

By: Senator(s) Huggins

To: Public Health and Welfare

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. Bongs; 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-butrolactone, 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 **SECTION 5.** Section 41-29-127, Mississippi Code of 1972, is
744 amended as follows:

745 41-29-127. (a) The State Board of Pharmacy shall register
746 an applicant to manufacture or distribute controlled substances
747 included in Sections 41-29-113 through 41-29-121 unless it
748 determines that the issuance of that registration would be
749 inconsistent with the public interest. In determining the public
750 interest, the State Board of Pharmacy shall consider the following
751 factors:



752 (1) Maintenance of effective controls against diversion
753 of controlled substances into other than legitimate medical,
754 scientific, or industrial channels;

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

756 (3) Any convictions of the applicant under any federal
757 and state laws relating to any controlled substance or controlled
758 substance analogue;

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

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

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

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

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

773 (c) Practitioners must be registered to dispense any
774 controlled substances or to conduct research with controlled
775 substances in Schedules II through V, as set out in Sections
776 41-29-115 through 41-29-121, if they are authorized to dispense or
777 conduct research under the law of this state. The State Board of
778 Pharmacy need not require separate registration under this section
779 for practitioners engaging in research with nonnarcotic controlled
780 substances in the said Schedules II through V where the registrant
781 is already registered therein in another capacity. Practitioners
782 registered under federal law to conduct research with Schedule I
783 substances, as set out in Section 41-29-113, may conduct research



784 with Schedule I substances within this state upon furnishing the
785 State Board of Health evidence of that federal registration.

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

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

791 41-29-129. (1) A registration to manufacture, distribute,
792 or dispense a controlled substance may be suspended or revoked by
793 the State Board of Pharmacy upon a finding that the registrant:

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

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

800 (c) Has had his federal registration suspended or
801 revoked to manufacture, distribute or dispense controlled
802 substances;

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

807 (e) Has violated the Uniform Controlled Substances Law
808 of the State of Mississippi;

809 (f) Has violated any duly promulgated rule or
810 regulation of the State Board of Pharmacy pertaining to the
811 manufacture, distribution, storage, possession, control or
812 dispensing of controlled substances;

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

815 (2) The State Board of Pharmacy may limit revocation or
816 suspension of a registration to the particular controlled



817 substance with respect to which grounds for revocation or
818 suspension exist.

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

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

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

837 41-29-142. (1) Except as provided in subsection (f) of
838 Section 41-29-139 or in subsection (2) of this section, any person
839 who violates or conspires to violate Section 41-29-139(a)(1),
840 Mississippi Code of 1972, by selling, bartering, transferring,
841 manufacturing, distributing, dispensing or possessing with intent
842 to sell, barter, transfer, manufacture, distribute or dispense, a
843 controlled substance or controlled substance analogue, in or on,
844 or within one thousand five hundred (1,500) feet of, a building or
845 outbuilding which is all or part of a public or private
846 elementary, vocational or secondary school, or any church, public
847 park, ballpark, public gymnasium, youth center or movie theater or
848 within one thousand (1,000) feet of, the real property comprising
849 such public or private elementary, vocational or secondary school,



850 or any church, public park, ballpark, public gymnasium, youth
851 center or movie theater shall, upon conviction thereof, be
852 punished by the term of imprisonment or a fine, or both, of that
853 authorized by Section 41-29-139(b) and, in the discretion of the
854 court, may be punished by a term of imprisonment or a fine, or
855 both, of up to twice that authorized by Section 41-29-139(b).

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

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

879 41-29-144. (1) It is unlawful for any person knowingly or
880 intentionally to acquire or obtain possession or attempt to
881 acquire or obtain possession of a controlled substance or a



882 controlled substance analogue by misrepresentation, fraud,
883 forgery, deception or subterfuge.

884 (2) It is unlawful for any person knowingly or intentionally
885 to possess, sell, deliver, transfer or attempt to possess, sell,
886 deliver or transfer a false, fraudulent or forged prescription of
887 a practitioner.

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

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

894 41-29-145. Any person twenty-one (21) years of age or over
895 who violates subsections (a) and (b) of Section 41-29-139 with
896 reference to a controlled substance listed in Schedules I, II,
897 III, IV and V as set out in Sections 41-29-113 through 41-29-121
898 or a controlled substance analogue, inclusive, to a person under
899 twenty-one (21) years of age may be punished by the fine
900 authorized by Section 41-29-139, or by a term of imprisonment or
901 confinement up to twice that authorized by said Section 41-29-139,
902 or both, or he may be punished as provided in Section 41-29-142.

