

By: Representative Fleming

To: Judiciary A

HOUSE BILL NO. 147

1 AN ACT TO AUTHORIZE THE MEDICAL USE OF MARIJUANA BY SERIOUSLY  
 2 ILL PATIENTS UNDER A PHYSICIAN'S SUPERVISION; TO DEFINE CERTAIN  
 3 TERMS; TO PROVIDE AN EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES  
 4 FOR THE MEDICAL USE OF MARIJUANA; TO PROVIDE LIMITATIONS ON THE  
 5 MEDICAL USE OF MARIJUANA; TO PROVIDE A LEGAL DEFENSE FOR PATIENTS  
 6 AND PRIMARY CAREGIVERS; TO AMEND SECTIONS 41-29-113 AND 41-29-115,  
 7 MISSISSIPPI CODE OF 1972, TO TRANSFER MARIJUANA FROM SCHEDULE I TO  
 8 SCHEDULE II UNDER THE CONTROLLED SUBSTANCES LAW; TO AMEND SECTION  
 9 41-29-139, MISSISSIPPI CODE OF 1972, TO EXEMPT THE MEDICAL USE OF  
 10 MARIJUANA FROM CRIMINAL PENALTIES UNDER THE CONTROLLED SUBSTANCES  
 11 LAW; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** The Legislature finds and declares the following:

14 (a) Modern medical research has discovered a beneficial  
 15 use for marijuana in treating or alleviating the pain or other  
 16 symptoms associated with certain debilitating medical conditions,  
 17 as found by the National Academy of Sciences' Institute of  
 18 Medicine in March 1999.

19 (b) The Legislature would prefer for the federal  
 20 government to permit marijuana to be prescribed by physicians and  
 21 to be dispensed at pharmacies. However, the federal government  
 22 has shown no indication that it will change federal policy with  
 23 regard to medical marijuana, as evidenced by the federal  
 24 government's reluctance to allow even FDA-approved clinical trials  
 25 to move forward.

26 (c) According to the United States Sentencing  
 27 Commission and the Federal Bureau of Investigation, more than  
 28 ninety-nine (99) out of every one hundred (100) marijuana arrests  
 29 are made under state law, rather than under federal law.  
 30 Consequently, changing state law will have the practical effect of

31 protecting from arrest the vast majority of seriously ill people  
32 who have a medical need to use marijuana.

33 (d) Although federal law expressly prohibits the use of  
34 marijuana, the laws of Alaska, California, Colorado, Hawaii,  
35 Maine, Nevada, Oregon and Washington permit the medical use and  
36 cultivation of marijuana. The Legislature intends to join in this  
37 effort for the health and welfare of the citizens of Mississippi.  
38 However, the Legislature does not intend to make marijuana legally  
39 available for other than medical purposes.

40 (e) The state is not required to enforce federal law or  
41 prosecute people for engaging in activities prohibited by federal  
42 law. Therefore, compliance with this act does not put the state  
43 in violation of federal law.

44 (f) State law should make a distinction between the  
45 medical and nonmedical use of marijuana. Therefore, the purpose  
46 of this act is to ensure that physicians are not penalized for  
47 discussing marijuana as a treatment option with their patients,  
48 and that seriously ill people who engage in the medical use of  
49 marijuana upon their physicians' advice are not arrested and  
50 incarcerated for using marijuana for medical purposes.

51 **SECTION 2.** The following words and phrases shall have the  
52 meanings ascribed in this section, unless the context clearly  
53 indicates otherwise:

54 (a) "Adequate supply" means an amount of marijuana  
55 collectively possessed between the qualifying patient and the  
56 qualifying patient's primary caregivers that is not more than is  
57 reasonably necessary to ensure the uninterrupted availability of  
58 marijuana for the purpose of alleviating the symptoms or effects  
59 of a qualifying patient's debilitating medical condition; however,  
60 an "adequate supply" shall not exceed three (3) mature marijuana  
61 plants, four (4) immature marijuana plants and thirty (30) grams  
62 of usable marijuana per each mature plant. "Usable marijuana"  
63 means the dried leaves and flowers of marijuana, and any mixture

64 or preparation thereof, that are appropriate for the medical use  
65 of marijuana, and does not include the seeds, stalks and roots of  
66 the plant.

67 (b) "Debilitating medical condition" means:

68 (i) Cancer, glaucoma, positive status for human  
69 immunodeficiency virus (HIV), acquired immune deficiency syndrome  
70 (AIDS) or the treatment of these conditions;

71 (ii) A chronic or debilitating disease or medical  
72 condition or its treatment that produces one or more of the  
73 following: cachexia or wasting syndrome; severe pain; severe  
74 nausea; seizures, including those characteristic of epilepsy; or  
75 severe and persistent muscle spasms including those characteristic  
76 of multiple sclerosis or Crohn's disease; or

77 (iii) Any other medical condition or its treatment  
78 approved by the department, as provided for as follows: not later  
79 than ninety (90) days after the effective date of this act, the  
80 State Board of Health shall promulgate regulations governing the  
81 manner in which the department will consider petitions from the  
82 public to add debilitating medical conditions to those  
83 specifically included in this paragraph (b). In considering such  
84 petitions, the department shall include public notice of, and an  
85 opportunity to comment in a public hearing upon, the petitions.  
86 The department shall, after hearing, approve or deny those  
87 petitions within one hundred eighty (180) days of submission. The  
88 approval or denial of such a petition shall be considered a final  
89 agency action, subject to judicial review.

