containers, spoons and  
219 mixing devices used, intended for use or designed for use in  
220 compounding controlled substances or controlled substance  
221 analogues;

222 (ix) Capsules, balloons, envelopes and other  
223 containers used, intended for use or designed for use in packaging  
224 small quantities of controlled substances or controlled substance  
225 analogues;

226 (x) Containers and other objects used, intended  
227 for use or designed for use in storing or concealing controlled  
228 substances or controlled substance analogues;

229 (xi) Hypodermic syringes, needles and other  
230 objects used, intended for use or designed for use in parenterally



231 injecting controlled substances or controlled substance analogues  
232 into the human body;

233 (xii) Objects used, intended for use or designed  
234 for use in ingesting, inhaling or otherwise introducing marihuana,  
235 cocaine, hashish or hashish oil into the human body, such as:

236 1. Metal, wooden, acrylic, glass, stone,  
237 plastic or ceramic pipes with or without screens, permanent  
238 screens, hashish heads or punctured metal bowls;

239 2. Water pipes;

240 3. Carburetion tubes and devices;

241 4. Smoking and carburetion masks;

242 5. Roach clips, meaning objects used to hold  
243 burning material, such as a marihuana cigarette, that has become  
244 too small or too short to be held in the hand;

245 6. Miniature cocaine spoons and cocaine  
246 vials;

247 7. Chamber pipes;

248 8. Carburetor pipes;

249 9. Electric pipes;

250 10. Air-driven pipes;

251 11. Chillums;

252 12. Bonges; and

253 13. Ice pipes or chillers.

254 In determining whether an object is paraphernalia, a court or  
255 other authority should consider, in addition to all other  
256 logically relevant factors, the following:

257 (i) Statements by an owner or by anyone in control  
258 of the object concerning its use;

259 (ii) Prior convictions, if any, of an owner, or of  
260 anyone in control of the object, under any state or federal law  
261 relating to any controlled substance or controlled substance  
262 analogue;





263 (iii) The proximity of the object, in time and  
264 space, to a direct violation of the Uniform Controlled Substances  
265 Law;

266 (iv) The proximity of the object to controlled  
267 substances or controlled substance analogues;

268 (v) The existence of any residue of controlled  
269 substances or controlled substance analogues on the object;

270 (vi) Direct or circumstantial evidence of the  
271 intent of an owner, or of anyone in control of the object, to  
272 deliver it to persons whom he knows, or should reasonably know,  
273 intend to use the object to facilitate a violation of the Uniform  
274 Controlled Substances Law; the innocence of an owner, or of anyone  
275 in control of the object, as to a direct violation of the Uniform  
276 Controlled Substances Law shall not prevent a finding that the  
277 object is intended for use, or designed for use as paraphernalia;

278 (vii) Instructions, oral or written, provided with  
279 the object concerning its use;

280 (viii) Descriptive materials accompanying the  
281 object which explain or depict its use;

282 (ix) National and local advertising concerning its  
283 use;

284 (x) The manner in which the object is displayed  
285 for sale;

286 (xi) Whether the owner or anyone in control of the  
287 object is a legitimate supplier of like or related items to the  
288 community, such as a licensed distributor or dealer of tobacco  
289 products;

290 (xii) Direct or circumstantial evidence of the  
291 ratio of sales of the object(s) to the total sales of the business  
292 enterprise;

293 (xiii) The existence and scope of legitimate uses  
294 for the object in the community;

295 (xiv) Expert testimony concerning its use.



296           (x) "Person" means individual, corporation, government  
297 or governmental subdivision or agency, business trust, estate,  
298 trust, partnership or association, or any other legal entity.

299           (y) "Poppy straw" means all parts, except the seeds, of  
300 the opium poppy, after mowing.

301           (z) "Practitioner" means:

302                   (1) A physician, dentist, veterinarian, scientific  
303 investigator, or other person licensed, registered or otherwise  
304 permitted to distribute, dispense, conduct research with respect  
305 to or to administer a controlled substance in the course of  
306 professional practice or research in this state; and

307                   (2) A pharmacy, hospital or other institution  
308 licensed, registered, or otherwise permitted to distribute,  
309 dispense, conduct research with respect to or to administer a  
310 controlled substance in the course of professional practice or  
311 research in this state.

312           (aa) "Production" includes the manufacture, planting,  
313 cultivation, growing or harvesting of a controlled substance or a  
314 controlled substance analogue.

315           (bb) "Sale," "sell" or "selling" means the actual,  
316 constructive or attempted transfer or delivery of a controlled  
317 substance or a controlled substance analogue for remuneration,  
318 whether in money or other consideration.

319           (cc) "State," when applied to a part of the United  
320 States, includes any state, district, commonwealth, territory,  
321 insular possession thereof, and any area subject to the legal  
322 authority of the United States of America.

323           (dd) "Ultimate user" means a person who lawfully  
324 possesses a controlled substance for his own use or for the use of  
325 a member of his household or for administering to an animal owned  
326 by him or by a member of his household.

327           **SECTION 2.** Section 41-29-139, Mississippi Code of 1972, is  
328 amended as follows:



329           41-29-139. (a) Except as authorized by this article, it is  
330 unlawful for any person knowingly or intentionally:

331           (1) To sell, barter, transfer, manufacture, distribute,  
332 dispense or possess with intent to sell, barter, transfer,  
333 manufacture, distribute or dispense, a controlled substance or  
334 controlled substance analogue; or

335           (2) To create, sell, barter, transfer, distribute,  
336 dispense or possess with intent to create, sell, barter, transfer,  
337 distribute or dispense, a counterfeit substance.

338           (b) Except as otherwise provided in subsections (f) and (g)  
339 of this section or in Section 41-29-142, any person who violates  
340 subsection (a) of this section shall be sentenced as follows:

341           (1) In the case of controlled substances classified in  
342 Schedule I or II, as set out in Sections 41-29-113 and 41-29-115,  
343 any drug product containing gamma-hydroxybutyric acid as listed in  
344 Section 41-29-117, or any controlled substance analogue as defined  
345 in Section 41-29-105, except one (1) ounce or less of marihuana,  
346 and except a first offender as defined in Section 41-29-149(e) who  
347 violates subsection (a) of this section with respect to less than  
348 one (1) kilogram but more than one (1) ounce of marihuana, such  
349 person may, upon conviction, be imprisoned for not more than  
350 thirty (30) years and shall be fined not less than Five Thousand  
351 Dollars (\$5,000.00) nor more than One Million Dollars  
352 (\$1,000,000.00), or both;

353           (2) In the case of a first offender who violates  
354 subsection (a) of this section with an amount less than one (1)  
355 kilogram but more than one (1) ounce of marihuana as classified in  
356 Schedule I, as set out in Section 41-29-113, such person is guilty  
357 of a felony and upon conviction may be imprisoned for not more  
358 than twenty (20) years or fined not more than Thirty Thousand  
359 Dollars (\$30,000.00), or both;

360           (3) In the case of one (1) ounce or less of marihuana,  
361 such person may, upon conviction, be imprisoned for not more than



362 three (3) years or fined not more than Three Thousand Dollars  
363 (\$3,000.00), or both;

364 (4) Except as otherwise provided, in the case of  
365 controlled substances classified in Schedules III and IV, as set  
366 out in Sections 41-29-117 and 41-29-119, such person may, upon  
367 conviction, be imprisoned for not more than twenty (20) years and  
368 shall be fined not less than One Thousand Dollars (\$1,000.00) nor  
369 more than Two Hundred Fifty Thousand Dollars (\$250,000.00), or  
370 both; and

371 (5) In the case of controlled substances classified in  
372 Schedule V, as set out in Section 41-29-121, such person may, upon  
373 conviction, be imprisoned for not more than ten (10) years and  
374 shall be fined not less than One Thousand Dollars (\$1,000.00) nor  
375 more than Fifty Thousand Dollars (\$50,000.00), or both.

376 (c) It is unlawful for any person knowingly or intentionally  
377 to possess any controlled substance or controlled substance  
378 analogue unless the substance was obtained directly from, or  
379 pursuant to, a valid prescription or order of a practitioner while  
380 acting in the course of his professional practice, or except as  
381 otherwise authorized by this article. The penalties for any  
382 violation of this subsection (c) with respect to a controlled  
383 substance classified in Schedule I, II, III, IV or V, as set out  
384 in Section 41-29-113, 41-29-115, 41-29-117, 41-29-119 or  
385 41-29-121, including marihuana, shall be based on dosage unit as  
386 defined herein or the weight of the controlled substance as set  
387 forth herein as appropriate:

388 "Dosage unit (d.u.)" means a tablet or capsule, or in the  
389 case of a liquid solution, one (1) milliliter. In the case of  
390 lysergic acid diethylamide (LSD) the term, "dosage unit" means a  
391 stamp, square, dot, microdot, tablet or capsule of a controlled  
392 substance.

393 For any controlled substance or controlled substance analogue  
394 that does not fall within the definition of the term "dosage



395 unit," the penalties shall be based upon the weight of the  
396 controlled substance or controlled substance analogue.