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

905 41-29-146. (1) It shall be unlawful for any person to sell,
906 produce, manufacture or possess with the intent to sell, produce,
907 manufacture, distribute or dispense any substance which is falsely
908 represented to be a controlled substance or controlled substance
909 analogue or which is falsely represented to be a counterfeit
910 substance as defined in Section 41-29-105.

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



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

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

922 41-29-152. (1) Any person who violates Section 41-29-313 or
923 who violates Section 41-29-139 with reference to a controlled
924 substance listed in Schedule I, II, III, IV or V as set out in
925 Sections 41-29-113 through 41-29-121, Mississippi Code of 1972, or
926 a controlled substance analogue, inclusive, and has in his
927 possession any firearm, either at the time of the commission of
928 the offense or at the time any arrest is made, may be punished by
929 a fine up to twice that authorized by Section 41-29-139 or
930 41-29-313, or by a term of imprisonment or confinement up to twice
931 that authorized by Section 41-29-139 or 41-29-313, or both.

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

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

937 41-29-153. (a) The following are subject to forfeiture:

938 (1) All controlled substances or controlled substance
939 analogues which have been manufactured, distributed, dispensed or
940 acquired in violation of this article;

941 (2) All raw materials, products and equipment of any
942 kind which are used, or intended for use, in manufacturing,
943 compounding, processing, delivering, importing, or exporting any
944 controlled substance or controlled substance analogues in
945 violation of this article;



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

949 (4) All conveyances, including aircraft, vehicles or
950 vessels, which are used, or intended for use, to transport, or in
951 any manner to facilitate the transportation, sale, receipt,
952 possession or concealment of property described in paragraph (1)
953 or (2) of this section, however:

954 A. No conveyance used by any person as a common
955 carrier in the transaction of business as a common carrier is
956 subject to forfeiture under this section unless it appears that
957 the owner or other person in charge of the conveyance is a
958 consenting party or privy to a violation of this article;

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

966 C. A forfeiture of a conveyance encumbered by a
967 bona fide security interest is subject to the interest of the
968 secured party if he neither had knowledge of nor consented to the
969 act or omission;

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

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

976 (6) All drug paraphernalia as defined in Section
977 41-29-105(v); and



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

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

996 B. Neither personal property encumbered by a bona
997 fide security interest nor real estate encumbered by a bona fide
998 mortgage, deed of trust, lien or encumbrance shall be forfeited
999 under the provisions of paragraph (a) (7) of this section, to the
1000 extent of the interest of the secured party or the interest of the
1001 mortgagee, holder of a deed of trust, lien or encumbrance by
1002 reason of any act or omission established by him to have been
1003 committed or omitted without his knowledge or consent.

1004 (b) Property subject to forfeiture may be seized by the
1005 bureau, local law enforcement officers, enforcement officers of
1006 the Mississippi Department of Transportation, highway patrolmen,
1007 the board, or the State Board of Pharmacy upon process issued by
1008 any appropriate court having jurisdiction over the property.
1009 Seizure without process may be made if:



1010 (1) The seizure is incident to an arrest or a search
1011 under a search warrant or an inspection under an administrative
1012 inspection warrant;

1013 (2) The property subject to seizure has been the
1014 subject of a prior judgment in favor of the state in a criminal
1015 injunction or forfeiture proceeding based upon this article;

1016 (3) The bureau, the board, local law enforcement
1017 officers, enforcement officers of the Mississippi Department of
1018 Transportation, or highway patrolmen, or the State Board of
1019 Pharmacy have probable cause to believe that the property is
1020 directly or indirectly dangerous to health or safety; or

1021 (4) The bureau, local law enforcement officers,
1022 enforcement officers of the Mississippi Department of
1023 Transportation, highway patrolmen, the board, or the State Board
1024 of Pharmacy have probable cause to believe that the property was
1025 used or is intended to be used in violation of this article.

1026 (c) Controlled substances listed in Schedule I of Section
1027 41-29-113 or controlled substance analogues that are possessed,
1028 transferred, sold or offered for sale in violation of this article
1029 are contraband and shall be seized and summarily forfeited to the
1030 state. Controlled substances listed in the said Schedule I or
1031 controlled substance analogues, which are seized or come into the
1032 possession of the state, the owners of which are unknown, are
1033 contraband and shall be summarily forfeited to the state.

