

By: Senator(s) Simmons (12th)

To: Public Health and
Welfare; Judiciary, Division
B

SENATE BILL NO. 2267

1 AN ACT TO AMEND SECTION 41-29-113, MISSISSIPPI CODE OF 1972,
2 TO REMOVE MARIJUANA FROM THE LIST OF SCHEDULE I CONTROLLED
3 SUBSTANCES; TO AMEND SECTION 41-29-139, MISSISSIPPI CODE OF 1972,
4 TO CONFORM THE PENALTY FOR POSSESSION OF CONTROLLED SUBSTANCES
5 OTHER THAN MARIJUANA; TO AMEND SECTION 41-29-105, MISSISSIPPI CODE
6 OF 1972, TO CONFORM DEFINITIONS FOR THE UNIFORM CONTROLLED
7 SUBSTANCES ACT; TO AMEND SECTIONS 41-29-136, 41-29-147,
8 41-29-149.1, 41-29-150 AND 33-13-520, MISSISSIPPI CODE OF 1972, TO
9 CONFORM; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 41-29-113, Mississippi Code of 1972, is
12 amended as follows:

13 41-29-113. The controlled substances listed in this section
14 are included in Schedule I.

15 **SCHEDULE I**

16 (a) **Opiates.** Any of the following opiates, including their
17 isomers, esters, ethers, salts and salts of isomers, esters and
18 ethers, unless specifically excepted, whenever the existence of
19 these isomers, esters, ethers and salts is possible within the
20 specific chemical designation:

21 (1) Acetyl-alpha-methylfentanyl;



- 22 (2) Acetyl Fentanyl
23 N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide;
24 (3) AH-7921 (3,4-dichloro-N-[(1-dimethylamino)
25 cyclohexylmethyl]benzamide);
26 (4) Acetylmethadol;
27 (5) Allylprodine;
28 (6) Alphacetylmethadol, except levo-alphacetylmethadol
29 (levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);
30 (7) Alphameprodine;
31 (8) Alphamethadol;
32 (9) Alpha-methylfentanyl;
33 (10) Alpha-methylthiofentanyl;
34 (11) Benzethidine;
35 (12) Betacetylmethadol;
36 (13) Beta-hydroxyfentanyl;
37 (14) Beta-hydroxy-3-methylfentanyl;
38 (15) Betameprodine;
39 (16) Betamethadol;
40 (17) Betaprodine;
41 (18) Clonitazene;
42 (19) Dextromoramide;
43 (20) Diampromide;
44 (21) Diethylthiambutene;
45 (22) Difenoazin;
46 (23) Dimenoxadol;



- 47 (24) Dimepheptanol;
- 48 (25) Dimethylthiambutene;
- 49 (26) Dioxaphetyl butyrate;
- 50 (27) Dipipanone;
- 51 (28) Ethylmethylthiambutene;
- 52 (29) Etonitazene;
- 53 (30) Etoxeridine;
- 54 (31) Furethidine;
- 55 (32) Hydroxypethidine;
- 56 (33) Ketobemidone;
- 57 (34) Levomoramide;
- 58 (35) Levophenacylmorphan;
- 59 (36) 3-methylfentanyl;
- 60 (37) 3-methylthiofentanyl;
- 61 (38) Morpheridine;
- 62 (39) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 63 (40) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbutyramide,
64 its isomers, esters, ethers, salts and salts of isomers, esters
65 and ethers (other names: Butyryl fentanyl);
- 66 (41)
67 *N*-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-*N*-phenylprop
68 ionamide, its isomers, esters, ethers, salts and salts of isomers,
69 esters and ethers (other names: beta-hydroxythiofentanyl);
- 70 (42) Noracymethadol;
- 71 (43) Norlevorphanol;



- 72 (44) Normethadone;
- 73 (45) Norpipanone;
- 74 (46) Para-fluorofentanyl;
- 75 (47) PEPAP
- 76 (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 77 (48) Phenadoxone;
- 78 (49) Phenampromide;
- 79 (50) Phenomorphan;
- 80 (51) Phenoperidine;
- 81 (52) Piritramide;
- 82 (53) Proheptazine;
- 83 (54) Properidine;
- 84 (55) Propiram;
- 85 (56) Racemoramide;
- 86 (57) Thiofentanyl;
- 87 (58) Tilidine;
- 88 (59) Trimeperidine.

