

By: Senator(s) Dawkins

To: Judiciary, Division A

SENATE BILL NO. 2369

1 AN ACT TO AUTHORIZE THE MEDICAL USE OF MARIHUANA 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 MARIHUANA; TO PROVIDE LIMITATIONS ON THE
 5 MEDICAL USE OF MARIHUANA; 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 MARIHUANA 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 MARIHUANA 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.** (1) The Legislature finds and declares the
 14 following:

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

20 (b) The Legislature would prefer for the federal
 21 government to permit marihuana to be prescribed by physicians and
 22 to be dispensed at pharmacies. However, the federal government



23 has shown no indication that it will change federal policy with
24 regard to medical marihuana, as evidenced by the federal
25 government's reluctance to allow even FDA-approved clinical trials
26 to move forward.

27 (c) According to the United States Sentencing
28 Commission and the Federal Bureau of Investigation, more than
29 ninety-nine (99) out of every one hundred (100) marihuana arrests
30 are made under state law, rather than under federal law.
31 Consequently, changing state law will have the practical effect of
32 protecting from arrest the vast majority of seriously ill people
33 who have a medical need to use marihuana.

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

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

45 (f) State law should make a distinction between the
46 medical and nonmedical use of marihuana. Therefore, the purpose
47 of this act is to ensure that physicians are not penalized for



48 discussing marihuana as a treatment option with their patients,
49 and that seriously ill people who engage in the medical use of
50 marihuana upon their physicians' advice are not arrested and
51 incarcerated for using marihuana for medical purposes.

52 (2) The following words and phrases shall have the meanings
53 ascribed in this section, unless the context clearly indicates
54 otherwise:

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

68 (b) "Debilitating medical condition" means:

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



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

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

91 (c) "Department" means the State Department of Health.

92 (d) "Marihuana" has the meaning as defined in Section
93 41-29-105.

94 (e) "Medical use" means the acquisition, possession,
95 cultivation, use, transfer or transportation of marihuana or
96 paraphernalia relating to the administration of marihuana to



97 alleviate the symptoms or effects of a qualifying patient's
98 debilitating medical condition. For the purposes of "medical
99 use," the term "transfer" is limited to the transfer of marihuana
100 and paraphernalia between primary caregivers and qualifying
101 patients.

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

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

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

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

120 (3) (a) A qualifying patient who has in the patient's
121 possession written certification shall not be subject to arrest,



122 prosecution or penalty in any manner for the medical use of
123 marihuana, provided the quantity of marihuana does not exceed an
124 adequate supply.

125 (b) Subsection (3) (a) of this section shall not apply
126 to a qualifying patient under the age of eighteen (18) years,
127 unless:

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

132 (ii) A parent, guardian or person having legal
133 custody consents in writing to:

134 1. Allow the qualifying patient's medical use
135 of marihuana;

136 2. Serve as the qualifying patient's primary
137 caregiver; and

138 3. Control the acquisition of the marihuana,
139 the dosage and the frequency of the medical use of marihuana by
140 the qualifying patient.

141 (c) When the acquisition, possession, cultivation,
142 transportation or administration of marihuana by a qualifying
143 patient is not practicable, the legal protections established by
144 this act for a qualifying patient shall extend to the qualifying
145 patient's primary caregivers, provided that the primary



146 caregivers' actions are necessary for the qualifying patient's
147 medical use of marihuana.

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

152 (e) Any property interest that is possessed, owned or
153 used in connection with the medical use of marihuana, or acts
154 incidental to that use, shall not be harmed, neglected, injured or
155 destroyed while in the possession of state or local law
156 enforcement officials, provided that law enforcement agencies
157 seizing live plants as evidence shall not be responsible for the
158 care and maintenance of marihuana plants. Any such property
159 interest shall not be forfeited under any provision of state or
160 local law providing for the forfeiture of property other than as a
161 sentence imposed after conviction of a criminal offense or entry
162 of a plea of guilty to a criminal offense. Marihuana,
163 paraphernalia or other property seized from a qualifying patient
164 or primary caregivers in connection with the claimed medical use
165 of marihuana shall be returned immediately upon the determination
166 by a court or prosecutor that the qualifying patient or primary
167 caregivers are entitled to the protections of this act, as may be
168 evidenced by a decision not to prosecute, the dismissal of charges
169 or an acquittal.



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

174 (4) (a) The authorization for the medical use of marihuana
175 in this act shall not apply to:

176 (i) The medical use of marihuana that endangers
177 the health or well-being of another person, such as driving or
178 operating heavy machinery while under the influence of marihuana;

179 (ii) The smoking of marihuana:

180 1. In a school bus, public bus or other

181 public vehicle;

182 2. In the workplace of one's employment;

183 3. On any school grounds;

184 4. In any correctional facility; or

185 5. At any public park, public beach, public

186 recreation center or youth center; and

187 (iii) The use of marihuana by a qualifying
188 patient, primary caregiver or any other person for purposes other
189 than medical use permitted by this act.