1034 (d) Species of plants from which controlled substances in
1035 Schedules I and II of Sections 41-29-113 and 41-29-115 or
1036 controlled substance analogues may be derived which have been
1037 planted or cultivated in violation of this article, or of which
1038 the owners or cultivators are unknown, or which are wild growths,
1039 may be seized and summarily forfeited to the state.

1040 (e) The failure, upon demand by the bureau and/or local law
1041 enforcement officers, or their authorized agents, or highway
1042 patrolmen designated by the bureau, the board, or the State Board



1043 of Pharmacy, of the person in occupancy or in control of land or
1044 premises upon which the species of plants are growing or being
1045 stored, to produce an appropriate registration, or proof that he
1046 is the holder thereof, constitutes authority for the seizure and
1047 forfeiture of the plants.

1048 **SECTION 13.** Section 41-29-154, Mississippi Code of 1972, is
1049 amended as follows:

1050 41-29-154. Any controlled substance, controlled substance
1051 analogue or paraphernalia seized under the authority of this
1052 article or any other law of Mississippi or of the United States,
1053 shall be destroyed, adulterated and disposed of or otherwise
1054 rendered harmless and disposed of, upon written authorization of
1055 the director, after such substance or paraphernalia has served its
1056 usefulness as evidence or after such substance or paraphernalia is
1057 no longer useful for training or demonstration purposes.

1058 A record of the disposition of such substances and
1059 paraphernalia and the method of destruction or adulteration
1060 employed along with the names of witnesses to such destruction or
1061 adulteration shall be retained by the director.

1062 No substance or paraphernalia shall be disposed of, destroyed
1063 or rendered harmless under the authority of this section without
1064 an order from the director and without at least two (2) officers
1065 or agents of the bureau present as witnesses.

1066 **SECTION 14.** Section 41-29-169, Mississippi Code of 1972, is
1067 amended as follows:

1068 41-29-169. The Mississippi Bureau of Drug Enforcement and
1069 State Board of Education shall carry out educational programs
1070 designed to prevent and deter misuse and abuse of controlled
1071 substances or controlled substance analogues. In connection with
1072 these programs they may:

1073 (1) Promote better recognition of the problems of
1074 misuse and abuse of controlled substances or controlled substance



1075 analogues within the regulated industry and among interested
1076 groups and organizations;

1077 (2) Assist the regulated industry and interested groups
1078 and organizations in contributing to the reduction of misuse and
1079 abuse of controlled substances or controlled substance analogues;

1080 (3) Consult with interested groups and organizations to
1081 aid them in solving administrative and organizational problems;

1082 (4) Evaluate procedures, projects, techniques, and
1083 controls conducted or proposed as part of educational programs on
1084 misuse and abuse of controlled substances or controlled substance
1085 analogues;

1086 (5) Disseminate the results of research on misuse and
1087 abuse of controlled substances or controlled substance analogues
1088 to promote a better public understanding of what problems exist
1089 and what can be done to combat them; and

1090 (6) Assist in the education and training of state and
1091 local law enforcement officials in their efforts to control misuse
1092 and abuse of controlled substances or controlled substance
1093 analogues.

1094 **SECTION 15.** Section 41-29-171, Mississippi Code of 1972, is
1095 amended as follows:

1096 41-29-171. (a) The Mississippi Bureau of Narcotics, the
1097 State Board of Pharmacy, the State Board of Medical Licensure,
1098 the State Board of Dental Examiners and the Mississippi Board of
1099 Nursing shall encourage research on misuse and abuse of controlled
1100 substances or controlled substance analogues. In connection with
1101 the research, and in furtherance of the enforcement of this
1102 article they may:

1103 (1) Establish methods to assess accurately the effects
1104 of controlled substances or controlled substance analogues and
1105 identify and characterize those with potential for abuse;

1106 (2) Make studies and undertake programs of research to:



1107 (A) Develop new or improved approaches,
1108 techniques, systems, equipment and devices to strengthen the
1109 enforcement of this article;

1110 (B) Determine patterns of misuse and abuse of
1111 controlled substances or controlled substance analogues and the
1112 social effects thereof; and

1113 (C) Improve methods for preventing, predicting,
1114 understanding and dealing with the misuse and abuse of controlled
1115 substances or controlled substance analogues;

1116 (3) Enter into contracts with public agencies,
1117 institutions of higher education, and private organizations or
1118 individuals for the purpose of conducting research,
1119 demonstrations, or special projects which bear directly on misuse
1120 and abuse of controlled substances or controlled substance
1121 analogues.