89 (b) **Opiate derivatives.** Any of the following opium
90 derivatives, their salts, isomers and salts of isomers, unless
91 specifically excepted, whenever the existence of these salts,
92 isomers and salts of isomers is possible within the specific
93 chemical designation:

- 94 (1) Acetorphine;
- 95 (2) Acetyldihydrocodeine;
- 96 (3) Benzylmorphine;



- 97 (4) Codeine methylbromide;
98 (5) Codeine-N-Oxide;
99 (6) Cyprenorphine;
100 (7) Desomorphine;
101 (8) Dihydromorphine;
102 (9) Drotebanol;
103 (10) Etorphine * * * (except hydrochloride salt);
104 (11) Heroin;
105 (12) Hydromorphenol;
106 (13) Methyldesorphine;
107 (14) Methyldihydromorphine;
108 (15) Monoacetylmorphine;
109 (16) Morphine methylbromide;
110 (17) Morphine methylsulfonate;
111 (18) Morphine-N-Oxide;
112 (19) Myrophine;
113 (20) Nicocodeine;
114 (21) Nicomorphine;
115 (22) Normorphine;
116 (23) Pholcodine;
117 (24) Thebacon.

118 (c) **Hallucinogenic substances.** Any material, compound,
119 mixture or preparation which contains any quantity of the
120 following substances, their salts, isomers (whether optical,
121 positional, or geometric) and salts of isomers, unless



122 specifically excepted, whenever the existence of these salts,
123 isomers and salts of isomers is possible within the specific
124 chemical designation:

- 125 (1) Alpha-ethyltryptamine;
- 126 (2) 4-bromo-2,5-dimethoxy-amphetamine;
- 127 (3) 4-bromo-2,5-dimethoxyphenethylamine;
- 128 (4) 2,5-dimethoxyamphetamine;
- 129 (5) 2,5-dimethoxy-4-ethylamphetamine (DOET);
- 130 (6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine
131 (2C-T-7);
- 132 (7) 4-methoxyamphetamine;
- 133 (8) 5-methoxy-3,4-methylenedioxy-amphetamine;
- 134 (9) 4-methyl-2,5-dimethoxy-amphetamine;
- 135 (10) 3,4-methylenedioxy amphetamine;
- 136 (11) 3,4-methylenedioxymethamphetamine (MDMA);
- 137 (12) 3,4-methylenedioxy-N-ethylamphetamine (also known
138 as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl
139 MDA, MDE, MDEA);
- 140 (13) N-hydroxy-3,4-methylenedioxyamphetamine (also
141 known as N-hydroxy MDA, N-OHMDA, and
142 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine);
- 143 (14) 3,4,5-trimethoxy amphetamine;
- 144 (15) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);
- 145 (16) Alpha-methyltryptamine (also known as AMT);
- 146 (17) Bufotenine;



- 147 (18) Diethyltryptamine;
148 (19) Dimethyltryptamine;
149 (20) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT);
150 (21) Ibogaine;
151 (22) Lysergic acid diethylamide (LSD);

152 * * *

- 153 (* * *23) Mescaline;
154 (* * *24) Parahexyl;
155 (* * *25) Peyote;
156 (* * *26) N-ethyl-3-piperidyl benzilate;
157 (* * *27) N-methyl-3-piperidyl benzilate;
158 (* * *28) Psilocybin;
159 (* * *29) Psilocyn;