190 (b) Insurance companies shall not be required to cover
191 the medical use of marihuana.

192 (c) Notwithstanding any law to the contrary, fraudulent
193 representation to a law enforcement official of any fact or
194 circumstance relating to the medical use of marihuana to avoid



195 arrest or prosecution shall be a misdemeanor and subject to a fine
196 of Five Hundred Dollars (\$500.00). This penalty shall be in
197 addition to any other penalties that may apply for the nonmedical
198 use of marihuana.

199 (5) A person and a person's primary caregivers may assert
200 the medical use of marihuana as a defense to any prosecution
201 involving marihuana, and that defense shall be presumed valid
202 where the evidence shows that:

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

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

215 **SECTION 2.** Section 41-29-113, Mississippi Code of 1972, is
216 amended as follows:

217 41-29-113. The controlled substances listed in this section
218 are included in Schedule I.

219 **SCHEDULE I**



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

- 225 (1) Acetyl-alpha-methylfentanyl;
- 226 (2) Acetylmethadol;
- 227 (3) Allylprodine;
- 228 (4) Alphacetylmethadol, except levo-alphacetylmethadol
229 (levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);
- 230 (5) Alphameprodine;
- 231 (6) Alphamethadol;
- 232 (7) Alpha-methylfentanyl;
- 233 (8) Alpha-methylthiofentanyl;
- 234 (9) Benzethidine;
- 235 (10) Betacetylmethadol;
- 236 (11) Beta-hydroxyfentanyl;
- 237 (12) Beta-hydroxy-3-methylfentanyl;
- 238 (13) Betameprodine;
- 239 (14) Betamethadol;
- 240 (15) Betaprodine;
- 241 (16) Clonitazene;
- 242 (17) Dextromoramide;
- 243 (18) Diampromide;
- 244 (19) Diethylthiambutene;



- 245 (20) DifenoXin;
- 246 (21) Dimenoxadol;
- 247 (22) Dimepheptanol;
- 248 (23) Dimethylthiambutene;
- 249 (24) Dioxaphetyl butyrate;
- 250 (25) Dipipanone;
- 251 (26) Ethylmethylthiambutene;
- 252 (27) Etonitazene;
- 253 (28) EtoXeridine;
- 254 (29) Furethidine;
- 255 (30) Hydroxypethidine;
- 256 (31) Ketobemidone;
- 257 (32) Levomoramide;
- 258 (33) Levophenacylmorphane;
- 259 (34) 3-methylfentanyl;
- 260 (35) 3-methylthiofentanyl;
- 261 (36) Morpheridine;
- 262 (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 263 (38) Noracymethadol;
- 264 (39) Norlevorphanol;
- 265 (40) Normethadone;
- 266 (41) Norpipanone;
- 267 (42) Para-fluorofentanyl;
- 268 (43) PEPAP
- 269 (1-(-2-phenylethyl)-4-phenyl-4-acetoxypiperidine);



- 270 (44) Phenadoxone;
- 271 (45) Phenampromide;
- 272 (46) Phenomorphan;
- 273 (47) Phenoperidine;
- 274 (48) Piritramide;
- 275 (49) Proheptazine;
- 276 (50) Properidine;
- 277 (51) Propiram;
- 278 (52) Racemoramide;
- 279 (53) Thiofentanyl;
- 280 (54) Tilidine;
- 281 (55) Trimeperidine.

282 (b) **Opiate derivatives.** Any of the following opium
283 derivatives, their salts, isomers and salts of isomers, unless
284 specifically excepted, whenever the existence of these salts,
285 isomers and salts of isomers is possible within the specific
286 chemical designation:

- 287 (1) Acetorphine;
- 288 (2) Acetyldihydrocodeine;
- 289 (3) Benzylmorphine;
- 290 (4) Codeine methylbromide;
- 291 (5) Codeine-N-Oxide;
- 292 (6) Cyrenorphine;
- 293 (7) Desomorphine;
- 294 (8) Dihydromorphine;



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

311 (c) **Hallucinogenic substances.** Any material, compound,
312 mixture or preparation which contains any quantity of the
313 following substances, their salts, isomers (whether optical,
314 positional, or geometric) and salts of isomers, unless
315 specifically excepted, whenever the existence of these salts,
316 isomers and salts of isomers is possible within the specific
317 chemical designation:

- 318 (1) 3,4-methylenedioxy amphetamine;
- 319 (2) 5-methoxy-3,4-methylenedioxy amphetamine;