397 The weight set forth refers to the entire weight of any  
398 mixture or substance containing a detectable amount of the  
399 controlled substance or controlled substance analogue.

400 If a mixture or substance contains more than one (1)  
401 controlled substance or controlled substance analogue, the weight  
402 of the mixture or substance is assigned to the controlled  
403 substance or controlled substance analogue that results in the  
404 greater punishment.

405 Any person who violates this subsection with respect to:

406 (1) A controlled substance classified in Schedule I or  
407 II, GHB as listed in Schedule III, or a controlled substance  
408 analogue except marihuana, in the following amounts shall be  
409 charged and sentenced as follows:

410 (A) Less than one-tenth (0.1) gram or one (1)  
411 dosage unit or less may be charged as a misdemeanor or felony. If  
412 charged by indictment as a felony: by imprisonment not less than  
413 one (1) nor more than four (4) years and a fine not more than Ten  
414 Thousand Dollars (\$10,000.00). If charged as a misdemeanor: by  
415 imprisonment for up to one (1) year and a fine not more than One  
416 Thousand Dollars (\$1,000.00).

417 (B) One-tenth (0.1) gram but less than two (2)  
418 grams or two (2) dosage units but less than ten (10) dosage units,  
419 by imprisonment for not less than two (2) years nor more than  
420 eight (8) years and a fine of not more than Fifty Thousand Dollars  
421 (\$50,000.00).

422 (C) Two (2) grams but less than ten (10) grams or  
423 ten (10) dosage units but less than twenty (20) dosage units, by  
424 imprisonment for not less than four (4) years nor more than  
425 sixteen (16) years and a fine of not more than Two Hundred Fifty  
426 Thousand Dollars (\$250,000.00).



427                   (D) Ten (10) grams but less than thirty (30) grams  
428 or twenty (20) dosage units but not more than forty (40) dosage  
429 units, by imprisonment for not less than six (6) years nor more  
430 than twenty-four (24) years and a fine of not more than Five  
431 Hundred Thousand Dollars (\$500,000.00).

432                   (E) Thirty (30) grams or more or forty (40) dosage  
433 units or more, by imprisonment for not less than ten (10) years  
434 nor more than thirty (30) years and a fine of not more than One  
435 Million Dollars (\$1,000,000.00).

436                   (2) Marihuana in the following amounts shall be charged  
437 and sentenced as follows:

438                   (A) Thirty (30) grams or less by a fine of not  
439 less than One Hundred Dollars (\$100.00) nor more than Two Hundred  
440 Fifty Dollars (\$250.00). The provisions of this paragraph shall  
441 be enforceable by summons, provided the offender provides proof of  
442 identity satisfactory to the arresting officer and gives written  
443 promise to appear in court satisfactory to the arresting officer,  
444 as directed by the summons. A second conviction under this  
445 section within two (2) years shall be punished by a fine of Two  
446 Hundred Fifty Dollars (\$250.00) and not less than five (5) days  
447 nor more than sixty (60) days in the county jail and mandatory  
448 participation in a drug education program, approved by the  
449 Division of Alcohol and Drug Abuse of the State Department of  
450 Mental Health, unless the court enters a written finding that such  
451 drug education program is inappropriate. A third or subsequent  
452 conviction under this section within two (2) years is a  
453 misdemeanor punishable by a fine of not less than Two Hundred  
454 Fifty Dollars (\$250.00) nor more than Five Hundred Dollars  
455 (\$500.00) and confinement for not less than five (5) days nor more  
456 than six (6) months in the county jail. Upon a first or second  
457 conviction under this section the courts shall forward a report of  
458 such conviction to the Mississippi Bureau of Narcotics which shall  
459 make and maintain a private, nonpublic record for a period not to



460 exceed two (2) years from the date of conviction. The private,  
461 nonpublic record shall be solely for the use of the courts in  
462 determining the penalties which attach upon conviction under this  
463 section and shall not constitute a criminal record for the purpose  
464 of private or administrative inquiry and the record of each  
465 conviction shall be expunged at the end of the period of two (2)  
466 years following the date of such conviction;

467 (B) Additionally, a person who is the operator of  
468 a motor vehicle, who possesses on his person or knowingly keeps or  
469 allows to be kept in a motor vehicle within the area of the  
470 vehicle normally occupied by the driver or passengers, more than  
471 one (1) gram, but not more than thirty (30) grams, of marihuana is  
472 guilty of a misdemeanor and upon conviction may be fined not more  
473 than One Thousand Dollars (\$1,000.00) and confined for not more  
474 than ninety (90) days in the county jail. For the purposes of  
475 this subsection, such area of the vehicle shall not include the  
476 trunk of the motor vehicle or the areas not normally occupied by  
477 the driver or passengers if the vehicle is not equipped with a  
478 trunk. A utility or glove compartment shall be deemed to be  
479 within the area occupied by the driver and passengers;

480 (C) More than thirty (30) grams but less than two  
481 hundred fifty (250) grams may be fined not more than One Thousand  
482 Dollars (\$1,000.00), or confined in the county jail for not more  
483 than one (1) year, or both; or fined not more than Three Thousand  
484 Dollars (\$3,000.00), or imprisoned in the State Penitentiary for  
485 not more than three (3) years, or both;

486 (D) Two hundred fifty (250) grams but less than  
487 five hundred (500) grams, by imprisonment for not less than two  
488 (2) years nor more than eight (8) years and by a fine of not more  
489 than Fifty Thousand Dollars (\$50,000.00);

490 (E) Five hundred (500) grams but less than one (1)  
491 kilogram, by imprisonment for not less than four (4) years nor



492 more than sixteen (16) years and a fine of less than Two Hundred  
493 Fifty Thousand Dollars (\$250,000.00);

494 (F) One (1) kilogram but less than five (5)  
495 kilograms, by imprisonment for not less than six (6) years nor  
496 more than twenty-four (24) years and a fine of not more than Five  
497 Hundred Thousand Dollars (\$500,000.00);

498 (G) Five (5) kilograms or more, by imprisonment  
499 for not less than ten (10) years nor more than thirty (30) years  
500 and a fine of not more than One Million Dollars (\$1,000,000.00).

501 (3) Except as otherwise provided, a controlled  
502 substance classified in Schedule III, IV or V as set out in  
503 Sections 41-29-117 through 41-29-121, upon conviction, may be  
504 punished as follows:

505 (A) Less than fifty (50) grams or less than one  
506 hundred (100) dosage units is a misdemeanor and punishable by not  
507 more than one (1) year and a fine of not more than One Thousand  
508 Dollars (\$1,000.00).

509 (B) Fifty (50) grams but less than one hundred  
510 fifty (150) grams or one hundred (100) dosage units but less than  
511 five hundred (500) dosage units, by imprisonment for not less than  
512 one (1) year nor more than four (4) years and a fine of not more  
513 than Ten Thousand Dollars (\$10,000.00).

514 (C) One hundred fifty (150) grams but less than  
515 three hundred (300) grams or five hundred (500) dosage units but  
516 less than one thousand (1,000) dosage units, by imprisonment for  
517 not less than two (2) years nor more than eight (8) years and a  
518 fine of not more than Fifty Thousand Dollars (\$50,000.00).

519 (D) Three hundred (300) grams but less than five  
520 hundred (500) grams or one thousand (1,000) dosage units but less  
521 than two thousand five hundred (2,500) dosage units, by  
522 imprisonment for not less than four (4) years nor more than  
523 sixteen (16) years and a fine of not more than Two Hundred Fifty  
524 Thousand Dollars (\$250,000.00).





525                   (E) Five hundred (500) grams or more or two  
526 thousand five hundred (2,500) dosage units or more, by  
527 imprisonment for not less than six (6) years nor more than  
528 twenty-four (24) years and a fine of not more than Five Hundred  
529 Thousand Dollars (\$500,000.00).

530           (d) (1) It is unlawful for a person who is not authorized  
531 by the State Board of Medical Licensure, State Board of Pharmacy,  
532 or other lawful authority to use, or to possess with intent to  
533 use, paraphernalia to plant, propagate, cultivate, grow, harvest,  
534 manufacture, compound, convert, produce, process, prepare, test,  
535 analyze, pack, repack, store, contain, conceal, inject, ingest,  
536 inhale or otherwise introduce into the human body a controlled  
537 substance or controlled substance analogue in violation of the  
538 Uniform Controlled Substances Law. Any person who violates this  
539 subsection is guilty of a misdemeanor and upon conviction may be  
540 confined in the county jail for not more than six (6) months, or  
541 fined not more than Five Hundred Dollars (\$500.00), or both;  
542 however, no person shall be charged with a violation of this  
543 subsection when such person is also charged with the possession of  
544 one (1) ounce or less of marihuana under subsection (c) (2) (A) of  
545 this section.