160 * * *

- 161 (* * *30) Phencyclidine;
162 (* * *31) Ethylamine analog of phencyclidine (PCE);
163 (* * *32) Pyrrolidine analog of phencyclidine (PHP,
164 PCPy);
165 (* * *33) Thiophene analog of phencyclidine;
166 (* * *34) 1-[1-(2-thienyl)cyclohexyl] pyrrolidine
167 (TCPy);
168 (* * *35) 4-methylmethcathinone (mephedrone);
169 (* * *36) 3,4-methylenedioxypropylamphetamine (MDPV);
170 (* * *37) 2-(2,5-dimethoxy-4-ethylphenyl)ethanamine
171 (2C-E);



172 (* * *38) 2-(2,5-dimethoxy-4-methylphenyl)ethanamine
173 (2C-D);
174 (* * *39) 2-(4-chloro-2,5-dimethoxyphenyl)ethanamine
175 (2C-C);
176 (* * *40) 2-(4-iodo-2,5-dimethoxyphenyl)ethanamine
177 (2C-I); or 2,5-dimethoxy-4-iodophenethylamine;
178 (* * *41)
179 2-[4-(ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2);
180 (* * *42)
181 2-[4-(isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4);
182 (* * *43) 2-(2,5-dimethoxyphenyl)ethanamine (2C-H);
183 (* * *44) 2-(2,5-dimethoxy-4-nitro-phenyl)ethanamine
184 (2C-N);
185 (* * *45)
186 2-(2,5-dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P);
187 (* * *46)
188 3,4-methylenedioxy-N-methylcathinone (methydone);
189 (* * *47)
190 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine
191 (25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36);
192 (* * *48)
193 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine
194 (25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82);
195 (* * *49)
196 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine or



197 N-[(2-methoxyphenyl)methyl]ethanamine (25I-NBOMe; 2C-I-NBOMe; 25I;
198 Cimbi-5);

199 (* * *50) 7-bromo-5-(2-chlorophenyl)-1,3-dihydro-2H-1,
200 4-benzodiazepin-2-one (also known as Phenazepam);

201 (* * *51)
202 7-(2-chlorophenyl)-4-ethyl-13-methyl-3-thia-1,8,
203 11,12-tetraazatricyclo[8.3.0.0]trideca-2(6),4,7,10,12-pentaene
204 (also known as Etizolam);

205 (* * *52) Salvia divinorum;

206 (* * *53) Synthetic cannabinoids. Unless specifically
207 excepted or unless listed in another schedule, any material,
208 compound, mixture, or preparation which contains any quantity of a
209 synthetic cannabinoid found in any of the following chemical
210 groups, whether or not substituted to any extent, or any of those
211 groups which contain any synthetic cannabinoid salts, isomers, or
212 salts of isomers, whenever the existence of such salts, isomers,
213 or salts of isomers is possible within the specific chemical
214 designation, including all synthetic cannabinoid chemical
215 analogues in such groups:

216 (A) (6aR,10aR)-9-(hydroxymethyl)-6,
217 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]
218 chromen-1-ol (also known as HU-210 or
219 1,1-dimethylheptyl-11-hydroxy-delta8-tetrahydrocannabinol);

220 (B) Naphthoylindoles and naphthylmethylindoles,
221 being any compound structurally derived from 3-(1-naphthoyl)indole



222 or 1H-indol-3-yl-(1-naphthyl)methane, whether or not substituted
223 in the indole ring to any extent, or in the naphthyl ring to any
224 extent;

225 (C) Naphthoylpyrroles, being any compound
226 structurally derived from 3-(1-naphthoyl)pyrrole, whether or not
227 substituted in the pyrrole ring to any extent, or in the naphthyl
228 ring to any extent;

229 (D) Naphthylmethylindenes, being any compound
230 structurally derived from 1-(1-naphthylmethyl)indene, whether or
231 not substituted in the indene ring to any extent or in the
232 naphthyl ring to any extent;

233 (E) Phenylacetylindoles, being any compound
234 structurally derived from 3-phenylacetylindole, whether or not
235 substituted in the indole ring to any extent or in the phenyl ring
236 to any extent;