- 320 (3) 2,5-dimethoxy-4-ethylamphetamine (DOET);
321 (4) 2,5-dimethoxy-4(n) propylthiophenethylamine
322 (2C-T-7);
323 (5) 3,4-methylenedioxymethamphetamine (MDMA);
324 (6) 3,4,5-trimethoxy amphetamine;
325 (7) Alpha-methyltryptamine (Also known as AMT);
326 (8) Bufotenine;
327 (9) Diethyltryptamine;
328 (10) Dimethyltryptamine;
329 (11) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT);
330 (12) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);
331 (13) Alpha-ethyltryptamine;
332 (14) 4-methyl-2,5-dimethoxyamphetamine;
333 (15) Hashish;
334 (16) Ibogaine;
335 (17) Lysergic acid diethylamide (LSD);

336 * * *

- 337 (* * *18) Mescaline
338 (* * *19) Peyote;
339 (* * *20) N-ethyl-3-piperidyl benzilate;
340 (* * *21) N-methyl-3-piperidyl benzilate;
341 (* * *22) Phencyclidine;
342 (* * *23) Psilocybin;
343 (* * *24) Psilocyn;

344 * * *



345 (* * *25) 2,5-dimethoxyamphetamine;
346 (* * *26) 4-bromo-2,5-dimethoxyamphetamine;
347 (* * *27) 4-bromo-2,5-dimethoxyphenylethylamine;
348 (* * *28) 4-methoxyamphetamine;
349 (* * *29) Ethylamine analog of phencyclidine (PCE);
350 (* * *30) Pyrrolidine analog of phencyclidine (PHP,
351 PCPy);
352 (* * *31) Thiophene analog of phencyclidine;
353 (* * *32) Parahexyl;
354 (* * *33) 1-[1-(2-thienyl)cyclohexyl] pyrrolidine
355 (TCPy);
356 (* * *34) 3,4-methylenedioxy-N-ethylamphetamine (also
357 known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenylethylamine,
358 N-ethyl MDA, MDE, MDEA);
359 (* * *35) N-hydroxy-3,4-methylenedioxyamphetamine
360 (also known as N-hydroxy MDA, N-OHMDA, and
361 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenylethylamine);
362 (* * *36) Salvia divinorum;
363 (* * *37) Synthetic cannabinoids:
364 (A) (6aR,10aR)-9-(hydroxymethyl)-6,
365 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]
366 chromen-1-ol (also known as HU-210 or
367 1,1-dimethylheptyl-11-hydroxy-delta8-tetrahydrocannabinol);
368 (B) Naphthoylindoles and naphthylmethylindoles,
369 being any compound structurally derived from 3-(1-naphthoyl)indole



370 or 1H-indol-3-yl-(1-naphthyl)methane, whether or not substituted
371 in the indole ring to any extent, or in the naphthyl ring to any
372 extent;

373 (C) Naphthoylpyrroles, being any compound
374 structurally derived from 3-(1-naphthoyl)pyrrole, whether or not
375 substituted in the pyrrole ring to any extent, or in the naphthyl
376 ring to any extent;

377 (D) Naphthylmethylindenes, being any compound
378 structurally derived from 1-(1-naphthylmethyl)indene, whether or
379 not substituted in the indene ring to any extent or in the
380 naphthyl ring to any extent;

381 (E) Phenylacetylindoles, being any compound
382 structurally derived from 3-phenylacetylindole, whether or not
383 substituted in the indole ring to any extent or in the phenyl ring
384 to any extent;

385 (F) Cyclohexylphenols, being any compound
386 structurally derived from 2-(3-hydroxycyclohexyl)phenol, whether
387 or not substituted in the cyclohexyl ring to any extent or in the
388 phenolic ring to any extent;

389 (G) Benzoylindoles, whether or not substituted in
390 the indole ring to any extent or in the phenyl ring to any extent;

391 (H) Adamantoylindoles, whether or not substituted
392 in the indole ring to any extent or in the adamantoyl ring system
393 to any extent;



394 (I) Tetrahydro derivatives of cannabinol and
395 3-alkyl homologues of cannabiniol or of its tetrahydro
396 derivatives, except where contained in cannabis or cannabis resin.

397 (d) **Depressants.** Unless specifically excepted or unless
398 listed in another schedule, any material, compound, mixture, or
399 preparation which contains any quantity of the following
400 substances having a depressant effect on the central nervous
401 system, including their salts, isomers, and salts of isomers,
402 whenever the existence of such salts, isomers, and salts of
403 isomers is possible within the specific chemical designation:

404 (1) Gamma-hydroxybutyric acid (other names include:
405 GHB, gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic
406 acid; sodium oxybate; sodium oxybutyrate);

407 (2) Mecloqualone;

408 (3) Methaqualone.

