

By: Senator(s) Little, Gordon, Robertson,  
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To: Appropriations

SENATE BILL NO. 2637

1 AN ACT TO AMEND SECTIONS 41-29-107, 41-29-108, 41-29-111 AND  
2 45-1-2, MISSISSIPPI CODE OF 1972, TO ASSIGN THE COMMISSIONER OF  
3 PUBLIC SAFETY SUCH POWERS AND DUTIES DEEMED NECESSARY TO CARRY OUT  
4 THE LAWFUL FUNCTIONS OF THE MISSISSIPPI BUREAU OF NARCOTICS, TO  
5 PROVIDE FOR THE APPOINTMENT OF THE DIRECTOR OF THE BUREAU, TO  
6 PROVIDE THAT FUNDS APPROPRIATED TO THE DEPARTMENT OF PUBLIC SAFETY  
7 FOR THE USE OF THE BUREAU SHALL BE BUDGETED AND MAINTAINED BY THE  
8 DEPARTMENT; TO AMEND SECTION 1, CHAPTER 520, LAWS OF 1972, IN  
9 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 41-29-107, Mississippi Code of 1972, is  
12 amended as follows:

13 41-29-107. (1) From and after July 1, 2004, the  
14 Commissioner of Public Safety may assign to the appropriate  
15 offices such powers and duties deemed appropriate to carry out the  
16 lawful functions of the Mississippi Bureau of Narcotics.

17 (2) There is hereby created within the Mississippi  
18 Department of Public Safety an office to be known as the  
19 Mississippi Bureau of Narcotics \* \* \*. The said office shall  
20 have \* \* \* a director who shall be appointed by the Governor with  
21 the advice and consent of the Senate.

22 (3) Any funds, property or PINS that are appropriated to or  
23 otherwise received by the bureau, or appropriated to, transferred  
24 to or otherwise received by the Department of Public Safety for  
25 the use of the bureau, shall be budgeted and maintained by the  
26 department as funds of the department. Personnel occupying PINS  
27 transferred from the Mississippi Bureau of Narcotics to the  
28 Mississippi Department of Public Safety shall serve on a  
29 probationary basis for the twelve (12) months following transfer.

30       (4) The Commissioner of Public Safety is empowered to employ  
31 or appoint necessary agents. The Commissioner of Public Safety  
32 may also employ such secretarial, clerical and administrative  
33 personnel, including a duly licensed attorney, as necessary for  
34 the operation of the bureau, and shall have such quarters,  
35 equipment and facilities as needed. The salary and qualifications  
36 of the attorney authorized by this section shall be fixed by the  
37 director, but the salary shall not exceed the salary authorized  
38 for an assistant attorney general who performs similar duties.

39       (5) The director and agents so appointed shall be citizens  
40 of the United States and of the State of Mississippi, and of good  
41 moral character. The agents shall be not less than twenty-one  
42 (21) nor shall have attained the age of thirty-six (36) years of  
43 age at the time of such appointment. In addition thereto, those  
44 appointed shall have satisfactorily completed at least two (2)  
45 years of college studies. However, two (2) years of satisfactory  
46 service as a law enforcement officer and the completion of the  
47 prescribed course of study at a school operated by the Drug  
48 Enforcement Administration or the United States Justice Department  
49 shall satisfy one (1) year of such college studies, and four (4)  
50 years of satisfactory service as a law enforcement officer and the  
51 completion of the prescribed course of study at such federal  
52 bureau school as stated heretofore shall fully satisfy the two (2)  
53 years of college requirement. The director shall also be required  
54 to complete a prescribed course of study at a school operated by  
55 the Drug Enforcement Administration or the United States Justice  
56 Department.

