

By: Representative Baker

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 242

1 AN ACT TO AMEND SECTION 41-29-111, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE BUREAU OF NARCOTICS TO ORDER THE EMERGENCY
3 TEMPORARY SCHEDULING OF DRUGS AND OTHER SUBSTANCES IN SCHEDULE I;
4 AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 41-29-111, Mississippi Code of 1972, is
7 amended as follows:

8 41-29-111. * * * The Commissioner of Public Safety shall
9 administer this article and shall work in conjunction and
10 cooperation with the State Board of Pharmacy, county and municipal
11 law enforcement agencies, the district and county attorneys, the
12 Office of the Attorney General and the Mississippi Bureau of
13 Narcotics. The State Board of Health shall work with the bureau
14 in an advisory capacity and shall be responsible for recommending
15 to the Legislature the appropriate schedule for all substances to
16 be scheduled or rescheduled in Sections 41-29-113 through
17 41-29-121. In making a recommendation regarding a substance, the
18 State Board of Health shall consider the following:

19 (a) (i) The actual or relative potential for abuse;



20 (ii) The scientific evidence of its
21 pharmacological effect, if known;
22 (iii) The state of current scientific knowledge
23 regarding the substance;
24 (iv) The history and current pattern of abuse;
25 (v) The scope, duration and significance of abuse;
26 (vi) The risk to the public health;
27 (vii) The potential of the substance to produce
28 psychic or physiological dependence liability; and
29 (viii) Whether the substance is an immediate
30 precursor of a substance already controlled under this article.
31 (b) After considering the factors enumerated in
32 paragraph (a), the State Board of Health shall make findings with
33 respect thereto and issue a recommendation to control the
34 substance if it finds the substance has a potential for abuse.
35 (c) If the State Board of Health designates a substance
36 as an immediate precursor, substances that are precursors of the
37 controlled precursor shall not be recommended for control solely
38 because they are precursors of the controlled precursor.
39 (d) If any substance is designated, rescheduled, or
40 deleted as a controlled substance under federal law and notice
41 thereof is given to the State Board of Health, it shall recommend
42 the control of the substance under this article at the next
43 session of the Legislature.



44 (e) (i) Authority to control under this article does
45 not extend to distilled spirits, wine, malt beverages, or tobacco
46 as those terms are defined or used in the Local Option Alcoholic
47 Beverage Control Law, being Sections 67-1-1 through 67-1-91, and
48 the Tobacco Tax Law of 1934, being Sections 27-69-1 through
49 27-69-77. It is the intent of the Legislature of the State of
50 Mississippi that the bureau shall concentrate its efforts and
51 resources on the enforcement of the Uniform Controlled Substances
52 Law with respect to illicit narcotic and drug traffic in the
53 state.

54 (ii) The controlled substances listed in the
55 schedules in Sections 41-29-113 through 41-29-121 are included by
56 whatever official, common, usual, chemical or trade name
57 designated.

58 (f) The State Board of Health shall recommend the
59 exclusion of any nonnarcotic substance from a schedule if such
60 substance may, under the Federal Food, Drug and Cosmetic Act and
61 the laws of this state, be lawfully sold over the counter without
62 a prescription.

63 (g) (i) If the Director of the Bureau of Narcotics
64 finds that the scheduling of a drug or other substance in Schedule
65 I on a temporary basis is necessary to avoid an imminent hazard to
66 the public safety, he may request that the Governor, by executive
67 order and without regard to the other requirements of this section
68 relating to the State Board of Health, schedule such drug or other



69 substance in Schedule I. All FDA approved drugs for prescription
70 only use and any nonnarcotic drug, if such drug may, under the
71 Federal, Food, Drug and Cosmetic Act (921 USCS 301, et seq.), be
72 lawfully sold over or behind the counter without a prescription
73 shall be excluded from the provisions of this paragraph.

74 (ii) The intent of the Legislature in enacting
75 this paragraph is to provide for emergency scheduling of drugs or
76 other substances to avoid imminent hazards to public safety. The
77 scheduling of a drug or other substance under this paragraph shall
78 only be done by executive order of the Governor of the State of
79 Mississippi, and shall be valid for no more than twelve (12)
80 months from the date of issuance. Any orders under this paragraph
81 shall be presented to the Legislature during the next regular or
82 extraordinary legislative session as a recommendation for
83 consistent action. If the Legislature does not enact such
84 scheduling during the next regular or extraordinary session, then
85 the executive order shall expire.

86 (iii) The Director of the Bureau of Narcotics, in
87 determining whether there exists an imminent hazard to the public
88 safety, shall seek the written recommendation of the State Board
89 of Health. In making a recommendation to the Governor, the
90 Director shall consider the following factors, with respect to
91 each drug or other substance proposed to be temporarily scheduled:

92 1. Its actual or relative potential for
93 abuse;



- 94 2. Scientific evidence of its pharmacological
95 effect, if known;
- 96 3. The state of current scientific knowledge
97 regarding the drug or other substance;
- 98 4. Its history and current pattern of abuse;
99 5. The scope, duration, and significance of
100 abuse;
- 101 6. What, if any, risk there is to public
102 health;
- 103 7. Its psychic or physiological dependence
104 liability; and
- 105 8. Whether the substance is an immediate
106 precursor of a substance already controlled under this article.

107 **SECTION 2.** This act shall take effect and be in force from
108 and after July 1, 2013.