237 (F) Cyclohexylphenols, being any compound
238 structurally derived from 2-(3-hydroxycyclohexyl)phenol, whether
239 or not substituted in the cyclohexyl ring to any extent or in the
240 phenolic ring to any extent;

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

243 (H) Adamantoylindoles, whether or not substituted
244 in the indole ring to any extent or in the adamantoyl ring system
245 to any extent;



246 (I) Tetrahydro derivatives of cannabinol and
247 3-alkyl homologues of cannabinol or of its tetrahydro derivatives,
248 except where contained in cannabis or cannabis resin;

249 (J) 3-Cyclopropylmethanone indole or
250 3-Cyclobutylmethanone indole or 3-Cyclopentylmethanone indole by
251 substitution at the nitrogen atom of the indole ring, whether or
252 not further substituted in the indole ring to any extent, whether
253 or not substituted on the cyclopropyl, cyclobutyl or cyclopentyl
254 rings to any extent;

255 (K) Quinoliny ester indoles, being any compound
256 structurally derived from 1H-indole-3carboxylic acid-8-quinoliny
257 ester, whether or not substituted in the indole ring to any extent
258 or the quinolone ring to any extent;

259 (L) 3-carboxamide-1H-indazoles, whether or not
260 substituted in the indazole ring to any extent and substituted to
261 any degree on the carboxamide nitrogen and
262 3-carboxamide-1H-indoles, whether or not substituted in the indole
263 ring to any extent and substituted to any degree on the
264 carboxamide nitrogen;

265 (M) Cycloalkanemethanone Indoles, whether or not
266 substituted at the nitrogen atom on the indole ring, whether or
267 not further substituted in the indole ring to any extent, whether
268 or not substituted on the cycloalkane ring to any extent.

269 (d) **Depressants.** Unless specifically excepted or unless
270 listed in another schedule, any material, compound, mixture, or



271 preparation which contains any quantity of the following
272 substances having a depressant effect on the central nervous
273 system, including their salts, isomers, and salts of isomers,
274 whenever the existence of such salts, isomers, and salts of
275 isomers is possible within the specific chemical designation:

276 (1) Gamma-hydroxybutyric acid (other names include:
277 GHB, gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic
278 acid; sodium oxybate; sodium oxybutyrate);

279 (2) Mecloqualone;

280 (3) Methaqualone.

281 (e) **Stimulants.** Any material, compound, mixture or
282 preparation which contains any quantity of the following central
283 nervous system stimulants including optical salts, isomers and
284 salts of isomers unless specifically excepted or unless listed in
285 another schedule:

286 (1) Aminorex;

287 (2) N-benzylpiperazine (also known as BZP;
288 1-benzylpiperazine);

289 (3) Cathinone;

290 (4) Fenethylamine;

291 (5) Methcathinone;

292 (6) 4-methylaminorex (also known as
293 2-amino-4-methyl-5-phenyl-2-oxazoline);

294 (7) N-ethylamphetamine;



295 (8) Any material, compound, mixture or preparation
296 which contains any quantity of N,N-dimethylamphetamine. (Other
297 names include: N,N,-alpha-trimethyl-benzeneethanamine, and
298 N,N-alphatrimethylphenethylamine);

299 (9) **Synthetic cathinones.** (A) Unless listed in
300 another schedule, any compound other than bupropion that is
301 structurally derived from 2-Amino-1-phenyl-1-propanone by
302 modification in any of the following ways:

303 (i) By substitution in the phenyl ring to any
304 extent with alkyl, alkoxy, alkylendioxy, haloalkyl or halide
305 substituents, whether or not further substituted in the phenyl
306 ring by one or more other univalent substituents;

307 (ii) By substitution at the 3-position with
308 an alkyl substituent;

309 (iii) By substitution at the nitrogen atom
310 with alkyl or dialkyl groups, or by inclusion of the nitrogen atom
311 in a cyclic structure.