546           (2) It is unlawful for any person to deliver, sell,  
547 possess with intent to deliver or sell, or manufacture with intent  
548 to deliver or sell, paraphernalia, knowing, or under circumstances  
549 where one reasonably should know, that it will be used to plant,  
550 propagate, cultivate, grow, harvest, manufacture, compound,  
551 convert, produce, process, prepare, test, analyze, pack, repack,  
552 store, contain, conceal, inject, ingest, inhale, or otherwise  
553 introduce into the human body a controlled substance or controlled  
554 substance analogue in violation of the Uniform Controlled  
555 Substances Law. Any person who violates this subsection is guilty  
556 of a misdemeanor and upon conviction may be confined in the county



557 jail for not more than six (6) months, or fined not more than Five  
558 Hundred Dollars (\$500.00), or both.

559 (3) Any person eighteen (18) years of age or over who  
560 violates subsection (d)(2) of this section by delivering or  
561 selling paraphernalia to a person under eighteen (18) years of age  
562 who is at least three (3) years his junior is guilty of a  
563 misdemeanor and upon conviction may be confined in the county jail  
564 for not more than one (1) year, or fined not more than One  
565 Thousand Dollars (\$1,000.00), or both.

566 (4) It is unlawful for any person to place in any  
567 newspaper, magazine, handbill, or other publication any  
568 advertisement, knowing, or under circumstances where one  
569 reasonably should know, that the purpose of the advertisement, in  
570 whole or in part, is to promote the sale of objects designed or  
571 intended for use as paraphernalia. Any person who violates this  
572 subsection is guilty of a misdemeanor and upon conviction may be  
573 confined in the county jail for not more than six (6) months, or  
574 fined not more than Five Hundred Dollars (\$500.00), or both.

575 (e) It shall be unlawful for any physician practicing  
576 medicine in this state to prescribe, dispense or administer any  
577 amphetamine or amphetamine-like anorectics and/or central nervous  
578 system stimulants classified in Schedule II, pursuant to Section  
579 41-29-115, for the exclusive treatment of obesity, weight control  
580 or weight loss. Any person who violates this subsection, upon  
581 conviction, is guilty of a misdemeanor and may be confined for a  
582 period not to exceed six (6) months, or fined not more than One  
583 Thousand Dollars (\$1,000.00), or both.

584 (f) Except as otherwise authorized in this article, any  
585 person twenty-one (21) years of age or older who knowingly sells,  
586 barter, transfers, manufactures, distributes or dispenses during  
587 any twelve (12) consecutive month period: (i) ten (10) pounds or  
588 more of marihuana; (ii) two (2) ounces or more of heroin; (iii)  
589 two (2) or more ounces of cocaine or of any mixture containing



590 cocaine as described in Section 41-29-105(s), Mississippi Code of  
591 1972; or (iv) one hundred (100) or more dosage units of morphine,  
592 Demerol or Dilaudid, shall be guilty of a felony and, upon  
593 conviction thereof, shall be sentenced to life imprisonment and  
594 such sentence shall not be reduced or suspended nor shall such  
595 person be eligible for probation or parole, the provisions of  
596 Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, Mississippi Code  
597 of 1972, to the contrary notwithstanding. The provisions of this  
598 subsection shall not apply to any person who furnishes information  
599 and assistance to the bureau or its designee which, in the opinion  
600 of the trial judge objectively should or would have aided in the  
601 arrest or prosecution of others who violate this subsection. The  
602 accused shall have adequate opportunity to develop and make a  
603 record of all information and assistance so furnished.

604 (g) (1) Any person trafficking in controlled substances or  
605 controlled substance analogues shall be guilty of a felony and  
606 upon conviction shall be imprisoned for a term of thirty (30)  
607 years and such sentence shall not be reduced or suspended nor  
608 shall such person be eligible for probation or parole, the  
609 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33,  
610 Mississippi Code of 1972, to the contrary notwithstanding and  
611 shall be fined not less than Five Thousand Dollars (\$5,000.00) nor  
612 more than One Million Dollars (\$1,000,000.00).

613 (2) "Trafficking in controlled substances or controlled  
614 substance analogues" as used herein means to engage in three (3)  
615 or more component offenses within any twelve (12) consecutive  
616 month period where at least two (2) of the component offenses  
617 occurred in different counties. A component offense is any act  
618 which would constitute a violation of subsection (a) of this  
619 section. Prior convictions shall not be used as component  
620 offenses to establish the charge of trafficking in controlled  
621 substances or controlled substance analogues.



622           (3) The charge of trafficking in controlled substances  
623 or controlled substance analogues shall be set forth in one (1)  
624 count of an indictment with each of the component offenses alleged  
625 therein and it may be charged and tried in any county where a  
626 component offense occurred. An indictment for trafficking in  
627 controlled substances or controlled substance analogues may also  
628 be returned by the State Grand Jury of Mississippi provided at  
629 least two (2) of the component offenses occurred in different  
630 circuit court districts.

631           **SECTION 3.** Section 97-3-97, Mississippi Code of 1972, is  
632 amended as follows:

633           97-3-97. For purposes of Sections 97-3-95 through 97-3-103  
634 the following words shall have the meaning ascribed herein unless  
635 the context otherwise requires:

636           (a) "Sexual penetration" includes cunnilingus,  
637 fellatio, buggery or pederasty, any penetration of the genital or  
638 anal openings of another person's body by any part of a person's  
639 body, and insertion of any object into the genital or anal  
640 openings of another person's body.

641           (b) A "mentally defective person" is one who suffers  
642 from a mental disease, defect or condition which renders that  
643 person temporarily or permanently incapable of knowing the nature  
644 and quality of his or her conduct.

645           (c) A "mentally incapacitated person" is one rendered  
646 incapable of knowing or controlling his or her conduct, or  
647 incapable of resisting an act due to the influence of any drug,  
648 controlled substance, controlled substance analogue or other  
649 substance administered to that person without his or her consent.

650           (d) A "physically helpless person" is one who is  
651 unconscious or one who for any other reason is physically  
652 incapable of communicating an unwillingness to engage in an act.

653           **SECTION 4.** Section 41-29-313, Mississippi Code of 1972, is  
654 amended as follows:



655 41-29-313. (1) (a) Except as authorized in this section,  
656 it is unlawful for any person to knowingly or intentionally:

657 (i) Purchase, possess, transfer or distribute any  
658 two (2) or more of the listed \* \* \* chemicals or drugs in any  
659 amount with the intent to unlawfully manufacture a controlled  
660 substance or controlled substance analogue;

661 (ii) Purchase, possess, transfer or distribute any  
662 two (2) or more of the listed \* \* \* chemicals or drugs in any  
663 amount, knowing, or under circumstances where one reasonably  
664 should know, that the listed precursor chemical or drug will be  
665 used to unlawfully manufacture a controlled substance or  
666 controlled substance analogue;

667 (b) Any person who violates this subsection (1), upon  
668 conviction, is guilty of a felony and may be imprisoned for a  
669 period not to exceed thirty (30) years and shall be fined not less  
670 than Five Thousand Dollars (\$5,000.00) nor more than One Million  
671 Dollars (\$1,000,000.00), or both fine and imprisonment.

672 (2) (a) It is unlawful for any person to knowingly or  
673 intentionally steal or unlawfully take or carry away any amount of  
674 anhydrous ammonia.

675 (b) It is unlawful for any person to purchase, possess,  
676 transfer or distribute any amount of anhydrous ammonia, knowing,  
677 or under circumstances where one reasonably should know, that the  
678 anhydrous ammonia will be used to unlawfully manufacture a  
679 controlled substance.

680 (c) It is unlawful for any person to purchase, possess,  
681 transfer or distribute two hundred fifty (250) dosage units or  
682 fifteen (15) grams in weight (dosage unit and weight as defined in  
683 Section 41-29-139) of pseudoephedrine or ephedrine, knowing, or  
684 under circumstances where one reasonably should know, that the  
685 pseudoephedrine or ephedrine will be used to unlawfully  
686 manufacture a controlled substance.



687 (d) Any person who violates this subsection (2), upon  
688 conviction, is guilty of a felony and may be imprisoned for a  
689 period not to exceed five (5) years and shall be fined not more  
690 than Five Thousand Dollars (\$5,000.00), or both fine and  
691 imprisonment.

692 (3) The terms "listed \* \* \* drug or chemical" means a \* \* \*  
693 drug or chemical that, in addition to legitimate uses, may be used  
694 as a controlled substance analogue or in manufacturing a  
695 controlled substance or controlled substance analogue in violation  
696 of this chapter. Such term includes any salt, optical isomer or  
697 salt of an optical isomer, whenever the existence of such salt,  
698 optical isomer or salt of optical isomer is possible within the  
699 specific chemical designation. The chemicals or drugs listed in  
700 this section are included by whatever official, common, usual,  
701 chemical or trade name designated. The following are  
702 "listed \* \* \* drugs or chemicals":

- 703 (a) Ether;
- 704 (b) Anhydrous ammonia;
- 705 (c) Pseudoephedrine;
- 706 (d) Ephedrine;
- 707 (e) Denatured alcohol (Ethanol);
- 708 (f) Lithium;
- 709 (g) Freon;
- 710 (h) Hydrochloric acid;
- 711 (i) Hydriodic acid;
- 712 (j) Red phosphorous;
- 713 (k) Iodine;
- 714 (l) Sodium metal;
- 715 (m) Muriatic acid;
- 716 (n) Sulfuric acid;
- 717 (o) Hydrogen chloride gas;
- 718 (p) Potassium;
- 719 (q) Methanol;



720 (r) Isopropyl alcohol;  
721 (s) Hexanes;  
722 (t) Heptanes;  
723 (u) Acetone;  
724 (v) Toluene;  
725 (w) Xylenes;  
726 (x) Gamma-butyrolactone, including butyrolactone;  
727 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;  
728 dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;  
729 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone;  
730 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone  
731 with Chemical Abstract Service number (96-48-0).