90 (c) "Department" means State Department of Health.

91 (d) "Marijuana" has the same meaning as "marihuana" as  
92 defined in Section 41-29-105.

93 (e) "Medical use" means the acquisition, possession,  
94 cultivation, use, transfer or transportation of marijuana or  
95 paraphernalia relating to the administration of marijuana to  
96 alleviate the symptoms or effects of a qualifying patient's

97 debilitating medical condition. For the purposes of "medical  
98 use," the term "transfer" is limited to the transfer of marijuana  
99 and paraphernalia between primary caregivers and qualifying  
100 patients.

101 (f) "Physician" means a person who is licensed under  
102 Section 73-25-1 et seq.

103 (g) "Primary caregiver" means a person who is at least  
104 eighteen (18) years old and who has agreed to undertake  
105 responsibility for managing the well-being of a person with  
106 respect to the medical use of marijuana.

107 (h) "Qualifying patient" means a person who has been  
108 diagnosed by a physician as having a debilitating medical  
109 condition.

110 (i) "Written certification" means the qualifying  
111 patient's medical records or a statement signed by a physician,  
112 stating that in the physician's professional opinion, after having  
113 completed a full assessment of the qualifying patient's medical  
114 history and current medical condition made in the course of a bona  
115 fide physician-patient relationship, the qualifying patient has a  
116 debilitating medical condition and the potential benefits of the  
117 medical use of marijuana would likely outweigh the health risks  
118 for the qualifying patient.

119 **SECTION 3.** (1) A qualifying patient who has in his or her  
120 possession written certification shall not be subject to arrest,  
121 prosecution or penalty in any manner for the medical use of  
122 marijuana, provided the quantity of marijuana does not exceed an  
123 adequate supply.

124 (2) Subsection (1) of this section shall not apply to a  
125 qualifying patient under the age of eighteen (18) years, unless:

126 (a) The qualifying patient's physician has explained  
127 the potential risks and benefits of the medical use of marijuana  
128 to the qualifying patient and to a parent, guardian or person  
129 having legal custody of the qualifying patient; and

130 (b) A parent, guardian or person having legal custody  
131 consents in writing to:

132 (i) Allow the qualifying patient's medical use of  
133 marijuana;

134 (ii) Serve as the qualifying patient's primary  
135 caregiver; and

136 (iii) Control the acquisition of the marijuana,  
137 the dosage and the frequency of the medical use of marijuana by  
138 the qualifying patient.

139 (3) When the acquisition, possession, cultivation,  
140 transportation or administration of marijuana by a qualifying  
141 patient is not practicable, the legal protections established by  
142 this act for a qualifying patient shall extend to the qualifying  
143 patient's primary caregivers, provided that the primary  
144 caregivers' actions are necessary for the qualifying patient's  
145 medical use of marijuana.

146 (4) A physician shall not be subject to arrest or  
147 prosecution, penalized in any manner or denied any right or  
148 privilege for providing written certification for the medical use  
149 of marijuana to qualifying patients.

150 (5) Any property interest that is possessed, owned or used  
151 in connection with the medical use of marijuana, or acts  
152 incidental to that use, shall not be harmed, neglected, injured or  
153 destroyed while in the possession of state or local law  
154 enforcement officials, provided that law enforcement agencies  
155 seizing live plants as evidence shall not be responsible for the  
156 care and maintenance of marijuana plants. Any such property  
157 interest shall not be forfeited under any provision of state or  
158 local law providing for the forfeiture of property other than as a  
159 sentence imposed after conviction of a criminal offense or entry  
160 of a plea of guilty to a criminal offense. Marijuana,  
161 paraphernalia or other property seized from a qualifying patient  
162 or primary caregivers in connection with the claimed medical use

163 of marijuana shall be returned immediately upon the determination  
164 by a court or prosecutor that the qualifying patient or primary  
165 caregivers are entitled to the protections of this act, as may be  
166 evidenced by a decision not to prosecute, the dismissal of charges  
167 or an acquittal.

168 (6) No person shall be subject to arrest or prosecution for  
169 "constructive possession," "conspiracy" or any other offense for  
170 simply being in the presence or vicinity of the medical use of  
171 marijuana as permitted under this act.

172 **SECTION 4.** (1) The authorization for the medical use of  
173 marijuana in this act shall not apply to:

174 (a) The medical use of marijuana that endangers the  
175 health or well-being of another person, such as driving or  
176 operating heavy machinery while under the influence of marijuana;

177 (b) The smoking of marijuana:

178 (i) In a school bus, public bus or other public  
179 vehicle;

180 (ii) In the workplace of one's employment;

181 (iii) On any school grounds;

182 (iv) In any correctional facility; or

183 (v) At any public park, public beach, public  
184 recreation center or youth center; and

185 (c) The use of marijuana by a qualifying patient,  
186 primary caregiver or any other person for purposes other than  
187 medical use permitted by this act.