1122 (b) The Mississippi Bureau of Narcotics and the State Board
1123 of Education may enter into contracts for educational and research
1124 activities without performance bonds.

1125 (c) The board may authorize the possession and distribution
1126 of controlled substances or controlled substance analogues by
1127 persons engaged in research. Persons who obtain this
1128 authorization are exempt from state prosecution for possession and
1129 distribution of controlled substances or controlled substance
1130 analogues to the extent of the authorization.

1131 **SECTION 16.** Section 41-29-176, Mississippi Code of 1972, is
1132 amended as follows:

1133 41-29-176. (1) When any property other than a controlled
1134 substance, controlled substance analogue, raw material or
1135 paraphernalia, the value of which does not exceed Ten Thousand
1136 Dollars (\$10,000.00), is seized under the Uniform Controlled
1137 Substances Law, the property may be forfeited by the
1138 administrative forfeiture procedures provided for in this section.



1139 (2) The attorney for or any representative of the seizing
1140 law enforcement agency shall provide notice of intention to
1141 forfeit the seized property administratively, either by certified
1142 mail, return receipt requested, or by personal delivery, to all
1143 persons who are required to be notified pursuant to Section
1144 41-29-177(2), Mississippi Code of 1972.

1145 (3) In the event that notice of intention to forfeit the
1146 seized property administratively cannot be given as provided in
1147 subsection (2) of this section because of refusal, failure to
1148 claim, insufficient address or any other reason, the attorney for
1149 or representative of the seizing law enforcement agency shall
1150 provide notice by publication in a newspaper of general
1151 circulation in the county in which the seizure occurred for once a
1152 week for three (3) consecutive weeks.

1153 (4) Notice pursuant to subsections (2) and (3) of this
1154 section shall include the following information:

- 1155 (a) A description of the property;
- 1156 (b) The approximate value of the property;
- 1157 (c) The date and place of the seizure;
- 1158 (d) The connection between the property and the
1159 violation of the Uniform Controlled Substances Law;
- 1160 (e) The instructions for filing a request for judicial
1161 review; and
- 1162 (f) A statement that the property will be forfeited to
1163 the seizing law enforcement agency if a request for judicial
1164 review is not timely filed.

1165 (5) Any person claiming an interest in property which is the
1166 subject of a notice under this section may, within thirty (30)
1167 days after receipt of the notice or of the date of the first
1168 publication of the notice, file a petition to contest forfeiture
1169 signed by the claimant in the county court, if a county court
1170 exists, or otherwise in the circuit court of the county in which
1171 the seizure is made or the county in which the criminal



1172 prosecution is brought, in order to claim an interest in the
1173 property. Upon the filing of the petition and the payment of the
1174 filing fees, service of the petition shall be made on the attorney
1175 for or representative of the seizing law enforcement agency, and
1176 the proceedings shall thereafter be governed by the rules of civil
1177 procedure.

1178 (6) If no petition to contest forfeiture is timely filed,
1179 the attorney for the seizing law enforcement agency shall prepare
1180 a written declaration of forfeiture of the subject property and
1181 the forfeited property shall be used, distributed or disposed of
1182 in accordance with the provisions of Section 41-29-181,
1183 Mississippi Code of 1972.

1184 **SECTION 17.** Section 41-29-177, Mississippi Code of 1972, is
1185 amended as follows:

1186 41-29-177. (1) Except as otherwise provided in Section
1187 41-29-176, Mississippi Code of 1972, when any property, other than
1188 a controlled substance, controlled substance analogue, raw
1189 material or paraphernalia, is seized under the Uniform Controlled
1190 Substances Law, proceedings under this section shall be instituted
1191 within thirty (30) days from the date of seizure or the subject
1192 property shall be immediately returned to the party from whom
1193 seized.

1194 (2) A petition for forfeiture shall be filed in the name of
1195 the State of Mississippi, the county or the municipality and may
1196 be filed in the county in which the seizure is made, the county in
1197 which the criminal prosecution is brought or the county in which
1198 the owner of the seized property is found. Forfeiture proceedings
1199 may be brought in the circuit court or the county court if a
1200 county court exists in the county and the value of the seized
1201 property is within the jurisdictional limits of the county court
1202 as set forth in Section 9-9-21, Mississippi Code of 1972. A copy
1203 of such petition shall be served upon the following persons by
1204 service of process in the same manner as in civil cases:



1205 (a) The owner of the property, if address is known;
1206 (b) Any secured party who has registered his lien or
1207 filed a financing statement as provided by law, if the identity of
1208 such secured party can be ascertained by the Bureau of Narcotics
1209 or the local law enforcement agency by making a good faith effort
1210 to ascertain the identity of such secured party as described in
1211 subsections (3), (4), (5), (6) and (7) of this section;
1212 (c) Any other bona fide lienholder or secured party or
1213 other person holding an interest in the property in the nature of
1214 a security interest of whom the Mississippi Bureau of Narcotics or
1215 the local law enforcement agency has actual knowledge;
1216 (d) Any holder of a mortgage, deed of trust, lien or
1217 encumbrance of record, if the property is real estate, by making a
1218 good faith inquiry as described in subsection (8) of this section;
1219 and
1220 (e) Any person in possession of property subject to
1221 forfeiture at the time that it was seized.
1222 (3) If the property is a motor vehicle susceptible of
1223 titling under the Mississippi Motor Vehicle Title Law and if there
1224 is any reasonable cause to believe that the vehicle has been
1225 titled, the Bureau of Narcotics or the local law enforcement
1226 agency shall make inquiry of the State Tax Commission as to what
1227 the records of the State Tax Commission show as to who is the
1228 record owner of the vehicle and who, if anyone, holds any lien or
1229 security interest which affects the vehicle.
1230 (4) If the property is a motor vehicle and is not titled in
1231 the State of Mississippi, then the Bureau of Narcotics or the
1232 local law enforcement agency shall attempt to ascertain the name
1233 and address of the person in whose name the vehicle is licensed,
1234 and if the vehicle is licensed in a state which has in effect a
1235 certificate of title law, the bureau or the local law enforcement
1236 agency shall make inquiry of the appropriate agency of that state
1237 as to what the records of the agency show as to who is the record



1238 owner of the vehicle and who, if anyone, holds any lien, security
1239 interest or other instrument in the nature of a security device
1240 which affects the vehicle.

1241 (5) If the property is of a nature that a financing
1242 statement is required by the laws of this state to be filed to
1243 perfect a security interest affecting the property and if there is
1244 any reasonable cause to believe that a financing statement
1245 covering the security interest has been filed under the laws of
1246 this state, the Bureau of Narcotics or the local law enforcement
1247 agency shall make inquiry of the appropriate office designated in
1248 Section 75-9-501, Mississippi Code of 1972, as to what the records
1249 show as to who is the record owner of the property and who, if
1250 anyone, has filed a financing statement affecting the property.

1251 (6) If the property is an aircraft or part thereof and if
1252 there is any reasonable cause to believe that an instrument in the
1253 nature of a security device affects the property, then the Bureau
1254 of Narcotics or the local law enforcement agency shall make
1255 inquiry of the Mississippi Department of Transportation as to what
1256 the records of the Federal Aviation Administration show as to who
1257 is the record owner of the property and who, if anyone, holds an
1258 instrument in the nature of a security device which affects the
1259 property.

1260 (7) In the case of all other personal property subject to
1261 forfeiture, if there is any reasonable cause to believe that an
1262 instrument in the nature of a security device affects the
1263 property, then the Bureau of Narcotics or the local law
1264 enforcement agency shall make a good faith inquiry to identify the
1265 holder of any such instrument.

1266 (8) If the property is real estate, the Bureau of Narcotics
1267 or the local law enforcement agency shall make inquiry of the
1268 chancery clerk of the county wherein the property is located to
1269 determine who is the owner of record and who, if anyone, is a



1270 holder of a bona fide mortgage, deed of trust, lien or
1271 encumbrance.

1272 (9) In the event the answer to an inquiry states that the
1273 record owner of the property is any person other than the person
1274 who was in possession of it when it was seized, or states that any
1275 person holds any lien, encumbrance, security interest, other
1276 interest in the nature of a security interest, mortgage or deed of
1277 trust which affects the property, the Bureau of Narcotics or the
1278 local law enforcement agency shall cause any record owner and also
1279 any lienholder, secured party, other person who holds an interest
1280 in the property in the nature of a security interest, or holder of
1281 an encumbrance, mortgage or deed of trust which affects the
1282 property to be named in the petition of forfeiture and to be
1283 served with process in the same manner as in civil cases.