732 (y) 1,4-butanediol, including butanediol;  
733 butane-1,4-diol; 1,4-butylene glycol; butylene glycol;  
734 1,4-dihydroxybutane; 1,4-tetramethylene glycol; tetramethylene  
735 glycol; tetramethylene 1,4-diol with Chemical Abstract Service  
736 number (110-63-4).

737 (4) Nothing in this section shall preclude any farmer from  
738 storing or using any of the listed \* \* \* drugs or chemicals listed  
739 in this section in the normal pursuit of farming operations.

740 (5) Nothing in this section shall preclude any wholesaler,  
741 retailer or pharmacist from possessing or selling the listed \* \* \*  
742 drugs or chemicals in the normal pursuit of business.

743 (6) Nothing in this section shall preclude any manufacturer,  
744 producer, distributor, transporter or retailer from possessing,  
745 using, selling or storing any of the listed drugs or chemicals in  
746 the normal pursuit of business and not intended for human  
747 consumption.

748 **SECTION 5.** Section 41-29-127, Mississippi Code of 1972, is  
749 amended as follows:

750 41-29-127. (a) The State Board of Pharmacy shall register  
751 an applicant to manufacture or distribute controlled substances  
752 included in Sections 41-29-113 through 41-29-121 unless it



753 determines that the issuance of that registration would be  
754 inconsistent with the public interest. In determining the public  
755 interest, the State Board of Pharmacy shall consider the following  
756 factors:

757 (1) Maintenance of effective controls against diversion  
758 of controlled substances into other than legitimate medical,  
759 scientific, or industrial channels;

760 (2) Compliance with applicable state and local law;

761 (3) Any convictions of the applicant under any federal  
762 and state laws relating to any controlled substance or controlled  
763 substance analogue;

764 (4) Past experience in the manufacture or distribution  
765 of controlled substances and the existence in the applicant's  
766 establishment of effective controls against diversion;

767 (5) Furnishing by the applicant of false or fraudulent  
768 material in any application filed under this article;

769 (6) Suspension or revocation of the applicant's federal  
770 registration to manufacture, distribute, or dispense controlled  
771 substances as authorized by federal law; and

772 (7) Any other factors relevant to and consistent with  
773 the public health and safety.

774 (b) Registration under subsection (a) does not entitle a  
775 registrant to manufacture and distribute controlled substances in  
776 Schedule I or II, as set out in Sections 41-29-113 and 41-29-115,  
777 other than those specified in the registration.

778 (c) Practitioners must be registered to dispense any  
779 controlled substances or to conduct research with controlled  
780 substances in Schedules II through V, as set out in Sections  
781 41-29-115 through 41-29-121, if they are authorized to dispense or  
782 conduct research under the law of this state. The State Board of  
783 Pharmacy need not require separate registration under this section  
784 for practitioners engaging in research with nonnarcotic controlled  
785 substances in the said Schedules II through V where the registrant





786 is already registered therein in another capacity. Practitioners  
787 registered under federal law to conduct research with Schedule I  
788 substances, as set out in Section 41-29-113, may conduct research  
789 with Schedule I substances within this state upon furnishing the  
790 State Board of Health evidence of that federal registration.

791 (d) Compliance by manufacturers and distributors with the  
792 provisions of the federal law respecting registration (excluding  
793 fees) entitles them to be registered under this article.

794 **SECTION 6.** Section 41-29-129, Mississippi Code of 1972, is  
795 amended as follows:

796 41-29-129. (1) A registration to manufacture, distribute,  
797 or dispense a controlled substance may be suspended or revoked by  
798 the State Board of Pharmacy upon a finding that the registrant:

799 (a) Has willfully furnished false or fraudulent  
800 material information in any application filed under this article;

801 (b) Has been convicted of a felony within the past five  
802 (5) years and has not been pardoned and his citizenship restored  
803 under any state or federal law relating to any controlled  
804 substance or controlled substance analogue;

805 (c) Has had his federal registration suspended or  
806 revoked to manufacture, distribute or dispense controlled  
807 substances;

808 (d) Has violated or failed to comply with any duly  
809 promulgated regulation of the State Board of Pharmacy which  
810 reflects adversely on the registrant's reliability and integrity  
811 with respect to controlled substances;

812 (e) Has violated the Uniform Controlled Substances Law  
813 of the State of Mississippi;

814 (f) Has violated any duly promulgated rule or  
815 regulation of the State Board of Pharmacy pertaining to the  
816 manufacture, distribution, storage, possession, control or  
817 dispensing of controlled substances;



818 (g) Has been convicted of a violation relating to any  
819 substance defined in this article as a controlled substance.

820 (2) The State Board of Pharmacy may limit revocation or  
821 suspension of a registration to the particular controlled  
822 substance with respect to which grounds for revocation or  
823 suspension exist.

824 (3) If the board or the State Board of Pharmacy suspends or  
825 revokes a registration, all controlled substances owned or  
826 possessed by the registrant at the time of suspension or the  
827 effective date of the revocation order may be placed under seal.  
828 No disposition may be made of substances under seal until the time  
829 for taking an appeal has elapsed or until all appeals have been  
830 concluded unless a court, upon application therefor, orders the  
831 sale of perishable substances and the deposit of the proceeds of  
832 the sale with the court. Upon a revocation order becoming final,  
833 all controlled substances may be forfeited to the state. All  
834 state professional or business licensing agencies shall promptly  
835 notify the bureau of all orders of suspensions or revocations  
836 which are the result of drug violations or drug-related matters.

837 (4) The bureau shall promptly notify the federal Bureau of  
838 Narcotics and dangerous drugs of all orders suspending or revoking  
839 registration and all forfeitures of controlled substances.

840 **SECTION 7.** Section 41-29-142, Mississippi Code of 1972, is  
841 amended as follows:

842 41-29-142. (1) Except as provided in subsection (f) of  
843 Section 41-29-139 or in subsection (2) of this section, any person  
844 who violates or conspires to violate Section 41-29-139(a)(1),  
845 Mississippi Code of 1972, by selling, bartering, transferring,  
846 manufacturing, distributing, dispensing or possessing with intent  
847 to sell, barter, transfer, manufacture, distribute or dispense, a  
848 controlled substance or controlled substance analogue, in or on,  
849 or within one thousand five hundred (1,500) feet of, a building or  
850 outbuilding which is all or part of a public or private



851 elementary, vocational or secondary school, or any church, public  
852 park, ballpark, public gymnasium, youth center or movie theater or  
853 within one thousand (1,000) feet of, the real property comprising  
854 such public or private elementary, vocational or secondary school,  
855 or any church, public park, ballpark, public gymnasium, youth  
856 center or movie theater shall, upon conviction thereof, be  
857 punished by the term of imprisonment or a fine, or both, of that  
858 authorized by Section 41-29-139(b) and, in the discretion of the  
859 court, may be punished by a term of imprisonment or a fine, or  
860 both, of up to twice that authorized by Section 41-29-139(b).

861 (2) Except as otherwise provided in subsection (f) of  
862 Section 41-29-139, any person who violates or conspires to violate  
863 Section 41-29-139(a)(1), Mississippi Code of 1972, by selling,  
864 bartering, transferring, manufacturing, distributing, dispensing  
865 or possessing with intent to sell, barter, transfer, manufacture,  
866 distribute or dispense, a controlled substance or controlled  
867 substance analogue, in or on, or within one thousand five hundred  
868 (1,500) feet of, a building or outbuilding which is all or part of  
869 a public or private elementary, vocational or secondary school, or  
870 any church, public park, ballpark, public gymnasium, youth center  
871 or movie theater or within one thousand (1,000) feet of, the real  
872 property comprising such public or private elementary, vocational  
873 or secondary school, or any church, public park, ballpark, public  
874 gymnasium, youth center or movie theater after a prior conviction  
875 under subsection (1) of this section has become final, shall, upon  
876 conviction thereof, be punished by a term of imprisonment of not  
877 less than three (3) years and not more than life, and in the  
878 discretion of the court, may be punished by a term of imprisonment  
879 of up to three (3) times that authorized by Section 41-29-139(b),  
880 for a first offense, or a fine of up to three (3) times that  
881 authorized by Section 41-29-139(b), for a first offense, or both.