188 (2) Insurance companies shall not be required to cover the  
189 medical use of marijuana.

190 (3) Notwithstanding any law to the contrary, fraudulent  
191 representation to a law enforcement official of any fact or  
192 circumstance relating to the medical use of marijuana to avoid  
193 arrest or prosecution shall be a misdemeanor and subject to a fine  
194 of Five Hundred Dollars (\$500.00). This penalty shall be in

195 addition to any other penalties that may apply for the nonmedical  
196 use of marijuana.

197 **SECTION 5.** A person and a person's primary caregivers may  
198 assert the medical use of marijuana as a defense to any  
199 prosecution involving marijuana, and that defense shall be  
200 presumed valid where the evidence shows that:

201 (a) The person's medical records indicate, or a  
202 physician has stated that, in the physician's professional  
203 opinion, after having completed a full assessment of the person's  
204 medical history and current medical condition made in the course  
205 of a bona fide physician-patient relationship, the potential  
206 benefits of the medical use of marijuana would likely outweigh the  
207 health risks for the person; and

208 (b) The person and the person's primary caregivers were  
209 collectively in possession of a quantity of marijuana that was not  
210 more than was reasonably necessary to ensure the uninterrupted  
211 availability of marijuana for the purpose of alleviating the  
212 symptoms or effects of the person's medical condition.

213 **SECTION 6.** Section 41-29-113, Mississippi Code of 1972, is  
214 amended as follows:

215 41-29-113. The controlled substances listed in this section  
216 are included in Schedule I.

217 **SCHEDULE I**

218 (a) Any of the following opiates, including their isomers,  
219 esters, ethers, salts and salts of isomers, esters and ethers,  
220 unless specifically excepted, whenever the existence of these  
221 isomers, esters, ethers and salts is possible within the specific  
222 chemical designation:

- 223 (1) Acetyl-alpha-methylfentanyl;  
224 (2) Acetylmethadol;  
225 (3) Allylprodine;  
226 (4) Alphacetylmethadol, except levo-alphacetylmethadol  
227 (levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

- 228 (5) Alphameprodine;
- 229 (6) Alphasmethadol;
- 230 (7) Alpha-methylfentanyl;
- 231 (8) Alpha-methylthiofentanyl;
- 232 (9) Benzethidine;
- 233 (10) Betacetylmethadol;
- 234 (11) Beta-hydroxyfentanyl;
- 235 (12) Beta-hydroxy-3-methylfentanyl;
- 236 (13) Betameprodine;
- 237 (14) Betamethadol;
- 238 (15) Betaprodine;
- 239 (16) Clonitazene;
- 240 (17) Dextromoramide;
- 241 (18) Diampromide;
- 242 (19) Diethylthiambutene;
- 243 (20) Difenoquin;
- 244 (21) Dimenoxadol;
- 245 (22) Dimepheptanol;
- 246 (23) Dimethylthiambutene;
- 247 (24) Dioxaphetyl butyrate;
- 248 (25) Dipipanone;
- 249 (26) Ethylmethylthiambutene;
- 250 (27) Etonitazene;
- 251 (28) Etoxadine;
- 252 (29) Furethidine;
- 253 (30) Hydroxypethidine;
- 254 (31) Ketobemidone;
- 255 (32) Levomoramide;
- 256 (33) Levophenacymorphan;
- 257 (34) 3-methylfentanyl;
- 258 (35) 3-methylthiofentanyl;
- 259 (36) Morpheridine;
- 260 (37) Noracymethadol;



- 261 (38) Norlevorphanol;
- 262 (39) Normethadone;
- 263 (40) Norpipanone;
- 264 (41) Para-fluorofentanyl;
- 265 (42) Phenadoxone;
- 266 (43) Phenampromide;
- 267 (44) Phenomorphan;
- 268 (45) Phenoperidine;
- 269 (46) Piritramide;
- 270 (47) Proheptazine;
- 271 (48) Properidine;
- 272 (49) Propiram;
- 273 (50) Racemoramide;
- 274 (51) Tilidine;
- 275 (52) Trimeperidine;
- 276 (53) Thiofentanyl;
- 277 (54) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP);
- 278 (55) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine
- 279 (PEPAP).