409 (e) **Stimulants.** Any material, compound, mixture or
410 preparation which contains any quantity of the following central
411 nervous system stimulants including optical salts, isomers and
412 salts of isomers unless specifically excepted or unless listed in
413 another schedule:

414 (1) Aminorex;

415 (2) N-benzylpiperazine (also known as BZP;
416 1-benzylpiperazine);

417 (3) Fenethylamine;

418 (4) N-ethyl-amphetamine;



419 (5) 4-methylaminorex (also known as

420 2-amino-4-methyl-5-phenyl-2-oxazoline);

421 (6) Any material, compound, mixture or preparation
422 which contains any quantity of N,N-dimethylamphetamine. (Other
423 names include: N,N,-alpha-trimethyl-benzeneethanamine, and
424 N,N-alphatrimethylphenethylamine);

425 (7) Cathinone, methcathinone, 4-methylmethcathinone
426 (mephedrone), methylenedioxyprovalerone (MDPV), and, unless
427 listed in another schedule, any compound other than bupropion that
428 is structurally derived from 2-Amino-1-phenyl-1-propanone by
429 modification in any of the following ways:

430 (i) By substitution in the phenyl ring to any
431 extent with alkyl, alkoxy, alkylenedioxy, haloalkyl or halide
432 substituents, whether or not further substituted in the phenyl
433 ring by one or more other univalent substituents;

434 (ii) By substitution at the 3-position with an
435 alkyl substituent;

436 (iii) By substitution at the nitrogen atom with
437 alkyl or dialkyl groups, or by inclusion of the nitrogen atom in a
438 cyclic structure.

439 **SECTION 3.** Section 41-29-115, Mississippi Code of 1972, is
440 amended as follows:

441 41-29-115. (A) The controlled substances listed in this
442 section are included in Schedule II.

443 **SCHEDULE II**



444 (a) **Substances, vegetable origin or chemical synthesis.**

445 Any of the following substances, except those narcotic drugs
446 listed in other schedules, whether produced directly or indirectly
447 by extraction from substances of vegetable origin, or
448 independently by means of chemical synthesis, or by combination of
449 extraction and chemical synthesis:

450 (1) Opium and opiate, and any salt, compound,
451 derivative, or preparation of opium or opiate, excluding naloxone
452 hydrochloride, apomorphine, thebaine-derived butorphanol,
453 dextrorphan, nalbuphine, nalmeffene and naltrexone, but including
454 the following:

- 455 (i) Codeine;
- 456 (ii) Dihydroetorphine;
- 457 (iii) Ethylmorphine;
- 458 (iv) Etorphine hydrochloride;
- 459 (v) Granulated opium;
- 460 (vi) Hydrocodone;
- 461 (vii) Hydromorphone;
- 462 (viii) Metopon;
- 463 (ix) Morphine;
- 464 (x) Opium extracts;
- 465 (xi) Opium fluid extracts;
- 466 (xii) Oripavine;
- 467 (xiii) Oxycodone;
- 468 (xiv) Oxymorphone;



469 (xv) Powdered opium;
470 (xvi) Raw opium;
471 (xvii) Thebaine;
472 (xviii) Tincture of opium.

473 (2) Any salt, compound, isomer, derivative, or
474 preparation thereof which is chemically equivalent or identical
475 with any of the substances referred to in paragraph (1), but not
476 including the isoquinoline alkaloids of opium;

477 (3) Opium poppy and poppy straw;

478 (4) Coca leaves and any salt, compound,
479 derivative, or preparation of cocaine or coca leaves, including
480 cocaine and ecgonine and any salt, compound, derivative, isomer,
481 or preparation thereof which is chemically equivalent or identical
482 with any of these substances, but not including decocainized coca
483 leaves or extractions which do not contain cocaine or ecgonine;

484 (5) Concentrate of poppy straw (the crude extract
485 of poppy straw in either liquid, solid or powder form which
486 contains the phenanthrene alkaloids of the opium poppy);

487 (6) (i) Marihuana;
488 (ii) Tetrahydrocannabinols, meaning
489 tetrahydrocannabinols contained in a plant of the genus Cannabis
490 (cannabis plant), as well as the synthetic equivalents of the
491 substances contained in the cannabis plant, or in the resinous
492 extractives of such plant, and/or synthetic substances,
493 derivatives, and their isomers with similar chemical structure and



494 pharmacological activity to those substances contained in the
495 plant such as the following:

496 (A) -1 cis or trans tetrahydrocannabinol;

497 (B) -6 cis or trans tetrahydrocannabinol;

498 (C) -3,4 cis or trans tetrahydrocannabinol.

499 (Since nomenclature of these substances is not
500 internationally standardized, compounds of these structures,
501 regardless of atomic positions are covered.)

502 ("Tetrahydrocannabinols" excludes dronabinol and nabilone.)

503 However, the following products are exempted from control:

504 THC-containing industrial products (e.g., 1. paper, rope and
505 clothing made from cannabis stalks); 2. processed cannabis plant
506 materials used for industrial purposes, such as fiber retted from
507 cannabis stalks for use in manufacturing textiles or rope; 3.
508 animal feed mixtures that contain sterilized cannabis seeds and
509 other ingredients (not derived from the cannabis plant) in a
510 formula designed, marketed and distributed for nonhuman
511 consumption; and 4. personal care products that contain oil from
512 sterilized cannabis seeds, such as shampoos, soaps, and body
513 lotions (provided that such products do not cause THC to enter the
514 human body).

