

By: Senator(s) Posey

To: Public Health and Welfare

SENATE BILL NO. 2792

1 AN ACT TO AMEND SECTIONS 73-21-85 AND 73-21-111, MISSISSIPPI
 2 CODE OF 1972, TO REQUIRE THAT THE STATE BOARD OF PHARMACY CONDUCT
 3 BACKGROUND CHECKS OF ANY APPLICANT FOR PHARMACY LICENSURE AND ANY
 4 APPLICANT FOR PHARMACY TECHNICIAN REGISTRATION; TO REQUIRE THAT
 5 THE DEPARTMENT OF PUBLIC SAFETY ASSIST THE BOARD IN COLLECTING
 6 INFORMATION NECESSARY IN CONDUCTING BACKGROUND CHECKS; TO AMEND
 7 SECTION 45-36-3, MISSISSIPPI CODE OF 1972, TO REMOVE FROM THE
 8 DEFINITION OF "LAW ENFORCEMENT OFFICER" A STATUTORY EXEMPTION FOR
 9 CERTAIN EMPLOYEES OF THE STATE BOARD OF PHARMACY; TO AMEND SECTION
 10 41-29-159, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT ONLY STATE
 11 BOARD OF PHARMACY EMPLOYEES WHO ARE MINIMUM STANDARDS CERTIFIED
 12 LAW ENFORCEMENT OFFICERS CAN EXERCISE THE POWERS OF LAW
 13 ENFORCEMENT OFFICERS; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 73-21-85, Mississippi Code of 1972, is
 16 amended as follows:

17 73-21-85. (1) To obtain a license to engage in the practice
 18 of pharmacy by examination, or by score transfer, the applicant
 19 shall:

20 (a) Have submitted a written application on the form
 21 prescribed by the board;

22 (b) Be of good moral character;

23 (c) Have graduated from a school or college of pharmacy
 24 accredited by the American Council of Pharmaceutical Education and
 25 have been granted a pharmacy degree therefrom;

26 (d) Have successfully passed an examination approved by
 27 the board;

28 (e) Have paid all fees specified by the board for
 29 examination, not to exceed the cost to the board of administering
 30 the examination;

31 (f) Have paid all fees specified by the board for
 32 licensure; and

33 (g) Have submitted evidence of externship and/or
34 internship as specified by the board.

35 (2) To obtain a license to engage in the practice of
36 pharmacy, a foreign pharmacy graduate applicant shall obtain the
37 National Association of Boards of Pharmacy's Foreign Pharmacy
38 Graduate Examination Committee's certification, which shall
39 include, but not be limited to, successfully passing the Foreign
40 Pharmacy Graduate Equivalency Examination and attaining a total
41 score of at least five hundred fifty (550) on the Test of English
42 as a Foreign Language (TOEFL), and shall:

43 (a) Have submitted a written application on the form
44 prescribed by the board;

45 (b) Be of good moral character;

46 (c) Have graduated and been granted a pharmacy degree
47 from a college or school of pharmacy recognized and approved by
48 the National Association of Boards of Pharmacy's Foreign Pharmacy
49 Graduate Examination Committee;

50 (d) Have paid all fees specified by the board for
51 examination, not to exceed the cost to the board of administering
52 the examination;

53 (e) Have successfully passed an examination approved by
54 the board;

55 (f) Have completed the number of internship hours as
56 set forth by regulations of the board; and

57 (g) Have paid all fees specified by the board for
58 licensure.

59 (3) Each application or filing made under this section shall
60 include the social security number(s) of the applicant in
61 accordance with Section 93-11-64, Mississippi Code of 1972.

62 (4) To insure that all applicants are of good moral
63 character, the board shall conduct a background check of all
64 applicants for a license. In conducting such checks, the board
65 shall be authorized to seek assistance from the Department of

66 Public Safety. The Department of Public Safety shall assist the
67 board in collecting necessary information in association with
68 background checks.

69 **SECTION 2.** Section 73-21-111, Mississippi Code of 1972, is
70 amended as follows:

71 73-21-111. (1) The board shall make, adopt, amend and
72 repeal from time to time such rules and regulations for the
73 regulation of supportive personnel as may be deemed necessary by
74 the board.

75 (2) Every person who acts or serves as a pharmacy technician
76 in a pharmacy that is located in this state and permitted by the
77 board shall obtain a registration from the board. To obtain a
78 pharmacy technician registration the applicant must:

79 (a) Have submitted a written application on a form(s)
80 prescribed by the board; and

81 (b) Be of good moral character; and

82 (c) Have paid the initial registration fee not to
83 exceed One Hundred Dollars (\$100.00).

84 (3) Each pharmacy technician shall renew his or her
85 registration annually. To renew his or her registration, a
86 technician must:

87 (a) Submit an application on a form prescribed by the
88 board; and

89 (b) Pay a renewal fee not to exceed One Hundred Dollars
90 (\$100.00) for each annual registration period. The board may add
91 a surcharge of not more than Five Dollars (\$5.00) to the
92 registration renewal fee to assist in funding a program that
93 assists impaired pharmacists, pharmacy students and pharmacy
94 technicians.

95 (4) To insure that all applicants are of good moral
96 character, the board shall conduct a background check of all
97 applicants for a license. In conducting such checks, the board
98 shall be authorized to seek assistance from the Department of

99 Public Safety. The Department of Public Safety shall assist the
100 board in collecting necessary information in association with
101 background checks.

102 **SECTION 3.** Section 45-6-3, Mississippi Code of 1972, is
103 amended as follows:

104 45-6-3. For the purposes of this chapter, the following
105 words shall have the meanings ascribed herein, unless the context
106 shall otherwise require:

107 (a) "Commission" means the Criminal Justice Planning
108 Commission.