280 (b) Any of the following opium derivatives, their salts,  
281 isomers and salts of isomers, unless specifically excepted,  
282 whenever the existence of these salts, isomers and salts of  
283 isomers is possible within the specific chemical designation:

- 284 (1) Acetorphine;
- 285 (2) Acetyldihydrocodeine;
- 286 (3) Benzylmorphine;
- 287 (4) Codeine methylbromide;
- 288 (5) Codeine-N-Oxide;
- 289 (6) Cyprenorphine;
- 290 (7) Desomorphine;
- 291 (8) Dihydromorphine;
- 292 (9) Drotebanol;
- 293 (10) Etorphine; (except hydrochloride salt);

- 294 (11) Heroin;  
295 (12) Hydromorphenol;  
296 (13) Methyldesorphine;  
297 (14) Methyldihydromorphine;  
298 (15) Monoacetylmorphine;  
299 (16) Morphine methylbromide;  
300 (17) Morphine methylsulfonate;  
301 (18) Morphine-N-Oxide;  
302 (19) Myrophine;  
303 (20) Nicocodeine;  
304 (21) Nicomorphine;  
305 (22) Normorphine;  
306 (23) Pholcodine;  
307 (24) Thebacon.

308 (c) Any material, compound, mixture or preparation which  
309 contains any quantity of the following hallucinogenic substances,  
310 their salts, isomers and salts of isomers, unless specifically  
311 excepted, whenever the existence of these salts, isomers and salts  
312 of isomers is possible within the specific chemical designation:

- 313 (1) 3, 4-methylenedioxy amphetamine;  
314 (2) 5-methoxy-3, 4-methylenedioxy amphetamine;  
315 (3) 2, 5-dimethoxy-4-ethylamphetamine (DOET);  
316 (4) 3, 4-methylenedioxymethamphetamine (MDMA);  
317 (5) 3, 4, 5-trimethoxy amphetamine;  
318 (6) Bufotenine;  
319 (7) Diethyltryptamine;  
320 (8) Dimethyltryptamine;  
321 (9) Alpha-ethyltryptamine;  
322 (10) 4-methyl-2, 5-dimethoxyamphetamine;  
323 (11) Hashish;  
324 (12) Ibogaine;  
325 (13) Lysergic acid diethylamide (LSD); \* \* \*

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- 327            (14) Mescaline;
- 328            (15) Peyote;
- 329            (16) N-ethyl-3-piperidyl benzilate;
- 330            (17) N-methyl-3-piperidyl benzilate;
- 331            (18) Phencyclidine;
- 332            (19) Psilocybin;
- 333            (20) Psilocyn;
- 334            (21) Tetrahydrocannabinols (excluding dronabinol and  
335 nabilone);
- 336            (22) 2, 5-dimethoxyamphetamine;
- 337            (23) 4-bromo-2, 5-dimethoxyamphetamine;
- 338            (24) 4-bromo-2, 5-dimethoxyphenylethylamine;
- 339            (25) 4-methoxyamphetamine;
- 340            (26) Ethylamine analog of phencyclidine (PCE);
- 341            (27) Pyrrolidine analog of phencyclidine (PHP, PCPy);
- 342            (28) Thiophene analog of Phencyclidine;
- 343            (29) Parahexyl;
- 344            (30) 1-[1-(2-Thienyl)cyclohexyl] pyrrolidine (TCPy);
- 345            (31) 3, 4-methylenedioxy-N-ethylamphetamine (also known  
346 as N-ethyl-alpha-methyl-3, 4 (methylenedioxy) phenylethylamine,  
347 N-ethyl MDA, MDE and MDEA);
- 348            (32) N-hydroxy-3, 4-methylenedioxyamphetamine (also  
349 known as N-hydroxy MDA, N-OHMDA, and N-hydroxy-alpha-methyl-3,  
350 4-(methylenedioxy) phenylethylamine).
- 351            (d) Mecloqualone, its salts, isomers and salts of isomers,  
352 unless specifically excepted, whenever the existence of the salts,  
353 isomers and salts of isomers is possible within this specific  
354 chemical designation.
- 355            (e) Gamma-hydroxybutyric acid (other names include: GHB,  
356 gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid;  
357 sodium oxybate; sodium oxybutyrate), including its salts, isomers,  
358 and salts of isomers.

359 (f) Any material, compound, mixture or preparation which  
360 contains any quantity of the following central nervous system  
361 stimulants including salts, isomers and salts of isomers unless  
362 specifically excepted or unless listed in another schedule:

- 363 (1) Aminorex;
- 364 (2) Cathinone;
- 365 (3) Fenethylamine;
- 366 (4) N-ethyl-amphetamine;
- 367 (5) 4-methylaminorex (also known as  
368 2-amino-4-methyl-5-phenyl-2-oxazoline);
- 369 (6) Methacathinone.

370 (g) Any material, compound, mixture or preparation which  
371 contains any quantity of methaqualone, including its salts,  
372 isomers, optical isomers, salts of their isomers and salts of  
373 their optical isomers unless specifically excepted or unless  
374 listed in another schedule.

375 (h) Any material, compound, mixture or preparation which  
376 contains any quantity of N,N-dimethylamphetamine, including its  
377 salts, isomers and salts of isomers, unless specifically excepted  
378 or unless listed in another schedule. (Other names include: N,N,  
379 alpha-trimethylbenzene-ethaneamine, and N,N,  
380 alpha-trimethylphenylethylamine).

381 **SECTION 7.** Section 41-29-115, Mississippi Code of 1972, is  
382 amended as follows:

383 41-29-115. (A) The controlled substances listed in this  
384 section are included in Schedule II.