312 (B) The compounds covered in this paragraph (9)
313 include, but are not limited to, any material compound, mixture or
314 preparation which contains any quantity of a synthetic cathinone
315 found in any of the following compounds, whether or not
316 substituted to any extent, or any of these compounds which contain
317 any synthetic cathinone, or salts, isomers, or salts of isomers,
318 whenever the existence of such salts, isomers or salts of isomers



319 is possible, unless specifically excepted or listed in another
320 schedule:

321 (i) 4-methyl-N-ethylcathinone ("4-MEC");

322 (ii) 4-methyl-alpha-pyrrolidinopropiophenone
323 ("4-MePPP");

324 (iii) Alpha-pyrrolidinopentiophenone
325 (" α -PVP");

326 (iv)

327 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one ("butylone");

328 (v) 2-(methylamino)-1-phenylpentan-1-one
329 ("pentedrone");

330 (vi)

331 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one

332 ("pentylone");

333 (vii) 4-fluoro-N-methylcathinone ("4-FMC");

334 (viii) 3-fluoro-N-methylcathinone ("3-FMC");

335 (ix)

336 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one ("naphyrone");

337 and

338 (x) Alpha-pyrrolidinobutiophenone (" α -PBP").

339 **SECTION 2.** Section 41-29-139, Mississippi Code of 1972, is
340 amended as follows:

341 41-29-139. (a) **Transfer and possession with intent to**

342 **transfer.** Except as authorized by this article, it is unlawful

343 for any person knowingly or intentionally:



344 (1) To sell, barter, transfer, manufacture, distribute,
345 dispense or possess with intent to sell, barter, transfer,
346 manufacture, distribute or dispense, a controlled substance; or

347 (2) To create, sell, barter, transfer, distribute,
348 dispense or possess with intent to create, sell, barter, transfer,
349 distribute or dispense, a counterfeit substance.

350 (b) **Punishment for transfer and possession with intent to**
351 **transfer.** Except as otherwise provided in Section 41-29-142, any
352 person who violates subsection (a) of this section shall be, if
353 convicted, sentenced as follows:

354 (1) For controlled substances classified in Schedule I
355 or II, as set out in Sections 41-29-113 and 41-29-115, other
356 than * * * synthetic cannabinoids:

357 (A) If less than two (2) grams or ten (10) dosage
358 units, by imprisonment for not more than eight (8) years or a fine
359 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

360 (B) If two (2) or more grams or ten (10) or more
361 dosage units, but less than ten (10) grams or twenty (20) dosage
362 units, by imprisonment for not less than three (3) years nor more
363 than twenty (20) years or a fine of not more than Two Hundred
364 Fifty Thousand Dollars (\$250,000.00), or both.

365 (C) If ten (10) or more grams or twenty (20) or
366 more dosage units, but less than thirty (30) grams or forty (40)
367 dosage units, by imprisonment for not less than five (5) years nor



368 more than thirty (30) years or a fine of not more than Five
369 Hundred Thousand Dollars (\$500,000.00), or both.

370 (2) * * * For synthetic cannabinoids:

371 * * * (A) If ten (10) grams or less, by
372 imprisonment for not more than three (3) years or a fine of not
373 more than Three Thousand Dollars (\$3,000.00), or both;

374 * * * (B) If more than ten (10) grams but less
375 than twenty (20) grams, by imprisonment for not more than five (5)
376 years or a fine of not more than Five Thousand Dollars
377 (\$5,000.00), or both;

378 * * * (C) If twenty (20) or more grams but less
379 than forty (40) grams, by imprisonment for not less than three (3)
380 years nor more than ten (10) years or a fine of not more than
381 Fifteen Thousand Dollars (\$15,000.00), or both;

382 * * * (D) If forty (40) or more grams but less
383 than two hundred (200) grams, by imprisonment for not less than
384 five (5) years nor more than twenty (20) years or a fine of not
385 more than Twenty Thousand Dollars (\$20,000.00), or both.