57       \* \* \*

58       (6) The Commissioner of Public Safety may assign members of  
59 the Mississippi Highway Safety Patrol, regardless of age, to the  
60 bureau \* \* \*; however, when any highway patrolman or other  
61 employee, agent or official of the Mississippi Department of  
62 Public Safety is assigned to duty with, or is employed by, the

63 bureau, he shall not be subject to assignment or transfer to any  
64 other office or department within the Mississippi Department of  
65 Public Safety except by the Commissioner of Public Safety. Any  
66 highway patrolman assigned to duty with the bureau shall retain  
67 his status as a highway patrolman, but shall be under the  
68 supervision of the director. For purposes of compensation and  
69 seniority within the Highway Safety Patrol and for purposes of  
70 retirement under the Mississippi Highway Safety Patrol Retirement  
71 System, highway patrolmen assigned to the bureau will be credited  
72 as if performing duty with the Highway Safety Patrol. The  
73 Commissioner of Public Safety may assign employees of the Highway  
74 Safety Patrol to the Mississippi Bureau of Narcotics and also  
75 assign agents of the bureau to the Highway Patrol; provided,  
76 however, that employees so assigned meet all established  
77 requirements for duty.

78 (7) The Commissioner of Public Safety may enter into  
79 contracts or agreements with the State Board of Health for  
80 purposes of recruitment and screening of applicants through the  
81 merit system.

82 (8) The Commissioner of Public Safety may enter into  
83 agreements with bureaus or departments of other states or of the  
84 United States for the exchange or temporary assignment of agents  
85 for special undercover assignments and for performance of specific  
86 duties.

87 (9) The Commissioner of Public Safety is hereby authorized  
88 to assign agents of the bureau to such duty and to request and  
89 accept agents from such other bureaus or departments for such  
90 duty.

91 (10) In transferring the responsibilities of the Mississippi  
92 Bureau of Narcotics to the Department of Public Safety, the  
93 commissioner and the director shall develop and implement written  
94 security precautions which shall be observed by all affected  
95 employees. The commissioner and the director of the bureau shall

96 review, modify and approve the plan prior to the effective date of  
97 the merger of responsibilities required herein.

98         **SECTION 2.** Section 41-29-108, Mississippi Code of 1972, is  
99 amended as follows:

100         41-29-108. (1) The \* \* \* Commissioner of Public Safety is  
101 hereby authorized to accept vehicles which may be available from  
102 the federal government for use in enforcement of this article.  
103 The commissioner is further authorized to expend reasonable funds  
104 from any funds appropriated for the bureau for the delivery,  
105 repair and maintenance of such automobiles.

106         (2) The commissioner is further authorized to rent or lease  
107 motor vehicles for undercover missions. Such vehicles shall be  
108 used only on specified missions and not as additions to the  
109 regularly authorized and budgeted vehicles of the bureau.

110         **SECTION 3.** Section 41-29-111, Mississippi Code of 1972, is  
111 amended as follows:

112         41-29-111. The Commissioner of Public Safety shall  
113 administer this article and shall work in conjunction and  
114 cooperation with the State Board of Pharmacy, county and municipal  
115 law enforcement agencies, the district and county attorneys, the  
116 Office of the Attorney General and the Mississippi Highway Safety  
117 Patrol. The State Board of Health shall work with the bureau in  
118 an advisory capacity and shall be responsible for recommending to  
119 the Legislature the appropriate schedule for all substances to be  
120 scheduled or rescheduled in Sections 41-29-113 through 41-29-121.  
121 In making a recommendation regarding a substance, the board shall  
122 consider the following:

- 123                 (a) (1) The actual or relative potential for abuse;  
124                         (2) The scientific evidence of its pharmacological  
125 effect, if known;  
126                         (3) The state of current scientific knowledge  
127 regarding the substance;  
128                         (4) The history and current pattern of abuse;

129                   (5) The scope, duration and significance of abuse;  
130                   (6) The risk to the public health;  
131                   (7) The potential of the substance to produce  
132 psychic or physiological dependence liability; and  
133                   (8) Whether the substance is an immediate  
134 precursor of a substance already controlled under this article.

135           (b) After considering the factors enumerated in  
136 paragraph (a), the board shall make findings with respect thereto  
137 and issue a recommendation to control the substance if it finds  
138 the substance has a potential for abuse.

139           (c) If the board designates a substance as an immediate  
140 precursor, substances which are precursors of the controlled  
141 precursor shall not be recommended for control solely because they  
142 are precursors of the controlled precursor.