#### 385 **SCHEDULE II**

386 (a) Any of the following substances, except those  
387 narcotic drugs listed in other schedules, whether produced  
388 directly or indirectly by extraction from substances of vegetable  
389 origin, or independently by means of chemical synthesis, or by  
390 combination of extraction and chemical synthesis:

391 (1) Opium and opiate, and any salt, compound,  
392 derivative, or preparation of opium or opiate, excluding naloxone  
393 hydrochloride, apomorphine, dextrorphan, nalbuphine, nalmeffene and  
394 naltrexone, but including the following:

- 395 (i) Raw opium;
- 396 (ii) Opium extracts;
- 397 (iii) Opium fluid extracts;
- 398 (iv) Powdered opium;
- 399 (v) Granulated opium;
- 400 (vi) Tincture of opium;
- 401 (vii) Codeine;
- 402 (viii) Ethylmorphine;
- 403 (ix) Etorphine hydrochloride;
- 404 (x) Hydrocodone;
- 405 (xi) Hydromorphone;
- 406 (xii) Metopon;
- 407 (xiii) Morphine;
- 408 (xiv) Oxycodone;
- 409 (xv) Oxymorphone;
- 410 (xvi) Thebaine.

411 (2) Any salt, compound, isomer, derivative, or  
412 preparation thereof which is chemically equivalent or identical  
413 with any of the substances referred to in paragraph (1), but not  
414 including the isoquinoline alkaloids of opium.

415 (3) Opium poppy and poppy straw.

416 (4) Cocaine, coca leaves and any salt, compound,  
417 derivative, or preparation of cocaine or coca leaves, and any  
418 salt, compound, derivative, isomer, or preparation thereof which  
419 is chemically equivalent or identical with any of these  
420 substances, but not including decocainized coca leaves or  
421 extractions which do not contain cocaine or ecgonine.

422 (5) Marihuana.

423 (b) Any of the following opiates, including their  
424 isomers, esters, ethers, salts, and salts of isomers, whenever the  
425 existence of these isomers, esters, ethers and salts is possible  
426 within the specified chemical designation, dextorphan excepted:

- 427 (1) Alfentanil;
- 428 (2) Alphaprodine;
- 429 (3) Anileridine;
- 430 (4) Bezitramide;
- 431 (5) Bulk dextropropoxyphene (nondosage forms);
- 432 (6) Carfentanil;
- 433 (7) Dihydrocodeine;
- 434 (8) Diphenoxylate;
- 435 (9) Fentanyl;
- 436 (10) Isomethadone;
- 437 (11) Levo-alpha-acetylmethadol  
438 (levo-alpha-acetylmethadol, levomethadyl acetate, LAAM);
- 439 (12) Levomethorphan;
- 440 (13) Levorphanol;
- 441 (14) Metazocine;
- 442 (15) Methadone;
- 443 (16) Methadone-intermediate,  
444 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- 445 (17) Moramide-intermediate,  
446 2-methyl-3-morpholino-1, 1-diphenyl propane-carboxylic acid;
- 447 (18) Pethidine (meperidine);
- 448 (19) Pethidine-intermediate-A,  
449 4-cyano-1-methyl-4-phenylpiperidine;
- 450 (20) Pethidine-intermediate-B,  
451 ethyl-4-phenylpiperidine-4-carboxylate;
- 452 (21) Pethidine-intermediate-C,  
453 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 454 (22) Phenazocine;
- 455 (23) Piminodine;

456 (24) Racemethorphan;  
457 (25) Racemorphan;  
458 (26) Remifentanil;  
459 (27) Sufentanil.

460 (c) Any material, compound, mixture, or preparation  
461 which contains any quantity of the following substances:

462 (1) Amphetamine, its salts, optical isomers, and  
463 salts of its optical isomers;  
464 (2) Phenmetrazine and its salts;  
465 (3) Any substance which contains any quantity of  
466 methamphetamine, including its salts, isomers, and salts of  
467 isomers;  
468 (4) Methylphenidate and its salts.

469 (d) Unless listed in another schedule, any material,  
470 compound, mixture, or preparation which contains any quantity of  
471 the following substances:

472 (1) Amobarbital;  
473 (2) Secobarbital;  
474 (3) Pentobarbital;  
475 (4) Amphetamine and methamphetamine immediate  
476 precursor: Phenylacetone (phenyl-2-propanone; P2P; benzyl methyl  
477 ketone; and methyl benzyl ketone);  
478 (5) Phencyclidine immediate precursors:  
479 (i) 1-phenylcyclohexylamine;  
480 (ii) 1-piperidinocyclohexanecarbonitrile  
481 (PCC);  
482 (6) Pentazocine and its salts in injectable dosage  
483 form;  
484 (7) Nabilone, other names include:  
485 (+/-)-trans-3-(1,1-dimethylheptyl)-6, 6a, 7, 8, 10, 10a -  
486 hexahydro-1-1-hydroxy-6-6-dimethyl-9H-dibenzo (b,d) pyran-9-one;  
487 (8) Glutethimide.