515 (b) **Opiates.** Any of the following opiates, including
516 their isomers, esters, ethers, salts, and salts of isomers,
517 whenever the existence of these isomers, esters, ethers and salts



518 is possible within the specified chemical designation, dextrorphan
519 and levopropoxyphene excepted:

- 520 (1) Alfentanil;
- 521 (2) Alphaprodine;
- 522 (3) Anileridine;
- 523 (4) Bezitramide;
- 524 (5) Bulk dextropropoxyphene (nondosage forms);
- 525 (6) Carfentanil;
- 526 (7) Dihydrocodeine;
- 527 (8) Diphenoxylate;
- 528 (9) Fentanyl;
- 529 (10) Isomethadone;
- 530 (11) Levo-alpha-acetylmethadol
531 (levo-alpha-acetylmethadol, levomethadyl acetate, LAAM);
- 532 (12) Levomethorphan;
- 533 (13) Levorphanol;
- 534 (14) Metazocine;
- 535 (15) Methadone;
- 536 (16) Methadone-intermediate,
537 4-cyano-2-dimethylamino-4,4-diphenyl butane;
- 538 (17) Moramide-intermediate,
539 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;
- 540 (18) Pethidine (meperidine);
- 541 (19) Pethidine-Intermediate-A,
542 4-cyano-1-methyl-4-phenylpiperidine;



543 (20) Pethidine-Intermediate-B,

544 ethyl-4-phenylpiperidine-4-carboxylate;

545 (21) Pethidine-Intermediate-C,

546 1-methyl-4-phenylpiperidine-4-carboxylic acid;

547 (22) Phenazocine;

548 (23) Piminodine;

549 (24) Racemethorphan;

550 (25) Racemorphan;

551 (26) Remifentanil;

552 (27) Sufentanil;

553 (28) Tapentadol.

554 (c) **Stimulants.** Any material, compound, mixture, or
555 preparation which contains any quantity of the following
556 substances:

557 (1) Amphetamine, its salts, optical isomers, and
558 salts of its optical isomers;

559 (2) Phenmetrazine and its salts;

560 (3) Any substance which contains any quantity of
561 methamphetamine, including its salts, isomers, and salts of
562 isomers;

563 (4) Methylphenidate and its salts;

564 (5) Lisdexamfetamine, its salts, isomers and salts
565 of isomers.



566 (d) **Depressants.** Unless listed in another schedule,
567 any material, compound, mixture, or preparation which contains any
568 quantity of the following substances:

- 569 (1) Amobarbital;
- 570 (2) Secobarbital;
- 571 (3) Pentobarbital;
- 572 (4) Glutethimide.

573 (e) **Hallucinogenic substances.** Nabilone [other names
574 include: (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-
575 hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo(b,d)pyran-9-one].

576 (f) **Immediate precursors.** Unless specifically excepted
577 or unless listed in another schedule, any material, compound,
578 mixture, or preparation which contains any quantity of the
579 following substances:

580 (1) Amphetamine and methamphetamine immediate
581 precursor: Phenylacetone (other names include:
582 phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl
583 ketone);

584 (2) Phencyclidine immediate precursors:
585 (i) 1-phenylcyclohexylamine;
586 (ii) 1-piperidinocyclohexanecarbonitrile
587 (PCC);

588 (3) Fentanyl immediate precursor:
589 4-anilino-N-phenethyl-4-piperidine (ANPP);



590 (g) **Other substances.** Pentazocine and its salts in
591 injectable dosage form.

592 (B) Any material, compound, mixture or preparation which
593 contains any quantity of a Schedule II controlled substance and is
594 listed as an exempt substance in 21 CFR, Section 1308.24 or
595 1308.32, shall be exempted from the provisions of the Uniform
596 Controlled Substances Law.

597 **SECTION 4.** Section 41-29-139, Mississippi Code of 1972, is
598 amended as follows:

599 41-29-139. (a) Except as authorized by this article, it is
600 unlawful for any person knowingly or intentionally:

601 (1) To sell, barter, transfer, manufacture, distribute,
602 dispense or possess with intent to sell, barter, transfer,
603 manufacture, distribute or dispense, a controlled substance; or

604 (2) To create, sell, barter, transfer, distribute,
605 dispense or possess with intent to create, sell, barter, transfer,
606 distribute or dispense, a counterfeit substance.