143           (d) If any substance is designated, rescheduled, or  
144 deleted as a controlled substance under federal law and notice  
145 thereof is given to the board, it shall recommend the control of  
146 the substance under this article at the next session of the  
147 Legislature.

148           (e) Authority to control under this article does not  
149 extend to distilled spirits, wine, malt beverages, or tobacco as  
150 those terms are defined or used in the Local Option Alcoholic  
151 Beverage Control Law, being Sections 67-1-1 through 67-1-91, and  
152 the Tobacco Tax Law of 1934, being Sections 27-69-1 through  
153 27-69-77. It is the intent of the Legislature of the State of  
154 Mississippi that the bureau shall concentrate its efforts and  
155 resources on the enforcement of the Uniform Controlled Substances  
156 Law with respect to illicit narcotic and drug traffic in the  
157 state.

158           The controlled substances listed in the schedules in Sections  
159 41-29-113 through 41-29-121 are included by whatever official,  
160 common, usual, chemical or trade name designated.

161 (f) The board shall recommend the exclusion of any  
162 nonnarcotic substance from a schedule if such substance may, under  
163 the Federal Food, Drug and Cosmetic Act and the laws of this  
164 state, be lawfully sold over the counter without a prescription.

165 **SECTION 4.** Section 45-1-2, Mississippi Code of 1972, is  
166 amended as follows:

167 45-1-2. (1) The Executive Director of the Department of  
168 Public Safety shall be the Commissioner of Public Safety.

169 (2) The Commissioner of Public Safety shall establish the  
170 organizational structure of the Department of Public Safety which  
171 shall include the creation of any units necessary to implement the  
172 duties assigned to the department and consistent with specific  
173 requirements of law, including, but not limited to:

174 (a) Office of Public Safety Planning;

175 (b) Office of Medical Examiner;

176 (c) Office of Mississippi Highway Safety Patrol;

177 (d) Office of Crime Laboratories;

178 (e) Office of Law Enforcement Officers' Training  
179 Academy;

180 (f) Office of Support Services;

181 (g) The Office of Narcotics, known as the Mississippi  
182 Bureau of Narcotics \* \* \*.

183 (3) The department shall be headed by a commissioner who  
184 shall be appointed by and serve at the pleasure of the Governor.  
185 The appointment of the commissioner shall be made with the advice  
186 and consent of the Senate. The commissioner may assign to the  
187 appropriate offices such powers and duties as deemed appropriate  
188 to carry out the department's lawful functions.

189 (4) The commissioner of the department shall appoint heads  
190 of offices, who shall serve at the pleasure of the commissioner.  
191 The commissioner shall have the authority to organize the offices  
192 established by subsection (2) of this section as deemed  
193 appropriate to carry out the responsibilities of the department.

194 The organization charts of the department shall be presented  
195 annually with the budget request of the Governor for review by the  
196 Legislature.

197 (5) The commissioner of the department shall appoint, from  
198 within the Department of Public Safety, a statewide safety  
199 training officer who shall serve at the pleasure of the  
200 commissioner and whose duty it shall be to perform public training  
201 for both law enforcement and private persons throughout the state  
202 concerning proper emergency response to the mentally ill,  
203 terroristic threats or acts, domestic conflict, other conflict  
204 resolution, and such other matters as the commissioner may direct.

205 **SECTION 5.** Section 1, Chapter 520, Laws of 1972, is amended  
206 as follows:

207 Section 1. (a) The Mississippi Bureau of Drug Enforcement  
208 shall henceforth be designated as an office known as the  
209 Mississippi Bureau of Narcotics within the Department of Public  
210 Safety.

211 (b) The Mississippi Bureau of Drug Enforcement as created by  
212 Chapter 521, Section 3, Laws of 1971, being Section 6831-53,  
213 Mississippi Code of 1942, is hereby transferred from the State  
214 Board of Health to the Mississippi Department of Public Safety;  
215 all personnel, records, property, equipment and all funds  
216 allocated the Bureau of Drug Enforcement are hereby transferred to  
217 and placed under the supervision of the Mississippi Bureau of  
218 Narcotics of the Department of Public Safety. \* \* \*

219 **SECTION 6.** This act shall take effect and be in force from  
220 and after July 1, 2004.