386 (3) For controlled substances classified in Schedules
387 III and IV, as set out in Sections 41-29-117 and 41-29-119:

388 (A) If less than two (2) grams or ten (10) dosage
389 units, by imprisonment for not more than five (5) years or a fine
390 of not more than Five Thousand Dollars (\$5,000.00), or both;

391 (B) If two (2) or more grams or ten (10) or more
392 dosage units, but less than ten (10) grams or twenty (20) dosage



393 units, by imprisonment for not more than eight (8) years or a fine
394 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

395 (C) If ten (10) or more grams or twenty (20) or
396 more dosage units, but less than thirty (30) grams or forty (40)
397 dosage units, by imprisonment for not more than fifteen (15) years
398 or a fine of not more than One Hundred Thousand Dollars
399 (\$100,000.00), or both;

400 (D) If thirty (30) or more grams or forty (40) or
401 more dosage units, but less than five hundred (500) grams or two
402 thousand five hundred (2,500) dosage units, by imprisonment for
403 not more than twenty (20) years or a fine of not more than Two
404 Hundred Fifty Thousand Dollars (\$250,000.00), or both.

405 (4) For controlled substances classified in Schedule V,
406 as set out in Section 41-29-121:

407 (A) If less than two (2) grams or ten (10) dosage
408 units, by imprisonment for not more than one (1) year or a fine of
409 not more than Five Thousand Dollars (\$5,000.00), or both;

410 (B) If two (2) or more grams or ten (10) or more
411 dosage units, but less than ten (10) grams or twenty (20) dosage
412 units, by imprisonment for not more than five (5) years or a fine
413 of not more than Ten Thousand Dollars (\$10,000.00), or both;

414 (C) If ten (10) or more grams or twenty (20) or
415 more dosage units, but less than thirty (30) grams or forty (40)
416 dosage units, by imprisonment for not more than ten (10) years or



417 a fine of not more than Twenty Thousand Dollars (\$20,000.00), or
418 both;

419 (D) For thirty (30) or more grams or forty (40) or
420 more dosage units, but less than five hundred (500) grams or two
421 thousand five hundred (2,500) dosage units, by imprisonment for
422 not more than fifteen (15) years or a fine of not more than Fifty
423 Thousand Dollars (\$50,000.00), or both.

424 (c) **Simple possession.** It is unlawful for any person
425 knowingly or intentionally to possess any controlled substance
426 unless the substance was obtained directly from, or pursuant to, a
427 valid prescription or order of a practitioner while acting in the
428 course of his professional practice, or except as otherwise
429 authorized by this article. The penalties for any violation of
430 this subsection (c) with respect to a controlled substance
431 classified in Schedules I, II, III, IV or V, as set out in Section
432 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121,
433 including * * * synthetic cannabinoids, shall be based on dosage
434 unit as defined herein or the weight of the controlled substance
435 as set forth herein as appropriate:

436 "Dosage unit (d.u.)" means a tablet or capsule, or in the
437 case of a liquid solution, one (1) milliliter. In the case of
438 lysergic acid diethylamide (LSD) the term, "dosage unit" means a
439 stamp, square, dot, microdot, tablet or capsule of a controlled
440 substance.



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

444 The weight set forth refers to the entire weight of any
445 mixture or substance containing a detectable amount of the
446 controlled substance.

447 If a mixture or substance contains more than one (1)
448 controlled substance, the weight of the mixture or substance is
449 assigned to the controlled substance that results in the greater
450 punishment.

451 A person shall be charged and sentenced as follows for a
452 violation of this subsection with respect to:

453 (1) A controlled substance classified in Schedule I or
454 II, except * * * synthetic cannabinoids:

455 (A) If less than one-tenth (0.1) gram or two (2)
456 dosage units, the violation is a misdemeanor and punishable by
457 imprisonment for not more than one (1) year or a fine of not more
458 than One Thousand Dollars (\$1,000.00), or both.