882 **SECTION 8.** Section 41-29-144, Mississippi Code of 1972, is  
883 amended as follows:



884 41-29-144. (1) It is unlawful for any person knowingly or  
885 intentionally to acquire or obtain possession or attempt to  
886 acquire or obtain possession of a controlled substance or a  
887 controlled substance analogue by misrepresentation, fraud,  
888 forgery, deception or subterfuge.

889 (2) It is unlawful for any person knowingly or intentionally  
890 to possess, sell, deliver, transfer or attempt to possess, sell,  
891 deliver or transfer a false, fraudulent or forged prescription of  
892 a practitioner.

893 (3) Any person who violates this section is guilty of a  
894 crime and upon conviction shall be confined for not less than one  
895 (1) year nor more than five (5) years and fined not more than One  
896 Thousand Dollars (\$1,000.00) or both.

897 **SECTION 9.** Section 41-29-145, Mississippi Code of 1972, is  
898 amended as follows:

899 41-29-145. Any person twenty-one (21) years of age or over  
900 who violates subsections (a) and (b) of Section 41-29-139 with  
901 reference to a controlled substance listed in Schedules I, II,  
902 III, IV and V as set out in Sections 41-29-113 through 41-29-121  
903 or a controlled substance analogue, inclusive, to a person under  
904 twenty-one (21) years of age may be punished by the fine  
905 authorized by Section 41-29-139, or by a term of imprisonment or  
906 confinement up to twice that authorized by said Section 41-29-139,  
907 or both, or he may be punished as provided in Section 41-29-142.

908 **SECTION 10.** Section 41-29-146, Mississippi Code of 1972, is  
909 amended as follows:

910 41-29-146. (1) It shall be unlawful for any person to sell,  
911 produce, manufacture or possess with the intent to sell, produce,  
912 manufacture, distribute or dispense any substance which is falsely  
913 represented to be a controlled substance or controlled substance  
914 analogue or which is falsely represented to be a counterfeit  
915 substance as defined in Section 41-29-105.



916 (2) The provisions of this section shall not apply to a law  
917 enforcement officer acting in the course and scope of his  
918 employment or to a medical practitioner, pharmacist or other  
919 person authorized to dispense or administer controlled substances.

920 (3) Any person who violates this section shall, upon  
921 conviction, be guilty of a misdemeanor and may be punished by  
922 imprisonment in the county jail for not more than one (1) year or  
923 by a fine of not more than One Thousand Dollars (\$1,000.00) or by  
924 both.

925 **SECTION 11.** Section 41-29-152, Mississippi Code of 1972, is  
926 amended as follows:

927 41-29-152. (1) Any person who violates Section 41-29-313 or  
928 who violates Section 41-29-139 with reference to a controlled  
929 substance listed in Schedule I, II, III, IV or V as set out in  
930 Sections 41-29-113 through 41-29-121, Mississippi Code of 1972, or  
931 a controlled substance analogue, inclusive, and has in his  
932 possession any firearm, either at the time of the commission of  
933 the offense or at the time any arrest is made, may be punished by  
934 a fine up to twice that authorized by Section 41-29-139 or  
935 41-29-313, or by a term of imprisonment or confinement up to twice  
936 that authorized by Section 41-29-139 or 41-29-313, or both.

937 (2) "Firearm" means any weapon, including a starter gun,  
938 which will or is designed to or may readily be converted to expel  
939 a projectile by the action of an explosive.

940 **SECTION 12.** Section 41-29-153, Mississippi Code of 1972, is  
941 amended as follows:

942 41-29-153. (a) The following are subject to forfeiture:

943 (1) All controlled substances or controlled substance  
944 analogues which have been manufactured, distributed, dispensed or  
945 acquired in violation of this article;

946 (2) All raw materials, products and equipment of any  
947 kind which are used, or intended for use, in manufacturing,  
948 compounding, processing, delivering, importing, or exporting any



949 controlled substance or controlled substance analogues in  
950 violation of this article;

951 (3) All property which is used, or intended for use, as  
952 a container for property described in paragraph (1) or (2) of this  
953 section;

954 (4) All conveyances, including aircraft, vehicles or  
955 vessels, which are used, or intended for use, to transport, or in  
956 any manner to facilitate the transportation, sale, receipt,  
957 possession or concealment of property described in paragraph (1)  
958 or (2) of this section, however:

959 A. No conveyance used by any person as a common  
960 carrier in the transaction of business as a common carrier is  
961 subject to forfeiture under this section unless it appears that  
962 the owner or other person in charge of the conveyance is a  
963 consenting party or privy to a violation of this article;

964 B. No conveyance is subject to forfeiture under  
965 this section by reason of any act or omission proved by the owner  
966 thereof to have been committed or omitted without his knowledge or  
967 consent; if the confiscating authority has reason to believe that  
968 the conveyance is a leased or rented conveyance, then the  
969 confiscating authority shall notify the owner of the conveyance  
970 within five (5) days of the confiscation;

971 C. A forfeiture of a conveyance encumbered by a  
972 bona fide security interest is subject to the interest of the  
973 secured party if he neither had knowledge of nor consented to the  
974 act or omission;

975 D. A conveyance is not subject to forfeiture for a  
976 violation of Section 41-29-139(c)(2)(A), (B) or (C);

977 (5) All money, deadly weapons, books, records, and  
978 research products and materials, including formulas, microfilm,  
979 tapes and data which are used, or intended for use, in violation  
980 of this article;



981                   (6) All drug paraphernalia as defined in Section  
982 41-29-105(v); and

983                   (7) Everything of value, including real estate,  
984 furnished, or intended to be furnished, in exchange for a  
985 controlled substance in violation of this article, all proceeds  
986 traceable to such an exchange, and all monies, negotiable  
987 instruments, businesses or business investments, securities, and  
988 other things of value used, or intended to be used, to facilitate  
989 any violation of this article. All monies, coin and currency  
990 found in close proximity to forfeitable controlled substances, to  
991 forfeitable drug manufacturing or distributing paraphernalia, or  
992 to forfeitable records of the importation, manufacture or  
993 distribution of controlled substances are presumed to be  
994 forfeitable under this paragraph; the burden of proof is upon  
995 claimants of the property to rebut this presumption.

996                   A. No property shall be forfeited under the  
997 provisions of paragraph (a)(7) of this section, to the extent of  
998 the interest of an owner, by reason of any act or omission  
999 established by him to have been committed or omitted without his  
1000 knowledge or consent.

1001                   B. Neither personal property encumbered by a bona  
1002 fide security interest nor real estate encumbered by a bona fide  
1003 mortgage, deed of trust, lien or encumbrance shall be forfeited  
1004 under the provisions of paragraph (a)(7) of this section, to the  
1005 extent of the interest of the secured party or the interest of the  
1006 mortgagee, holder of a deed of trust, lien or encumbrance by  
1007 reason of any act or omission established by him to have been  
1008 committed or omitted without his knowledge or consent.

1009                   (b) Property subject to forfeiture may be seized by the  
1010 bureau, local law enforcement officers, enforcement officers of  
1011 the Mississippi Department of Transportation, highway patrolmen,  
1012 the board, or the State Board of Pharmacy upon process issued by



1013 any appropriate court having jurisdiction over the property.

1014 Seizure without process may be made if:

1015 (1) The seizure is incident to an arrest or a search  
1016 under a search warrant or an inspection under an administrative  
1017 inspection warrant;

1018 (2) The property subject to seizure has been the  
1019 subject of a prior judgment in favor of the state in a criminal  
1020 injunction or forfeiture proceeding based upon this article;

1021 (3) The bureau, the board, local law enforcement  
1022 officers, enforcement officers of the Mississippi Department of  
1023 Transportation, or highway patrolmen, or the State Board of  
1024 Pharmacy have probable cause to believe that the property is  
1025 directly or indirectly dangerous to health or safety; or

1026 (4) The bureau, local law enforcement officers,  
1027 enforcement officers of the Mississippi Department of  
1028 Transportation, highway patrolmen, the board, or the State Board  
1029 of Pharmacy have probable cause to believe that the property was  
1030 used or is intended to be used in violation of this article.

1031 (c) Controlled substances listed in Schedule I of Section  
1032 41-29-113 or controlled substance analogues that are possessed,  
1033 transferred, sold or offered for sale in violation of this article  
1034 are contraband and shall be seized and summarily forfeited to the  
1035 state. Controlled substances listed in the said Schedule I or  
1036 controlled substance analogues, which are seized or come into the  
1037 possession of the state, the owners of which are unknown, are  
1038 contraband and shall be summarily forfeited to the state.

1039 (d) Species of plants from which controlled substances in  
1040 Schedules I and II of Sections 41-29-113 and 41-29-115 or  
1041 controlled substance analogues may be derived which have been  
1042 planted or cultivated in violation of this article, or of which  
1043 the owners or cultivators are unknown, or which are wild growths,  
1044 may be seized and summarily forfeited to the state.





1045 (e) The failure, upon demand by the bureau and/or local law  
1046 enforcement officers, or their authorized agents, or highway  
1047 patrolmen designated by the bureau, the board, or the State Board  
1048 of Pharmacy, of the person in occupancy or in control of land or  
1049 premises upon which the species of plants are growing or being  
1050 stored, to produce an appropriate registration, or proof that he  
1051 is the holder thereof, constitutes authority for the seizure and  
1052 forfeiture of the plants.