1284 (10) If the owner of the property cannot be found and served
1285 with a copy of the petition of forfeiture, or if no person was in
1286 possession of the property subject to forfeiture at the time that
1287 it was seized and the owner of the property is unknown, the Bureau
1288 of Narcotics or the local law enforcement agency shall file with
1289 the clerk of the court in which the proceeding is pending an
1290 affidavit to such effect, whereupon the clerk of the court shall
1291 publish notice of the hearing addressed to "the Unknown Owner of
1292 _____," filling in the blank space with a reasonably
1293 detailed description of the property subject to forfeiture.
1294 Service by publication shall contain the other requisites
1295 prescribed in Section 11-33-41, and shall be served as provided in
1296 Section 11-33-37, Mississippi Code of 1972, for publication of
1297 notice for attachments at law.

1298 (11) No proceedings instituted pursuant to the provisions of
1299 this article shall proceed to hearing unless the judge conducting
1300 the hearing is satisfied that this section has been complied with.
1301 Any answer received from an inquiry required by subsections (3)



1302 through (8) of this section shall be introduced into evidence at
1303 the hearing.

1304 **SECTION 18.** Section 41-29-179, Mississippi Code of 1972, is
1305 amended as follows:

1306 41-29-179. (1) Except as otherwise provided in Section
1307 41-29-176, an owner of property, other than a controlled
1308 substance, a controlled substance analogue, raw material or
1309 paraphernalia, that has been seized shall file an answer within
1310 thirty (30) days after the completion of service of process. If
1311 an answer is not filed, the court shall hear evidence that the
1312 property is subject to forfeiture and forfeit the property to the
1313 Mississippi Bureau of Narcotics or the local law enforcement
1314 agency. If an answer is filed, a time for hearing on forfeiture
1315 shall be set within thirty (30) days of filing the answer or at
1316 the succeeding term of court if court would not be in progress
1317 within thirty (30) days after filing the answer. Provided,
1318 however, that upon request by the Bureau of Narcotics, the local
1319 law enforcement agency or the owner of the property, the court may
1320 postpone said forfeiture hearing to a date past the time any
1321 criminal action is pending against said owner.

1322 (2) If the owner of the property has filed an answer denying
1323 that the property is subject to forfeiture, then the burden is on
1324 the petitioner to prove that the property is subject to
1325 forfeiture. However, if an answer has not been filed by the owner
1326 of the property, the petition for forfeiture may be introduced
1327 into evidence and is prima facie evidence that the property is
1328 subject to forfeiture. The standard of proof placed upon the
1329 petitioner in regard to property forfeited under the provisions of
1330 this article shall be by a preponderance of the evidence.

1331 (3) At the hearing any claimant of any right, title or
1332 interest in the property may prove his lien, encumbrance, security
1333 interest, other interest in the nature of a security interest,
1334 mortgage or deed of trust to be bona fide and created without



1335 knowledge or consent that the property was to be used so as to
1336 cause the property to be subject to forfeiture.

1337 (4) If it is found that the property is subject to
1338 forfeiture, then the judge shall forfeit the property to the
1339 Mississippi Bureau of Narcotics or the local law enforcement
1340 agency. However, if proof at the hearing discloses that the
1341 interest of any bona fide lienholder, secured party, other person
1342 holding an interest in the property in the nature of a security
1343 interest, or any holder of a bona fide encumbrance, mortgage or
1344 deed of trust is greater than or equal to the present value of the
1345 property, the court shall order the property released to him. If
1346 such interest is less than the present value of the property and
1347 if the proof shows that the property is subject to forfeiture, the
1348 court shall order the property forfeited to the Mississippi Bureau
1349 of Narcotics or the local law enforcement agency.

1350 (5) Upon a petition filed in the name of the State of
1351 Mississippi, the county or the municipality with the clerk of the
1352 circuit court of the county in which the seizure of any controlled
1353 substance, controlled substance analogue or raw material is made,
1354 the circuit court having jurisdiction may order the controlled
1355 substance, controlled substance analogue or raw material summarily
1356 forfeited except when lawful possession and title can be
1357 ascertained. If a person is found to have had lawful possession
1358 and title prior to seizure, the court shall order the controlled
1359 substance or raw material returned to the owner, if the owner so
1360 desires. Upon a petition filed in the name of the State of
1361 Mississippi, the county or the municipality with the clerk of the
1362 circuit court of the county in which the seizure of any purported
1363 paraphernalia is made, the circuit court having jurisdiction may
1364 order such seized property summarily forfeited when the court has
1365 determined the seized property to be paraphernalia as defined in
1366 Section 41-29-105(v).