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

610 (1) In the case of controlled substances classified in
611 Schedule I or II, as set out in Sections 41-29-113 and 41-29-115,
612 except thirty (30) grams or less of marihuana or synthetic
613 cannabinoids, and except a first offender as defined in Section
614 41-29-149(e) who violates subsection (a) of this section with



615 respect to less than one (1) kilogram but more than thirty (30)
616 grams of marihuana or synthetic cannabinoids, such person may,
617 upon conviction, be imprisoned for not more than thirty (30) years
618 and shall be fined not less than Five Thousand Dollars (\$5,000.00)
619 nor more than One Million Dollars (\$1,000,000.00), or both;

620 (2) In the case of a first offender who violates
621 subsection (a) of this section with an amount less than one (1)
622 kilogram but more than thirty (30) grams of marihuana or synthetic
623 cannabinoids as classified in Schedule I or II, as set out in
624 Sections 41-29-113 and 41-29-115, such person is guilty of a
625 felony and, upon conviction, may be imprisoned for not more than
626 twenty (20) years or fined not more than Thirty Thousand Dollars
627 (\$30,000.00), or both;

628 (3) In the case of thirty (30) grams or less of
629 marihuana or synthetic cannabinoids, such person may, upon
630 conviction, be imprisoned for not more than three (3) years or
631 fined not more than Three Thousand Dollars (\$3,000.00), or both;

632 (4) In the case of controlled substances classified in
633 Schedules III and IV, as set out in Sections 41-29-117 and
634 41-29-119, such person may, upon conviction, be imprisoned for not
635 more than twenty (20) years and shall be fined not less than One
636 Thousand Dollars (\$1,000.00) nor more than Two Hundred Fifty
637 Thousand Dollars (\$250,000.00), or both; and

638 (5) In the case of controlled substances classified in
639 Schedule V, as set out in Section 41-29-121, such person may, upon



640 conviction, be imprisoned for not more than ten (10) years and
641 shall be fined not less than One Thousand Dollars (\$1,000.00) nor
642 more than Fifty Thousand Dollars (\$50,000.00), or both.

643 (c) It is unlawful for any person knowingly or intentionally
644 to possess any controlled substance unless the substance was
645 obtained directly from, or pursuant to, a valid prescription or
646 order of a practitioner while acting in the course of his
647 professional practice, or except as otherwise authorized by this
648 article. The penalties for any violation of this subsection (c)
649 with respect to a controlled substance classified in Schedules I,
650 II, III, IV or V, as set out in Section 41-29-113, 41-29-115,
651 41-29-117, 41-29-119 or 41-29-121, including marihuana or
652 synthetic cannabinoids, shall be based on dosage unit as defined
653 herein or the weight of the controlled substance as set forth
654 herein as appropriate:

655 "Dosage unit (d.u.)" means a tablet or capsule, or in the
656 case of a liquid solution, one (1) milliliter. In the case of
657 lysergic acid diethylamide (LSD) the term, "dosage unit" means a
658 stamp, square, dot, microdot, tablet or capsule of a controlled
659 substance.

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



663 The weight set forth refers to the entire weight of any
664 mixture or substance containing a detectable amount of the
665 controlled substance.

666 If a mixture or substance contains more than one (1)
667 controlled substance, the weight of the mixture or substance is
668 assigned to the controlled substance that results in the greater
669 punishment.

670 Any person who violates this subsection with respect to:

671 (1) A controlled substance classified in Schedule I or
672 II, except marihuana or synthetic cannabinoids, in the following
673 amounts shall be charged and sentenced as follows:

674 (A) Less than one-tenth (0.1) gram or one (1)
675 dosage unit or less may be charged as a misdemeanor or felony. If
676 charged by indictment as a felony: by imprisonment not less than
677 one (1) nor more than four (4) years and a fine of not more than
678 Ten Thousand Dollars (\$10,000.00). If charged as a misdemeanor:
679 by imprisonment for up to one (1) year and a fine of not more than
680 One Thousand Dollars (\$1,000.00).

681 (B) One-tenth (0.1) gram but less than two (2)
682 grams or two (2) dosage units but less than ten (10) dosage units,
683 by imprisonment for not less than two (2) years nor more than
684 eight (8) years and a fine of not more than Fifty Thousand Dollars
685 (\$50,000.00).

686 (C) Two (2) grams but less than ten (10) grams or
687 ten (10) dosage units but less than twenty (20) dosage units, by



688 imprisonment for not less than four (4) years nor more than
689 sixteen (16) years and a fine of not more than Two Hundred Fifty
690 Thousand Dollars (\$250,000.00).

691 (D) Ten (10) grams but less than thirty (30) grams
692 or twenty (20) dosage units but not more than forty (40) dosage
693 units, by imprisonment for not less than six (6) years nor more
694 than twenty-four (24) years and a fine of not more than Five
695 Hundred Thousand Dollars (\$500,000.00).