1053 **SECTION 13.** Section 41-29-154, Mississippi Code of 1972, is  
1054 amended as follows:

1055 41-29-154. Any controlled substance, controlled substance  
1056 analogue or paraphernalia seized under the authority of this  
1057 article or any other law of Mississippi or of the United States,  
1058 shall be destroyed, adulterated and disposed of or otherwise  
1059 rendered harmless and disposed of, upon written authorization of  
1060 the director, after such substance or paraphernalia has served its  
1061 usefulness as evidence or after such substance or paraphernalia is  
1062 no longer useful for training or demonstration purposes.

1063 A record of the disposition of such substances and  
1064 paraphernalia and the method of destruction or adulteration  
1065 employed along with the names of witnesses to such destruction or  
1066 adulteration shall be retained by the director.

1067 No substance or paraphernalia shall be disposed of, destroyed  
1068 or rendered harmless under the authority of this section without  
1069 an order from the director and without at least two (2) officers  
1070 or agents of the bureau present as witnesses.

1071 **SECTION 14.** Section 41-29-169, Mississippi Code of 1972, is  
1072 amended as follows:

1073 41-29-169. The Mississippi Bureau of Drug Enforcement and  
1074 State Board of Education shall carry out educational programs  
1075 designed to prevent and deter misuse and abuse of controlled  
1076 substances or controlled substance analogues. In connection with  
1077 these programs they may:



1078 (1) Promote better recognition of the problems of  
1079 misuse and abuse of controlled substances or controlled substance  
1080 analogues within the regulated industry and among interested  
1081 groups and organizations;

1082 (2) Assist the regulated industry and interested groups  
1083 and organizations in contributing to the reduction of misuse and  
1084 abuse of controlled substances or controlled substance analogues;

1085 (3) Consult with interested groups and organizations to  
1086 aid them in solving administrative and organizational problems;

1087 (4) Evaluate procedures, projects, techniques, and  
1088 controls conducted or proposed as part of educational programs on  
1089 misuse and abuse of controlled substances or controlled substance  
1090 analogues;

1091 (5) Disseminate the results of research on misuse and  
1092 abuse of controlled substances or controlled substance analogues  
1093 to promote a better public understanding of what problems exist  
1094 and what can be done to combat them; and

1095 (6) Assist in the education and training of state and  
1096 local law enforcement officials in their efforts to control misuse  
1097 and abuse of controlled substances or controlled substance  
1098 analogues.

1099 **SECTION 15.** Section 41-29-171, Mississippi Code of 1972, is  
1100 amended as follows:

1101 41-29-171. (a) The Mississippi Bureau of Narcotics, the  
1102 State Board of Pharmacy, the State Board of Medical Licensure,  
1103 the State Board of Dental Examiners and the Mississippi Board of  
1104 Nursing shall encourage research on misuse and abuse of controlled  
1105 substances or controlled substance analogues. In connection with  
1106 the research, and in furtherance of the enforcement of this  
1107 article they may:

1108 (1) Establish methods to assess accurately the effects  
1109 of controlled substances or controlled substance analogues and  
1110 identify and characterize those with potential for abuse;



1111 (2) Make studies and undertake programs of research to:  
1112 (A) Develop new or improved approaches,  
1113 techniques, systems, equipment and devices to strengthen the  
1114 enforcement of this article;  
1115 (B) Determine patterns of misuse and abuse of  
1116 controlled substances or controlled substance analogues and the  
1117 social effects thereof; and  
1118 (C) Improve methods for preventing, predicting,  
1119 understanding and dealing with the misuse and abuse of controlled  
1120 substances or controlled substance analogues;  
1121 (3) Enter into contracts with public agencies,  
1122 institutions of higher education, and private organizations or  
1123 individuals for the purpose of conducting research,  
1124 demonstrations, or special projects which bear directly on misuse  
1125 and abuse of controlled substances or controlled substance  
1126 analogues.

1127 (b) The Mississippi Bureau of Narcotics and the State Board  
1128 of Education may enter into contracts for educational and research  
1129 activities without performance bonds.

1130 (c) The board may authorize the possession and distribution  
1131 of controlled substances or controlled substance analogues by  
1132 persons engaged in research. Persons who obtain this  
1133 authorization are exempt from state prosecution for possession and  
1134 distribution of controlled substances or controlled substance  
1135 analogues to the extent of the authorization.

1136 **SECTION 16.** Section 41-29-176, Mississippi Code of 1972, is  
1137 amended as follows:

1138 41-29-176. (1) When any property other than a controlled  
1139 substance, controlled substance analogue, raw material or  
1140 paraphernalia, the value of which does not exceed Ten Thousand  
1141 Dollars (\$10,000.00), is seized under the Uniform Controlled  
1142 Substances Law, the property may be forfeited by the  
1143 administrative forfeiture procedures provided for in this section.



1144           (2) The attorney for or any representative of the seizing  
1145 law enforcement agency shall provide notice of intention to  
1146 forfeit the seized property administratively, either by certified  
1147 mail, return receipt requested, or by personal delivery, to all  
1148 persons who are required to be notified pursuant to Section  
1149 41-29-177(2), Mississippi Code of 1972.

1150           (3) In the event that notice of intention to forfeit the  
1151 seized property administratively cannot be given as provided in  
1152 subsection (2) of this section because of refusal, failure to  
1153 claim, insufficient address or any other reason, the attorney for  
1154 or representative of the seizing law enforcement agency shall  
1155 provide notice by publication in a newspaper of general  
1156 circulation in the county in which the seizure occurred for once a  
1157 week for three (3) consecutive weeks.

1158           (4) Notice pursuant to subsections (2) and (3) of this  
1159 section shall include the following information:

- 1160           (a) A description of the property;
- 1161           (b) The approximate value of the property;
- 1162           (c) The date and place of the seizure;
- 1163           (d) The connection between the property and the  
1164 violation of the Uniform Controlled Substances Law;
- 1165           (e) The instructions for filing a request for judicial  
1166 review; and
- 1167           (f) A statement that the property will be forfeited to  
1168 the seizing law enforcement agency if a request for judicial  
1169 review is not timely filed.

1170           (5) Any person claiming an interest in property which is the  
1171 subject of a notice under this section may, within thirty (30)  
1172 days after receipt of the notice or of the date of the first  
1173 publication of the notice, file a petition to contest forfeiture  
1174 signed by the claimant in the county court, if a county court  
1175 exists, or otherwise in the circuit court of the county in which  
1176 the seizure is made or the county in which the criminal



1177 prosecution is brought, in order to claim an interest in the  
1178 property. Upon the filing of the petition and the payment of the  
1179 filing fees, service of the petition shall be made on the attorney  
1180 for or representative of the seizing law enforcement agency, and  
1181 the proceedings shall thereafter be governed by the rules of civil  
1182 procedure.

1183 (6) If no petition to contest forfeiture is timely filed,  
1184 the attorney for the seizing law enforcement agency shall prepare  
1185 a written declaration of forfeiture of the subject property and  
1186 the forfeited property shall be used, distributed or disposed of  
1187 in accordance with the provisions of Section 41-29-181,  
1188 Mississippi Code of 1972.

1189 **SECTION 17.** Section 41-29-177, Mississippi Code of 1972, is  
1190 amended as follows:

1191 41-29-177. (1) Except as otherwise provided in Section  
1192 41-29-176, Mississippi Code of 1972, when any property, other than  
1193 a controlled substance, controlled substance analogue, raw  
1194 material or paraphernalia, is seized under the Uniform Controlled  
1195 Substances Law, proceedings under this section shall be instituted  
1196 within thirty (30) days from the date of seizure or the subject  
1197 property shall be immediately returned to the party from whom  
1198 seized.

1199 (2) A petition for forfeiture shall be filed in the name of  
1200 the State of Mississippi, the county or the municipality and may  
1201 be filed in the county in which the seizure is made, the county in  
1202 which the criminal prosecution is brought or the county in which  
1203 the owner of the seized property is found. Forfeiture proceedings  
1204 may be brought in the circuit court or the county court if a  
1205 county court exists in the county and the value of the seized  
1206 property is within the jurisdictional limits of the county court  
1207 as set forth in Section 9-9-21, Mississippi Code of 1972. A copy  
1208 of such petition shall be served upon the following persons by  
1209 service of process in the same manner as in civil cases:



1210 (a) The owner of the property, if address is known;  
1211 (b) Any secured party who has registered his lien or  
1212 filed a financing statement as provided by law, if the identity of  
1213 such secured party can be ascertained by the Bureau of Narcotics  
1214 or the local law enforcement agency by making a good faith effort  
1215 to ascertain the identity of such secured party as described in  
1216 subsections (3), (4), (5), (6) and (7) of this section;

1217 (c) Any other bona fide lienholder or secured party or  
1218 other person holding an interest in the property in the nature of  
1219 a security interest of whom the Mississippi Bureau of Narcotics or  
1220 the local law enforcement agency has actual knowledge;

1221 (d) Any holder of a mortgage, deed of trust, lien or  
1222 encumbrance of record, if the property is real estate, by making a  
1223 good faith inquiry as described in subsection (8) of this section;  
1224 and

1225 (e) Any person in possession of property subject to  
1226 forfeiture at the time that it was seized.