1367 **SECTION 19.** Section 63-1-71, Mississippi Code of 1972, is
1368 amended as follows:

1369 63-1-71. (1) In addition to any penalty authorized by the
1370 Uniform Controlled Substances Law or any other statute indicating
1371 the dispositions that can be ordered for an adjudication of
1372 delinquency, every person convicted of, or entering a plea of nolo
1373 contendere to, or adjudicated delinquent in a court of this state
1374 for a violation of any offense defined in the Uniform Controlled
1375 Substances Law, and every person convicted of, or entering a plea
1376 of nolo contendere to, or adjudicated delinquent under the laws of
1377 the United States, another state, a territory or possession of the
1378 United States, the District of Columbia or the Commonwealth of
1379 Puerto Rico of a violation for the use, distribution, possession,
1380 manufacture, sale, barter, transfer or dispensing of a "controlled
1381 substance," "counterfeit substance," "controlled substance
1382 analogue," "narcotic drug" or "drug," as such terms are defined
1383 under Section 41-29-105, shall forthwith forfeit his right to
1384 operate a motor vehicle over the highways of this state for a
1385 period of six (6) months. Notwithstanding the provisions of
1386 Section 63-11-30(2)(a) and in addition to any penalty authorized
1387 by the Uniform Controlled Substances Law or any other statute
1388 indicating the dispositions that can be ordered for an
1389 adjudication of delinquency, every person convicted of driving
1390 under the influence of a controlled substance, or entering a plea
1391 of nolo contendere thereto, or adjudicated delinquent therefor, in
1392 a court of this state, and every person convicted of driving under
1393 the influence of a controlled substance or controlled substance
1394 analogue, or entering a plea of nolo contendere thereto, or
1395 adjudicated delinquent therefor, under the laws of the United
1396 States, another state, a territory or possession of the United
1397 States, the District of Columbia or the Commonwealth of Puerto
1398 Rico, shall forthwith forfeit his right to operate a motor vehicle
1399 over the highways of this state for a period of not less than six



1400 (6) months. In the case of any person who at the time of the
1401 imposition of sentence does not have a driver's license or is less
1402 than fifteen (15) years of age, the period of the suspension of
1403 driving privileges authorized herein shall commence on the day the
1404 sentence is imposed and shall run for a period of not less than
1405 six (6) months after the day the person obtains a driver's license
1406 or reaches the age of fifteen (15) years. If the driving
1407 privilege of any person is under revocation or suspension at the
1408 time of any conviction or adjudication of delinquency for a
1409 violation of any offense defined in the Uniform Controlled
1410 Substances Law, the revocation or suspension period imposed herein
1411 shall commence as of the date of termination of the existing
1412 revocation or suspension.

1413 (2) The court in this state before whom any person is
1414 convicted of or adjudicated delinquent for a violation of an
1415 offense under subsection (1) of this section shall collect
1416 forthwith the Mississippi driver's license of the person and
1417 forward such license to the Department of Public Safety along with
1418 a report indicating the first and last day of the suspension or
1419 revocation period imposed pursuant to this section. If the court
1420 is for any reason unable to collect the license of the person, the
1421 court shall cause a report of the conviction or adjudication of
1422 delinquency to be filed with the Commissioner of Public Safety.
1423 That report shall include the complete name, address, date of
1424 birth, eye color and sex of the person and shall indicate the
1425 first and last day of the suspension or revocation period imposed
1426 by the court pursuant to this section. The court shall inform the
1427 person orally and in writing that if the person is convicted of
1428 personally operating a motor vehicle during the period of license
1429 suspension or revocation imposed pursuant to this section, the
1430 person shall, upon conviction, be subject to the penalties set
1431 forth in Section 63-11-40. A person shall be required to
1432 acknowledge receipt of the written notice in writing. Failure to



1433 receive a written notice or failure to acknowledge in writing the
1434 receipt of a written notice shall not be a defense to a subsequent
1435 charge of a violation of Section 63-11-40. If the person is the
1436 holder of a driver's license from another jurisdiction, the court
1437 shall not collect the license but shall notify forthwith the
1438 Commissioner of Public Safety who shall notify the appropriate
1439 officials in the licensing jurisdiction. The court shall,
1440 however, in accordance with the provisions of this section, revoke
1441 the person's nonresident driving privilege in this state.

1442 (3) The county court or circuit court having jurisdiction,
1443 on petition, may reduce the suspension of driving privileges under
1444 this section if the denial of which would constitute a hardship on
1445 the offender. When the petition is filed, such person shall pay
1446 to the circuit clerk of the court where the petition is filed a
1447 fee of Twenty Dollars (\$20.00) for each year, or portion thereof,
1448 of license revocation or suspension remaining under the original
1449 sentence, which shall be deposited into the State General Fund to
1450 the credit of a special fund hereby created in the State Treasury
1451 to be used for alcohol or drug abuse treatment and education, upon
1452 appropriation by the Legislature. This fee shall be in addition
1453 to any other court costs or fees required for the filing of
1454 petitions.