488 (B) Any material, compound, mixture or preparation which  
489 contains any quantity of a Schedule II controlled substance and is  
490 listed as an exempt substance in 21 C.F.R., Section 1308.24 or  
491 1308.32, shall be exempted from the provisions of the Uniform  
492 Controlled Substances Law.

493 **SECTION 8.** Section 41-29-139, Mississippi Code of 1972, is  
494 amended as follows:

495 41-29-139. (a) Except as authorized by this article, it is  
496 unlawful for any person knowingly or intentionally:

497 (1) To sell, barter, transfer, manufacture, distribute,  
498 dispense or possess with intent to sell, barter, transfer,  
499 manufacture, distribute or dispense, a controlled substance; or

500 (2) To create, sell, barter, transfer, distribute,  
501 dispense or possess with intent to create, sell, barter, transfer,  
502 distribute or dispense, a counterfeit substance.

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

506 (1) In the case of controlled substances classified in  
507 Schedule I or II, as set out in Sections 41-29-113 and 41-29-115,  
508 except thirty (30) grams or less of marihuana, and except a first  
509 offender as defined in Section 41-29-149(e) who violates  
510 subsection (a) of this section with respect to less than one (1)  
511 kilogram but more than thirty (30) grams of marihuana, such person  
512 may, upon conviction, be imprisoned for not more than thirty (30)  
513 years and shall be fined not less than Five Thousand Dollars  
514 (\$5,000.00) nor more than One Million Dollars (\$1,000,000.00), or  
515 both;

516 (2) In the case of a first offender who violates  
517 subsection (a) of this section with an amount less than one (1)  
518 kilogram but more than thirty (30) grams of marihuana as  
519 classified in Schedule I, as set out in Section 41-29-113, such  
520 person is guilty of a felony and upon conviction may be imprisoned



521 for not more than twenty (20) years or fined not more than Thirty  
522 Thousand Dollars (\$30,000.00), or both;

523 (3) In the case of thirty (30) grams or less of  
524 marihuana, such person may, upon conviction, be imprisoned for not  
525 more than three (3) years or fined not more than Three Thousand  
526 Dollars (\$3,000.00), or both;

527 (4) In the case of controlled substances classified in  
528 Schedules III and IV, as set out in Sections 41-29-117 and  
529 41-29-119, such person may, upon conviction, be imprisoned for not  
530 more than twenty (20) years and shall be fined not less than One  
531 Thousand Dollars (\$1,000.00) nor more than Two Hundred Fifty  
532 Thousand Dollars (\$250,000.00), or both; and

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

538 (c) It is unlawful for any person knowingly or intentionally  
539 to possess any controlled substance unless the substance was  
540 obtained directly from, or pursuant to, a valid prescription or  
541 order of a practitioner while acting in the course of his  
542 professional practice, or except as otherwise authorized by this  
543 article. The penalties for any violation of this subsection (c)  
544 with respect to a controlled substance classified in Schedules I,  
545 II, III, IV or V, as set out in Sections 41-29-113, 41-29-115,  
546 41-29-117, 41-29-119 or 41-29-121, including marihuana, shall be  
547 based on dosage unit as defined herein or the weight of the  
548 controlled substance as set forth herein as appropriate:

549 "Dosage unit (d.u.)" means a tablet or capsule, or in the  
550 case of a liquid solution, one (1) milliliter. In the case of  
551 lysergic acid diethylamide (LSD) the term, "dosage unit" means a  
552 stamp, square, dot, microdot, tablet or capsule of a controlled  
553 substance.

554 For any controlled substance that does not fall within the  
555 definition of the term "dosage unit," the penalties shall be based  
556 upon the weight of the controlled substance.

557 The weight set forth refers to the entire weight of any  
558 mixture or substance containing a detectable amount of the  
559 controlled substance.

560 If a mixture or substance contains more than one (1)  
561 controlled substance, the weight of the mixture or substance is  
562 assigned to the controlled substance that results in the greater  
563 punishment.

564 Any person who violates this subsection with respect to:

565 (1) A controlled substance classified in Schedule I or  
566 II, except marihuana, in the following amounts shall be charged  
567 and sentenced as follows:

568 (A) Less than one-tenth (0.1) gram or one (1)  
569 dosage unit or less may be charged as a misdemeanor or felony. If  
570 charged by indictment as a felony: by imprisonment not less than  
571 one (1) nor more than four (4) years and a fine not more than Ten  
572 Thousand Dollars (\$10,000.00). If charged as a misdemeanor: by  
573 imprisonment for up to one (1) year and a fine not more than One  
574 Thousand Dollars (\$1,000.00).

575 (B) One-tenth (0.1) gram but less than two (2)  
576 grams or two (2) dosage units but less than ten (10) dosage units,  
577 by imprisonment for not less than two (2) years nor more than  
578 eight (8) years and a fine of not more than Fifty Thousand Dollars  
579 (\$50,000.00).