1227 (3) If the property is a motor vehicle susceptible of  
1228 titling under the Mississippi Motor Vehicle Title Law and if there  
1229 is any reasonable cause to believe that the vehicle has been  
1230 titled, the Bureau of Narcotics or the local law enforcement  
1231 agency shall make inquiry of the State Tax Commission as to what  
1232 the records of the State Tax Commission show as to who is the  
1233 record owner of the vehicle and who, if anyone, holds any lien or  
1234 security interest which affects the vehicle.

1235 (4) If the property is a motor vehicle and is not titled in  
1236 the State of Mississippi, then the Bureau of Narcotics or the  
1237 local law enforcement agency shall attempt to ascertain the name  
1238 and address of the person in whose name the vehicle is licensed,  
1239 and if the vehicle is licensed in a state which has in effect a  
1240 certificate of title law, the bureau or the local law enforcement  
1241 agency shall make inquiry of the appropriate agency of that state  
1242 as to what the records of the agency show as to who is the record



1243 owner of the vehicle and who, if anyone, holds any lien, security  
1244 interest or other instrument in the nature of a security device  
1245 which affects the vehicle.

1246 (5) If the property is of a nature that a financing  
1247 statement is required by the laws of this state to be filed to  
1248 perfect a security interest affecting the property and if there is  
1249 any reasonable cause to believe that a financing statement  
1250 covering the security interest has been filed under the laws of  
1251 this state, the Bureau of Narcotics or the local law enforcement  
1252 agency shall make inquiry of the appropriate office designated in  
1253 Section 75-9-501, Mississippi Code of 1972, as to what the records  
1254 show as to who is the record owner of the property and who, if  
1255 anyone, has filed a financing statement affecting the property.

1256 (6) If the property is an aircraft or part thereof and if  
1257 there is any reasonable cause to believe that an instrument in the  
1258 nature of a security device affects the property, then the Bureau  
1259 of Narcotics or the local law enforcement agency shall make  
1260 inquiry of the Mississippi Department of Transportation as to what  
1261 the records of the Federal Aviation Administration show as to who  
1262 is the record owner of the property and who, if anyone, holds an  
1263 instrument in the nature of a security device which affects the  
1264 property.

1265 (7) In the case of all other personal property subject to  
1266 forfeiture, if there is any reasonable cause to believe that an  
1267 instrument in the nature of a security device affects the  
1268 property, then the Bureau of Narcotics or the local law  
1269 enforcement agency shall make a good faith inquiry to identify the  
1270 holder of any such instrument.

1271 (8) If the property is real estate, the Bureau of Narcotics  
1272 or the local law enforcement agency shall make inquiry of the  
1273 chancery clerk of the county wherein the property is located to  
1274 determine who is the owner of record and who, if anyone, is a



1275 holder of a bona fide mortgage, deed of trust, lien or  
1276 encumbrance.

1277 (9) In the event the answer to an inquiry states that the  
1278 record owner of the property is any person other than the person  
1279 who was in possession of it when it was seized, or states that any  
1280 person holds any lien, encumbrance, security interest, other  
1281 interest in the nature of a security interest, mortgage or deed of  
1282 trust which affects the property, the Bureau of Narcotics or the  
1283 local law enforcement agency shall cause any record owner and also  
1284 any lienholder, secured party, other person who holds an interest  
1285 in the property in the nature of a security interest, or holder of  
1286 an encumbrance, mortgage or deed of trust which affects the  
1287 property to be named in the petition of forfeiture and to be  
1288 served with process in the same manner as in civil cases.

1289 (10) If the owner of the property cannot be found and served  
1290 with a copy of the petition of forfeiture, or if no person was in  
1291 possession of the property subject to forfeiture at the time that  
1292 it was seized and the owner of the property is unknown, the Bureau  
1293 of Narcotics or the local law enforcement agency shall file with  
1294 the clerk of the court in which the proceeding is pending an  
1295 affidavit to such effect, whereupon the clerk of the court shall  
1296 publish notice of the hearing addressed to "the Unknown Owner of  
1297 \_\_\_\_\_," filling in the blank space with a reasonably  
1298 detailed description of the property subject to forfeiture.  
1299 Service by publication shall contain the other requisites  
1300 prescribed in Section 11-33-41, and shall be served as provided in  
1301 Section 11-33-37, Mississippi Code of 1972, for publication of  
1302 notice for attachments at law.

1303 (11) No proceedings instituted pursuant to the provisions of  
1304 this article shall proceed to hearing unless the judge conducting  
1305 the hearing is satisfied that this section has been complied with.  
1306 Any answer received from an inquiry required by subsections (3)





1307 through (8) of this section shall be introduced into evidence at  
1308 the hearing.

1309         **SECTION 18.** Section 41-29-179, Mississippi Code of 1972, is  
1310 amended as follows:

1311         41-29-179. (1) Except as otherwise provided in Section  
1312 41-29-176, an owner of property, other than a controlled  
1313 substance, a controlled substance analogue, raw material or  
1314 paraphernalia, that has been seized shall file an answer within  
1315 thirty (30) days after the completion of service of process. If  
1316 an answer is not filed, the court shall hear evidence that the  
1317 property is subject to forfeiture and forfeit the property to the  
1318 Mississippi Bureau of Narcotics or the local law enforcement  
1319 agency. If an answer is filed, a time for hearing on forfeiture  
1320 shall be set within thirty (30) days of filing the answer or at  
1321 the succeeding term of court if court would not be in progress  
1322 within thirty (30) days after filing the answer. Provided,  
1323 however, that upon request by the Bureau of Narcotics, the local  
1324 law enforcement agency or the owner of the property, the court may  
1325 postpone said forfeiture hearing to a date past the time any  
1326 criminal action is pending against said owner.

1327         (2) If the owner of the property has filed an answer denying  
1328 that the property is subject to forfeiture, then the burden is on  
1329 the petitioner to prove that the property is subject to  
1330 forfeiture. However, if an answer has not been filed by the owner  
1331 of the property, the petition for forfeiture may be introduced  
1332 into evidence and is prima facie evidence that the property is  
1333 subject to forfeiture. The standard of proof placed upon the  
1334 petitioner in regard to property forfeited under the provisions of  
1335 this article shall be by a preponderance of the evidence.

1336         (3) At the hearing any claimant of any right, title or  
1337 interest in the property may prove his lien, encumbrance, security  
1338 interest, other interest in the nature of a security interest,  
1339 mortgage or deed of trust to be bona fide and created without



1340 knowledge or consent that the property was to be used so as to  
1341 cause the property to be subject to forfeiture.

1342 (4) If it is found that the property is subject to  
1343 forfeiture, then the judge shall forfeit the property to the  
1344 Mississippi Bureau of Narcotics or the local law enforcement  
1345 agency. However, if proof at the hearing discloses that the  
1346 interest of any bona fide lienholder, secured party, other person  
1347 holding an interest in the property in the nature of a security  
1348 interest, or any holder of a bona fide encumbrance, mortgage or  
1349 deed of trust is greater than or equal to the present value of the  
1350 property, the court shall order the property released to him. If  
1351 such interest is less than the present value of the property and  
1352 if the proof shows that the property is subject to forfeiture, the  
1353 court shall order the property forfeited to the Mississippi Bureau  
1354 of Narcotics or the local law enforcement agency.

1355 (5) Upon a petition filed in the name of the State of  
1356 Mississippi, the county or the municipality with the clerk of the  
1357 circuit court of the county in which the seizure of any controlled  
1358 substance, controlled substance analogue or raw material is made,  
1359 the circuit court having jurisdiction may order the controlled  
1360 substance, controlled substance analogue or raw material summarily  
1361 forfeited except when lawful possession and title can be  
1362 ascertained. If a person is found to have had lawful possession  
1363 and title prior to seizure, the court shall order the controlled  
1364 substance or raw material returned to the owner, if the owner so  
1365 desires. Upon a petition filed in the name of the State of  
1366 Mississippi, the county or the municipality with the clerk of the  
1367 circuit court of the county in which the seizure of any purported  
1368 paraphernalia is made, the circuit court having jurisdiction may  
1369 order such seized property summarily forfeited when the court has  
1370 determined the seized property to be paraphernalia as defined in  
1371 Section 41-29-105(v).