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

700 (2) Marihuana or synthetic cannabinoids in the
701 following amounts shall be charged and sentenced as follows:

702 (A) Thirty (30) grams or less by a fine of not
703 less than One Hundred Dollars (\$100.00) nor more than Two Hundred
704 Fifty Dollars (\$250.00). The provisions of this paragraph shall
705 be enforceable by summons, provided the offender provides proof of
706 identity satisfactory to the arresting officer and gives written
707 promise to appear in court satisfactory to the arresting officer,
708 as directed by the summons. A second conviction under this
709 section within two (2) years shall be punished by a fine of Two
710 Hundred Fifty Dollars (\$250.00) and not less than five (5) days
711 nor more than sixty (60) days in the county jail and mandatory
712 participation in a drug education program, approved by the



713 Division of Alcohol and Drug Abuse of the State Department of
714 Mental Health, unless the court enters a written finding that such
715 drug education program is inappropriate. A third or subsequent
716 conviction under this section within two (2) years is a
717 misdemeanor punishable by a fine of not less than Two Hundred
718 Fifty Dollars (\$250.00) nor more than Five Hundred Dollars
719 (\$500.00) and confinement for not less than five (5) days nor more
720 than six (6) months in the county jail. Upon a first or second
721 conviction under this section, the courts shall forward a report
722 of such conviction to the Mississippi Bureau of Narcotics which
723 shall make and maintain a private, nonpublic record for a period
724 not to exceed two (2) years from the date of conviction. The
725 private, nonpublic record shall be solely for the use of the
726 courts in determining the penalties which attach upon conviction
727 under this section and shall not constitute a criminal record for
728 the purpose of private or administrative inquiry and the record of
729 each conviction shall be expunged at the end of the period of two
730 (2) years following the date of such conviction;

731 (B) Additionally, a person who is the operator of
732 a motor vehicle, who possesses on his person or knowingly keeps or
733 allows to be kept in a motor vehicle within the area of the
734 vehicle normally occupied by the driver or passengers, more than
735 one (1) gram, but not more than thirty (30) grams, of marihuana or
736 synthetic cannabinoids is guilty of a misdemeanor and, upon
737 conviction, may be fined not more than One Thousand Dollars



738 (\$1,000.00) and confined for not more than ninety (90) days in the
739 county jail. For the purposes of this subsection, such area of
740 the vehicle shall not include the trunk of the motor vehicle or
741 the areas not normally occupied by the driver or passengers if the
742 vehicle is not equipped with a trunk. A utility or glove
743 compartment shall be deemed to be within the area occupied by the
744 driver and passengers;

745 (C) More than thirty (30) grams but less than two
746 hundred fifty (250) grams may be fined not more than One Thousand
747 Dollars (\$1,000.00), or confined in the county jail for not more
748 than one (1) year, or both; or fined not more than Three Thousand
749 Dollars (\$3,000.00), or imprisoned in the State Penitentiary for
750 not more than three (3) years, or both;

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

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

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



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

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

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

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

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

783 (D) Three hundred (300) grams but less than five
784 hundred (500) grams or one thousand (1,000) dosage units but less
785 than two thousand five hundred (2,500) dosage units, by
786 imprisonment for not less than four (4) years nor more than



787 sixteen (16) years and a fine of not more than Two Hundred Fifty
788 Thousand Dollars (\$250,000.00).

789 (E) Five hundred (500) grams or more or two
790 thousand five hundred (2,500) dosage units or more, by
791 imprisonment for not less than six (6) years nor more than
792 twenty-four (24) years and a fine of not more than Five Hundred
793 Thousand Dollars (\$500,000.00).

794 (d) (1) It is unlawful for a person who is not authorized
795 by the State Board of Medical Licensure, State Board of Pharmacy,
796 or other lawful authority to use, or to possess with intent to
797 use, paraphernalia to plant, propagate, cultivate, grow, harvest,
798 manufacture, compound, convert, produce, process, prepare, test,
799 analyze, pack, repack, store, contain, conceal, inject, ingest,
800 inhale or otherwise introduce into the human body a controlled
801 substance in violation of the Uniform Controlled Substances Law.
802 Any person who violates this subsection is guilty of a misdemeanor
803 and, upon conviction, may be confined in the county jail for not
804 more than six (6) months, or fined not more than Five Hundred
805 Dollars (\$500.00), or both; however, no person shall be charged
806 with a violation of this subsection when such person is also
807 charged with the possession of one (1) ounce or less of marihuana
808 or synthetic cannabinoids under subsection (c) (2) (A) of this
809 section.

810 (2) It is unlawful for any person to deliver, sell,
811 possess with intent to deliver or sell, or manufacture with intent



812 to deliver or sell, paraphernalia, knowing, or under circumstances
813 where one reasonably should know, that it will be used to plant,
814 propagate, cultivate, grow, harvest, manufacture, compound,
815 convert, produce, process, prepare, test, analyze, pack, repack,
816 store, contain, conceal, inject, ingest, inhale, or otherwise
817 introduce into the human body a controlled substance in violation
818 of the Uniform Controlled Substances Law. Any person who violates
819 this subsection is guilty of a misdemeanor and, upon conviction,
820 may be confined in the county jail for not more than six (6)
821 months, or fined not more than Five Hundred Dollars (\$500.00), or
822 both.