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

585 (D) Ten (10) grams but less than thirty (30) grams  
586 or twenty (20) dosage units but not more than forty (40) dosage

587 units, by imprisonment for not less than six (6) years nor more  
588 than twenty-four (24) years and a fine of not more than Five  
589 Hundred Thousand Dollars (\$500,000.00).

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

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

596 (A) Thirty (30) grams or less by a fine of not  
597 less than One Hundred Dollars (\$100.00) nor more than Two Hundred  
598 Fifty Dollars (\$250.00). The provisions of this paragraph shall  
599 be enforceable by summons, provided the offender provides proof of  
600 identity satisfactory to the arresting officer and gives written  
601 promise to appear in court satisfactory to the arresting officer,  
602 as directed by the summons. A second conviction under this  
603 section within two (2) years shall be punished by a fine of Two  
604 Hundred Fifty Dollars (\$250.00) and not less than five (5) days  
605 nor more than sixty (60) days in the county jail and mandatory  
606 participation in a drug education program, approved by the  
607 Division of Alcohol and Drug Abuse of the State Department of  
608 Mental Health, unless the court enters a written finding that such  
609 drug education program is inappropriate. A third or subsequent  
610 conviction under this section within two (2) years is a  
611 misdemeanor punishable by a fine of not less than Two Hundred  
612 Fifty Dollars (\$250.00) nor more than Five Hundred Dollars  
613 (\$500.00) and confinement for not less than five (5) days nor more  
614 than six (6) months in the county jail. Upon a first or second  
615 conviction under this section the courts shall forward a report of  
616 such conviction to the Mississippi Bureau of Narcotics which shall  
617 make and maintain a private, nonpublic record for a period not to  
618 exceed two (2) years from the date of conviction. The private,  
619 nonpublic record shall be solely for the use of the courts in

620 determining the penalties which attach upon conviction under this  
621 section and shall not constitute a criminal record for the purpose  
622 of private or administrative inquiry and the record of each  
623 conviction shall be expunged at the end of the period of two (2)  
624 years following the date of such conviction;

625           (B) Additionally, a person who is the operator of  
626 a motor vehicle, who possesses on his person or knowingly keeps or  
627 allows to be kept in a motor vehicle within the area of the  
628 vehicle normally occupied by the driver or passengers, more than  
629 one (1) gram, but not more than thirty (30) grams, of marihuana is  
630 guilty of a misdemeanor and upon conviction may be fined not more  
631 than One Thousand Dollars (\$1,000.00) and confined for not more  
632 than ninety (90) days in the county jail. For the purposes of  
633 this subsection, such area of the vehicle shall not include the  
634 trunk of the motor vehicle or the areas not normally occupied by  
635 the driver or passengers if the vehicle is not equipped with a  
636 trunk. A utility or glove compartment shall be deemed to be  
637 within the area occupied by the driver and passengers;

638           (C) More than thirty (30) grams but less than two  
639 hundred fifty (250) grams may be fined not more than One Thousand  
640 Dollars (\$1,000.00), or confined in the county jail for not more  
641 than one (1) year, or both; or fined not more than Three Thousand  
642 Dollars (\$3,000.00), or imprisoned in the State Penitentiary for  
643 not more than three (3) years, or both;

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

648           (E) Five hundred (500) grams but less than one (1)  
649 kilogram, by imprisonment for not less than four (4) years nor  
650 more than sixteen (16) years and a fine of less than Two Hundred  
651 Fifty Thousand Dollars (\$250,000.00);

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

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

659                   (3) A controlled substance classified in Schedule III,  
660 IV or V as set out in Sections 41-29-117 through 41-29-121, upon  
661 conviction, may be punished as follows:

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

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

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

676                   (D) Three hundred (300) grams but less than five  
677 hundred (500) grams or one thousand (1,000) dosage units but less  
678 than two thousand five hundred (2,500) dosage units, by  
679 imprisonment for not less than four (4) years nor more than  
680 sixteen (16) years and a fine of not more than Two Hundred Fifty  
681 Thousand Dollars (\$250,000.00).

682                   (E) Five hundred (500) grams or more or two  
683 thousand five hundred (2,500) dosage units or more, by  
684 imprisonment for not less than six (6) years nor more than

685 twenty-four (24) years and a fine of not more than Five Hundred  
686 Thousand Dollars (\$500,000.00).

687 (d) (1) It is unlawful for a person who is not authorized  
688 by the State Board of Medical Licensure, State Board of Pharmacy,  
689 or other lawful authority to use, or to possess with intent to  
690 use, paraphernalia to plant, propagate, cultivate, grow, harvest,  
691 manufacture, compound, convert, produce, process, prepare, test,  
692 analyze, pack, repack, store, contain, conceal, inject, ingest,  
693 inhale or otherwise introduce into the human body a controlled  
694 substance in violation of the Uniform Controlled Substances Law.  
695 Any person who violates this subsection is guilty of a misdemeanor  
696 and upon conviction may be confined in the county jail for not  
697 more than six (6) months, or fined not more than Five Hundred  
698 Dollars (\$500.00), or both; however, no person shall be charged  
699 with a violation of this subsection when such person is also  
700 charged with the possession of one (1) ounce or less of marihuana  
701 under subsection (c)(2)(A) of this section.