1372           **SECTION 19.** Section 63-1-71, Mississippi Code of 1972, is  
1373 amended as follows:

1374           63-1-71. (1) In addition to any penalty authorized by the  
1375 Uniform Controlled Substances Law or any other statute indicating  
1376 the dispositions that can be ordered for an adjudication of  
1377 delinquency, every person convicted of, or entering a plea of nolo  
1378 contendere to, or adjudicated delinquent in a court of this state  
1379 for a violation of any offense defined in the Uniform Controlled  
1380 Substances Law, and every person convicted of, or entering a plea  
1381 of nolo contendere to, or adjudicated delinquent under the laws of  
1382 the United States, another state, a territory or possession of the  
1383 United States, the District of Columbia or the Commonwealth of  
1384 Puerto Rico of a violation for the use, distribution, possession,  
1385 manufacture, sale, barter, transfer or dispensing of a "controlled  
1386 substance," "counterfeit substance," "controlled substance  
1387 analogue," "narcotic drug" or "drug," as such terms are defined  
1388 under Section 41-29-105, shall forthwith forfeit his right to  
1389 operate a motor vehicle over the highways of this state for a  
1390 period of six (6) months. Notwithstanding the provisions of  
1391 Section 63-11-30(2)(a) and in addition to any penalty authorized  
1392 by the Uniform Controlled Substances Law or any other statute  
1393 indicating the dispositions that can be ordered for an  
1394 adjudication of delinquency, every person convicted of driving  
1395 under the influence of a controlled substance, or entering a plea  
1396 of nolo contendere thereto, or adjudicated delinquent therefor, in  
1397 a court of this state, and every person convicted of driving under  
1398 the influence of a controlled substance or controlled substance  
1399 analogue, or entering a plea of nolo contendere thereto, or  
1400 adjudicated delinquent therefor, under the laws of the United  
1401 States, another state, a territory or possession of the United  
1402 States, the District of Columbia or the Commonwealth of Puerto  
1403 Rico, shall forthwith forfeit his right to operate a motor vehicle  
1404 over the highways of this state for a period of not less than six



1405 (6) months. In the case of any person who at the time of the  
1406 imposition of sentence does not have a driver's license or is less  
1407 than fifteen (15) years of age, the period of the suspension of  
1408 driving privileges authorized herein shall commence on the day the  
1409 sentence is imposed and shall run for a period of not less than  
1410 six (6) months after the day the person obtains a driver's license  
1411 or reaches the age of fifteen (15) years. If the driving  
1412 privilege of any person is under revocation or suspension at the  
1413 time of any conviction or adjudication of delinquency for a  
1414 violation of any offense defined in the Uniform Controlled  
1415 Substances Law, the revocation or suspension period imposed herein  
1416 shall commence as of the date of termination of the existing  
1417 revocation or suspension.

1418 (2) The court in this state before whom any person is  
1419 convicted of or adjudicated delinquent for a violation of an  
1420 offense under subsection (1) of this section shall collect  
1421 forthwith the Mississippi driver's license of the person and  
1422 forward such license to the Department of Public Safety along with  
1423 a report indicating the first and last day of the suspension or  
1424 revocation period imposed pursuant to this section. If the court  
1425 is for any reason unable to collect the license of the person, the  
1426 court shall cause a report of the conviction or adjudication of  
1427 delinquency to be filed with the Commissioner of Public Safety.  
1428 That report shall include the complete name, address, date of  
1429 birth, eye color and sex of the person and shall indicate the  
1430 first and last day of the suspension or revocation period imposed  
1431 by the court pursuant to this section. The court shall inform the  
1432 person orally and in writing that if the person is convicted of  
1433 personally operating a motor vehicle during the period of license  
1434 suspension or revocation imposed pursuant to this section, the  
1435 person shall, upon conviction, be subject to the penalties set  
1436 forth in Section 63-11-40. A person shall be required to  
1437 acknowledge receipt of the written notice in writing. Failure to



1438 receive a written notice or failure to acknowledge in writing the  
1439 receipt of a written notice shall not be a defense to a subsequent  
1440 charge of a violation of Section 63-11-40. If the person is the  
1441 holder of a driver's license from another jurisdiction, the court  
1442 shall not collect the license but shall notify forthwith the  
1443 Commissioner of Public Safety who shall notify the appropriate  
1444 officials in the licensing jurisdiction. The court shall,  
1445 however, in accordance with the provisions of this section, revoke  
1446 the person's nonresident driving privilege in this state.

1447 (3) The county court or circuit court having jurisdiction,  
1448 on petition, may reduce the suspension of driving privileges under  
1449 this section if the denial of which would constitute a hardship on  
1450 the offender. When the petition is filed, such person shall pay  
1451 to the circuit clerk of the court where the petition is filed a  
1452 fee of Twenty Dollars (\$20.00) for each year, or portion thereof,  
1453 of license revocation or suspension remaining under the original  
1454 sentence, which shall be deposited into the State General Fund to  
1455 the credit of a special fund hereby created in the State Treasury  
1456 to be used for alcohol or drug abuse treatment and education, upon  
1457 appropriation by the Legislature. This fee shall be in addition  
1458 to any other court costs or fees required for the filing of  
1459 petitions.

1460 **SECTION 20.** Section 63-1-83, Mississippi Code of 1972, is  
1461 amended as follows:

1462 63-1-83. (1) From and after April 1, 1992, it shall be a  
1463 violation of this article and the Commissioner of Public Safety  
1464 shall suspend for a period of one (1) year the commercial driver's  
1465 license of any person whom he determines to have committed a first  
1466 violation of:

1467 (a) Driving a commercial motor vehicle for which a  
1468 commercial driver instruction permit or commercial driver's  
1469 license is required under this article while under the influence



1470 of alcohol or a controlled substance or a controlled substance  
1471 analogue;

1472 (b) Driving a commercial motor vehicle for which a  
1473 commercial driver instruction permit or commercial driver's  
1474 license is required under this article while the alcohol  
1475 concentration of the person's blood, breath or urine is four  
1476 one-hundredths percent (.04%) or more;

1477 (c) Knowingly and willfully leaving the scene of an  
1478 accident involving a commercial motor vehicle for which a  
1479 commercial driver instruction permit or commercial driver's  
1480 license is required under this article, if the vehicle was driven  
1481 by such person;

1482 (d) Using a commercial motor vehicle for which a  
1483 commercial driver instruction permit or commercial driver's  
1484 license is required under this article in the commission of any  
1485 felony as defined in this article; or

1486 (e) Refusing to submit to a test to determine the  
1487 driver's alcohol concentration while driving a commercial motor  
1488 vehicle for which a commercial driver instruction permit or  
1489 commercial driver's license is required under this article.

1490 If any of the violations in subsection (1) of this section  
1491 occurred while transporting hazardous materials required to be  
1492 placarded under the Hazardous Materials Transportation Act, the  
1493 commissioner shall suspend the commercial driver's license of such  
1494 person for a period of three (3) years.

1495 (2) The Commissioner of Public Safety shall suspend the  
1496 commercial driver's license of a person for life, or such lesser  
1497 minimum period of time as shall be required under applicable  
1498 federal law or regulations, if a person is determined to have  
1499 committed two (2) or more of the violations specified in  
1500 subsection (1) of this section or any combination of such  
1501 violations arising from two (2) or more separate incidents. The



1502 provisions of this subsection (2) shall apply only to violations  
1503 occurring on or after April 1, 1992.

1504 (3) The Commissioner of Public Safety shall suspend for life  
1505 the commercial driver's license of any person who uses a  
1506 commercial motor vehicle for which a commercial driver instruction  
1507 permit or commercial driver's license is required under this  
1508 article in the commission of any felony involving the manufacture,  
1509 distribution or dispensing of a controlled substance or controlled  
1510 substance analogue, or possession with intent to manufacture,  
1511 distribute or dispense a controlled substance or controlled  
1512 substance analogue. The provisions of this subsection (3) shall  
1513 apply only to violations occurring on or after April 1, 1992.

1514 (4) The Commissioner of Public Safety shall suspend for a  
1515 period of sixty (60) days the commercial driver's license of any  
1516 person convicted of two (2) serious traffic violations, or one  
1517 hundred twenty (120) days if convicted of three (3) serious  
1518 traffic violations, committed in a commercial motor vehicle for  
1519 which a commercial driver instruction permit or commercial  
1520 driver's license is required under this article arising from  
1521 separate incidents occurring within a period of three (3) years.  
1522 The provisions of this subsection (4) shall apply only to  
1523 violations occurring on or after April 1, 1992.

1524 (5) In addition to the reasons specified in this section for  
1525 suspension of the commercial driver's license, the Commissioner of  
1526 Public Safety shall be authorized to suspend the commercial  
1527 driver's license of any person for being out of compliance with an  
1528 order for support, as defined in Section 93-11-153. The procedure  
1529 for suspension of a commercial driver's license for being out of  
1530 compliance with an order for support, and the procedure for the  
1531 reissuance or reinstatement of a commercial driver's license  
1532 suspended for that purpose, and the payment of any fees for the  
1533 reissuance or reinstatement of a commercial driver's license  
1534 suspended for that purpose, shall be governed by Section 93-11-157



1535 or 93-11-163, as the case may be. If there is any conflict  
1536 between any provision of Section 93-11-157 or 93-11-163 and any  
1537 provision of this article, the provisions of Section 93-11-157 or  
1538 93-11-163, as the case may be, shall control.

1539         **SECTION 21.** This act shall take effect and be in force from  
1540 and after July 1, 2002.