823 (3) Any person eighteen (18) years of age or over who
824 violates subsection (d)(2) of this section by delivering or
825 selling paraphernalia to a person under eighteen (18) years of age
826 who is at least three (3) years his junior is guilty of a
827 misdemeanor and, upon conviction, may be confined in the county
828 jail for not more than one (1) year, or fined not more than One
829 Thousand Dollars (\$1,000.00), or both.

830 (4) It is unlawful for any person to place in any
831 newspaper, magazine, handbill, or other publication any
832 advertisement, knowing, or under circumstances where one
833 reasonably should know, that the purpose of the advertisement, in
834 whole or in part, is to promote the sale of objects designed or
835 intended for use as paraphernalia. Any person who violates this
836 subsection is guilty of a misdemeanor and, upon conviction, may be



837 confined in the county jail for not more than six (6) months, or
838 fined not more than Five Hundred Dollars (\$500.00), or both.

839 (e) It shall be unlawful for any physician practicing
840 medicine in this state to prescribe, dispense or administer any
841 amphetamine or amphetamine-like anorectics and/or central nervous
842 system stimulants classified in Schedule II, pursuant to Section
843 41-29-115, for the exclusive treatment of obesity, weight control
844 or weight loss. Any person who violates this subsection, upon
845 conviction, is guilty of a misdemeanor and may be confined for a
846 period not to exceed six (6) months, or fined not more than One
847 Thousand Dollars (\$1,000.00), or both.

848 (f) Except as otherwise authorized in this article, any
849 person twenty-one (21) years of age or older who knowingly sells,
850 barter, transfers, manufactures, distributes or dispenses during
851 any twelve (12) consecutive month period: (i) ten (10) pounds or
852 more of marihuana or synthetic cannabinoids; (ii) two (2) ounces
853 or more of heroin; (iii) two (2) or more ounces of cocaine or of
854 any mixture containing cocaine as described in Section
855 41-29-105(s), Mississippi Code of 1972; (iv) two (2) or more
856 ounces of methamphetamine; or (v) one hundred (100) or more dosage
857 units of morphine, Demerol, Dilaudid, oxycodone hydrochloride or a
858 derivative thereof, or 3,4-methylenedioxymethamphetamine (MDMA)
859 shall be guilty of a felony and, upon conviction thereof, shall be
860 sentenced to life imprisonment and such sentence shall not be
861 reduced or suspended nor shall such person be eligible for



862 probation or parole, the provisions of Sections 41-29-149,
863 47-5-139, 47-7-3 and 47-7-33, Mississippi Code of 1972, to the
864 contrary notwithstanding. The provisions of this subsection shall
865 not apply to any person who furnishes information and assistance
866 to the bureau or its designee which, in the opinion of the trial
867 judge objectively should or would have aided in the arrest or
868 prosecution of others who violate this subsection. The accused
869 shall have adequate opportunity to develop and make a record of
870 all information and assistance so furnished.

871 (g) (1) Any person trafficking in controlled substances
872 shall be guilty of a felony and, upon conviction, shall be
873 imprisoned for a term of thirty (30) years and such sentence shall
874 not be reduced or suspended nor shall such person be eligible for
875 probation or parole, the provisions of Sections 41-29-149,
876 47-5-139, 47-7-3 and 47-7-33, Mississippi Code of 1972, to the
877 contrary notwithstanding and shall be fined not less than Five
878 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
879 (\$1,000,000.00).

880 (2) "Trafficking in controlled substances" as used
881 herein means to engage in three (3) or more component offenses
882 within any twelve (12) consecutive month period where at least two
883 (2) of the component offenses occurred in different counties. A
884 component offense is any act which would constitute a violation of
885 subsection (a) of this section. Prior convictions shall not be



886 used as component offenses to establish the charge of trafficking
887 in controlled substances.

888 (3) The charge of trafficking in controlled substances
889 shall be set forth in one (1) count of an indictment with each of
890 the component offenses alleged therein and it may be charged and
891 tried in any county where a component offense occurred. An
892 indictment for trafficking in controlled substances may also be
893 returned by the State Grand Jury of Mississippi provided at least
894 two (2) of the component offenses occurred in different circuit
895 court districts.

896 (h) The medical use of marihuana as authorized by Section 1
897 of this act shall not constitute a violation of this Section.

898 **SECTION 5.** If any provision of this act or the application
899 thereof to any person or circumstance is held invalid, the
900 invalidity does not affect other provisions or applications of the
901 act which can be given effect without the invalid provision or
902 application, and to this end the provisions of this act are
903 severable.

904 **SECTION 6.** Section 1 of this act shall be codified within
905 Title 41, Chapter 29, Mississippi Code of 1972.

906 **SECTION 7.** This act shall take effect and be in force from
907 and after July 1, 2013.