702 (2) It is unlawful for any person to deliver, sell,  
703 possess with intent to deliver or sell, or manufacture with intent  
704 to deliver or sell, paraphernalia, knowing, or under circumstances  
705 where one reasonably should know, that it will be used to plant,  
706 propagate, cultivate, grow, harvest, manufacture, compound,  
707 convert, produce, process, prepare, test, analyze, pack, repack,  
708 store, contain, conceal, inject, ingest, inhale, or otherwise  
709 introduce into the human body a controlled substance in violation  
710 of the Uniform Controlled Substances Law. Any person who violates  
711 this subsection is guilty of a misdemeanor and upon conviction may  
712 be confined in the county jail for not more than six (6) months,  
713 or fined not more than Five Hundred Dollars (\$500.00), or both.

714 (3) Any person eighteen (18) years of age or over who  
715 violates subsection (d)(2) of this section by delivering or  
716 selling paraphernalia to a person under eighteen (18) years of age  
717 who is at least three (3) years his junior is guilty of a

718 misdemeanor and upon conviction may be confined in the county jail  
719 for not more than one (1) year, or fined not more than One  
720 Thousand Dollars (\$1,000.00), or both.

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

730           (e) It shall be unlawful for any physician practicing  
731 medicine in this state to prescribe, dispense or administer any  
732 amphetamine or amphetamine-like anorectics and/or central nervous  
733 system stimulants classified in Schedule II, pursuant to Section  
734 41-29-115, for the exclusive treatment of obesity, weight control  
735 or weight loss. Any person who violates this subsection, upon  
736 conviction, is guilty of a misdemeanor and may be confined for a  
737 period not to exceed six (6) months, or fined not more than One  
738 Thousand Dollars (\$1,000.00), or both.

739           (f) Except as otherwise authorized in this article, any  
740 person twenty-one (21) years of age or older who knowingly sells,  
741 barter, transfers, manufactures, distributes or dispenses during  
742 any twelve (12) consecutive month period: (i) ten (10) pounds or  
743 more of marihuana; (ii) two (2) ounces or more of heroin; (iii)  
744 two (2) or more ounces of cocaine or of any mixture containing  
745 cocaine as described in Section 41-29-105(s), Mississippi Code of  
746 1972; or (iv) one hundred (100) or more dosage units of morphine,  
747 Demerol or Dilaudid, shall be guilty of a felony and, upon  
748 conviction thereof, shall be sentenced to life imprisonment and  
749 such sentence shall not be reduced or suspended nor shall such  
750 person be eligible for probation or parole, the provisions of

751 Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, Mississippi Code  
752 of 1972, to the contrary notwithstanding. The provisions of this  
753 subsection shall not apply to any person who furnishes information  
754 and assistance to the bureau or its designee which, in the opinion  
755 of the trial judge objectively should or would have aided in the  
756 arrest or prosecution of others who violate this subsection. The  
757 accused shall have adequate opportunity to develop and make a  
758 record of all information and assistance so furnished.

759 (g) (1) Any person trafficking in controlled substances  
760 shall be guilty of a felony and upon conviction shall be  
761 imprisoned for a term of thirty (30) years and such sentence shall  
762 not be reduced or suspended nor shall such person be eligible for  
763 probation or parole, the provisions of Sections 41-29-149,  
764 47-5-139, 47-7-3 and 47-7-33, Mississippi Code of 1972, to the  
765 contrary notwithstanding and shall be fined not less than Five  
766 Thousand Dollars (\$5,000.00) nor more than One Million Dollars  
767 (\$1,000,000.00).

768 (2) "Trafficking in controlled substances" as used  
769 herein means to engage in three (3) or more component offenses  
770 within any twelve (12) consecutive month period where at least two  
771 (2) of the component offenses occurred in different counties. A  
772 component offense is any act which would constitute a violation of  
773 subsection (a) of this section. Prior convictions shall not be  
774 used as component offenses to establish the charge of trafficking  
775 in controlled substances.

776 (3) The charge of trafficking in controlled substances  
777 shall be set forth in one (1) count of an indictment with each of  
778 the component offenses alleged therein and it may be charged and  
779 tried in any county where a component offense occurred. An  
780 indictment for trafficking in controlled substances may also be  
781 returned by the State Grand Jury of Mississippi provided at least  
782 two (2) of the component offenses occurred in different circuit  
783 court districts.



784           (h) The medical use of marihuana as authorized by Sections 1  
785 through 5 of this act shall not be a violation of this section.

786           **SECTION 9.** If any provision of this act or the application  
787 thereof to any person or circumstance is held invalid, the  
788 invalidity does not affect other provisions or applications of the  
789 act which can be given effect without the invalid provision or  
790 application, and to this end the provisions of this act are  
791 severable.

792           **SECTION 10.** This act shall take effect and be in force from  
793 and after July 1, 2005.