109 (b) "Board" means the Board on Law Enforcement Officer
110 Standards and Training.

111 (c) "Law enforcement officer" means any person
112 appointed or employed full time by the state or any political
113 subdivision thereof, or by the state military department as
114 provided in Section 33-1-33, who is duly sworn and vested with
115 authority to bear arms and make arrests, and whose primary
116 responsibility is the prevention and detection of crime, the
117 apprehension of criminals and the enforcement of the criminal and
118 traffic laws of this state and/or the ordinances of any political
119 subdivision thereof. The term "law enforcement officer" also
120 includes employees of the Department of Corrections who are
121 designated as law enforcement officers by the Commissioner of
122 Corrections pursuant to Section 47-5-54. However, the term "law
123 enforcement officer" shall not mean or include any elected
124 official or any person employed as an assistant to or investigator
125 for a district attorney in this state, * * * or any person or
126 elected official who, subject to approval by the board, provides
127 some criminal justice related services for a law enforcement
128 agency. As used in this paragraph, "appointed or employed full
129 time" means any person who is receiving gross compensation for his
130 duties as a law enforcement officer of Two Hundred Fifty Dollars

131 (\$250.00) or more per week or One Thousand Seventy-five Dollars
132 (\$1,075.00) or more per month.

133 (d) "Part-time law enforcement officer" shall mean any
134 person appointed or employed in a part-time, reserve or auxiliary
135 capacity by the state or any political subdivision thereof who is
136 duly sworn and vested with authority to bear arms and make
137 arrests, and whose primary responsibility is the prevention and
138 detection of crime, the apprehension of criminals and the
139 enforcement of the criminal and traffic laws of this state or the
140 ordinances of any political subdivision thereof. However, the
141 term "part-time law enforcement officer" shall not mean or include
142 any person or elected official who, subject to approval by the
143 board, provides some criminal justice related services for a law
144 enforcement agency. As used in this paragraph, "appointed or
145 employed" means any person who is performing such duties at any
146 time whether or not they receive any compensation for duties as a
147 law enforcement officer provided that such compensation is less
148 than Two Hundred Fifty Dollars (\$250.00) per week or One Thousand
149 Seventy-five Dollars (\$1,075.00) per month.

150 (e) "Law enforcement trainee" shall mean any person
151 appointed or employed in a full-time, part-time, reserve or
152 auxiliary capacity by the state or any political subdivision
153 thereof for the purposes of completing all the selection and
154 training requirements established by the board to become a law
155 enforcement officer or a part-time law enforcement officer. Such
156 individuals shall not have the authority to use force, bear arms,
157 make arrests or exercise any of the powers of a peace officer
158 unless under the direct control and supervision of a law
159 enforcement officer.

160 **SECTION 4.** Section 41-29-159, Mississippi Code of 1972, is
161 amended as follows:

162 41-29-159. (a) Any officer or employee of the Mississippi
163 Bureau of Narcotics, investigative unit of the State Board of

164 Pharmacy who is a law enforcement officer within the meaning of
165 Section 45-6-3 and trained and certified within the meaning of
166 Section 45-6-1 et seq., investigative unit of the State Board of
167 Medical Licensure, investigative unit of the State Board of Dental
168 Examiners, investigative unit of the Mississippi Board of Nursing,
169 any duly sworn peace officer of the State of Mississippi, any
170 enforcement officer of the Mississippi Department of
171 Transportation, or any highway patrolman, may, while engaged in
172 the performance of his statutory duties:

- 173 (1) Carry firearms;
- 174 (2) Execute and serve search warrants, arrest warrants,
175 subpoenas, and summonses issued under the authority of this state;
- 176 (3) Make arrests without warrant for any offense under
177 this article committed in his presence, or if he has probable
178 cause to believe that the person to be arrested has committed or
179 is committing a crime; and
- 180 (4) Make seizures of property pursuant to this article.

181 (b) As divided among the Mississippi Bureau of Narcotics,
182 the State Board of Pharmacy, the State Board of Medical Licensure,
183 the State Board of Dental Examiners and the Mississippi Board of
184 Nursing, the primary responsibility of the illicit street traffic
185 or other illicit traffic of drugs is delegated to agents of the
186 Mississippi Bureau of Narcotics. The State Board of Pharmacy is
187 delegated the responsibility of regulating and checking the
188 legitimate drug traffic among pharmacists, pharmacies, hospitals,
189 nursing homes, drug manufacturers, and any other related
190 professions and facilities with the exception of the medical,
191 dental, nursing and veterinary professions. The State Board of
192 Medical Licensure is responsible for the legitimate drug traffic
193 among physicians, podiatrists and veterinarians. The Mississippi
194 Board of Dental Examiners is responsible for the legitimate drug
195 traffic among dentists and dental hygienists. The Mississippi

196 Board of Nursing is responsible for the legitimate drug traffic
197 among nurses.

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

202 (d) Agents of the bureau are authorized to investigate the
203 circumstances of deaths which are caused by drug overdose or which
204 are believed to be caused by drug overdose.

205 (e) Any person who shall impersonate in any way the director
206 or any agent, or who shall in any manner hold himself out as
207 being, or represent himself as being, an officer or agent of the
208 Mississippi Bureau of Narcotics shall be guilty of a misdemeanor,
209 and upon conviction thereof shall be punished by a fine of not
210 less than One Hundred Dollars (\$100.00) nor more than Five Hundred
211 Dollars (\$500.00) or by imprisonment for not more than one (1)
212 year, or by both such fine and imprisonment.

213 **SECTION 5.** This act shall take effect and be in force from
214 and after July 1, 2005.