1455 **SECTION 20.** Section 63-1-83, Mississippi Code of 1972, is
1456 amended as follows:

1457 63-1-83. (1) From and after April 1, 1992, it shall be a
1458 violation of this article and the Commissioner of Public Safety
1459 shall suspend for a period of one (1) year the commercial driver's
1460 license of any person whom he determines to have committed a first
1461 violation of:

1462 (a) Driving a commercial motor vehicle for which a
1463 commercial driver instruction permit or commercial driver's
1464 license is required under this article while under the influence



1465 of alcohol or a controlled substance or a controlled substance
1466 analogue;

1467 (b) 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 the alcohol
1470 concentration of the person's blood, breath or urine is four
1471 one-hundredths percent (.04%) or more;

1472 (c) Knowingly and willfully leaving the scene of an
1473 accident involving a commercial motor vehicle for which a
1474 commercial driver instruction permit or commercial driver's
1475 license is required under this article, if the vehicle was driven
1476 by such person;

1477 (d) Using a commercial motor vehicle for which a
1478 commercial driver instruction permit or commercial driver's
1479 license is required under this article in the commission of any
1480 felony as defined in this article; or

1481 (e) Refusing to submit to a test to determine the
1482 driver's alcohol concentration while driving a commercial motor
1483 vehicle for which a commercial driver instruction permit or
1484 commercial driver's license is required under this article.

1485 If any of the violations in subsection (1) of this section
1486 occurred while transporting hazardous materials required to be
1487 placarded under the Hazardous Materials Transportation Act, the
1488 commissioner shall suspend the commercial driver's license of such
1489 person for a period of three (3) years.

1490 (2) The Commissioner of Public Safety shall suspend the
1491 commercial driver's license of a person for life, or such lesser
1492 minimum period of time as shall be required under applicable
1493 federal law or regulations, if a person is determined to have
1494 committed two (2) or more of the violations specified in
1495 subsection (1) of this section or any combination of such
1496 violations arising from two (2) or more separate incidents. The



1497 provisions of this subsection (2) shall apply only to violations
1498 occurring on or after April 1, 1992.

1499 (3) The Commissioner of Public Safety shall suspend for life
1500 the commercial driver's license of any person who uses a
1501 commercial motor vehicle for which a commercial driver instruction
1502 permit or commercial driver's license is required under this
1503 article in the commission of any felony involving the manufacture,
1504 distribution or dispensing of a controlled substance or controlled
1505 substance analogue, or possession with intent to manufacture,
1506 distribute or dispense a controlled substance or controlled
1507 substance analogue. The provisions of this subsection (3) shall
1508 apply only to violations occurring on or after April 1, 1992.

1509 (4) The Commissioner of Public Safety shall suspend for a
1510 period of sixty (60) days the commercial driver's license of any
1511 person convicted of two (2) serious traffic violations, or one
1512 hundred twenty (120) days if convicted of three (3) serious
1513 traffic violations, committed in a commercial motor vehicle for
1514 which a commercial driver instruction permit or commercial
1515 driver's license is required under this article arising from
1516 separate incidents occurring within a period of three (3) years.
1517 The provisions of this subsection (4) shall apply only to
1518 violations occurring on or after April 1, 1992.

1519 (5) In addition to the reasons specified in this section for
1520 suspension of the commercial driver's license, the Commissioner of
1521 Public Safety shall be authorized to suspend the commercial
1522 driver's license of any person for being out of compliance with an
1523 order for support, as defined in Section 93-11-153. The procedure
1524 for suspension of a commercial driver's license for being out of
1525 compliance with an order for support, and the procedure for the
1526 reissuance or reinstatement of a commercial driver's license
1527 suspended for that purpose, and the payment of any fees for the
1528 reissuance or reinstatement of a commercial driver's license
1529 suspended for that purpose, shall be governed by Section 93-11-157



1530 or 93-11-163, as the case may be. If there is any conflict
1531 between any provision of Section 93-11-157 or 93-11-163 and any
1532 provision of this article, the provisions of Section 93-11-157 or
1533 93-11-163, as the case may be, shall control.

1534 **SECTION 21.** This act shall take effect and be in force from
1535 and after July 1, 2002.