459 (B) If one-tenth (0.1) gram or more or two (2) or
460 more dosage units, but less than two (2) grams or ten (10) dosage
461 units, by imprisonment for not more than three (3) years or a fine
462 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

463 (C) If two (2) or more grams or ten (10) or more
464 dosage units, but less than ten (10) grams or twenty (20) dosage
465 units, by imprisonment for not more than eight (8) years or a fine



466 of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00),
467 or both.

468 (D) If ten (10) or more grams or twenty (20) or
469 more dosage units, but less than thirty (30) grams or forty (40)
470 dosage units, by imprisonment for not less than three (3) years
471 nor more than twenty (20) years or a fine of not more than Five
472 Hundred Thousand Dollars (\$500,000.00), or both.

473 (2) (A) * * * Synthetic cannabinoids:

474 1. If * * * ten (10) grams or less of
475 synthetic cannabinoids, by a fine of not less than One Hundred
476 Dollars (\$100.00) nor more than Two Hundred Fifty Dollars
477 (\$250.00). The provisions of this paragraph (2) (A) may be
478 enforceable by summons if the offender provides proof of identity
479 satisfactory to the arresting officer and gives written promise to
480 appear in court satisfactory to the arresting officer, as directed
481 by the summons. A second conviction under this section within two
482 (2) years is a misdemeanor punishable by a fine of Two Hundred
483 Fifty Dollars (\$250.00), not more than sixty (60) days in the
484 county jail, and mandatory participation in a drug education
485 program approved by the Division of Alcohol and Drug Abuse of the
486 State Department of Mental Health, unless the court enters a
487 written finding that a drug education program is inappropriate. A
488 third or subsequent conviction under this paragraph (2) (A) within
489 two (2) years is a misdemeanor punishable by a fine of not less
490 than Two Hundred Fifty Dollars (\$250.00) nor more than One



491 Thousand Dollars (\$1,000.00) and confinement for not more than six
492 (6) months in the county jail.

493 Upon a first or second conviction under this paragraph
494 (2) (A), the courts shall forward a report of the conviction to the
495 Mississippi Bureau of Narcotics which shall make and maintain a
496 private, nonpublic record for a period not to exceed two (2) years
497 from the date of conviction. The private, nonpublic record shall
498 be solely for the use of the courts in determining the penalties
499 which attach upon conviction under this paragraph (2) (A) and shall
500 not constitute a criminal record for the purpose of private or
501 administrative inquiry and the record of each conviction shall be
502 expunged at the end of the period of two (2) years following the
503 date of such conviction;

504 2. Additionally, a person who is the operator
505 of a motor vehicle, who possesses on his person or knowingly keeps
506 or allows to be kept in a motor vehicle within the area of the
507 vehicle normally occupied by the driver or passengers, more than
508 one (1) gram, but * * * not more than ten (10) grams of synthetic
509 cannabinoids is guilty of a misdemeanor and, upon conviction, may
510 be fined not more than One Thousand Dollars (\$1,000.00) or
511 confined for not more than ninety (90) days in the county jail, or
512 both. For the purposes of this subsection, such area of the
513 vehicle shall not include the trunk of the motor vehicle or the
514 areas not normally occupied by the driver or passengers if the
515 vehicle is not equipped with a trunk. A utility or glove



516 compartment shall be deemed to be within the area occupied by the
517 driver and passengers;

518 * * *

519 (* * *B) Synthetic cannabinoids:

520 1. If more than ten (10) grams but less than
521 twenty (20) grams, by a fine of not more than One Thousand Dollars
522 (\$1,000.00), or confinement in the county jail for not more than
523 one (1) year, or both; or by a fine of not more than Three
524 Thousand Dollars (\$3,000.00), or imprisonment in the custody of
525 the Department of Corrections for not more than three (3) years,
526 or both;

527 2. If twenty (20) or more grams but less than
528 forty (40) grams, by imprisonment for not less than two (2) years
529 nor more than eight (8) years or by a fine of not more than Fifty
530 Thousand Dollars (\$50,000.00), or both;

531 3. If forty (40) or more grams but less than
532 two hundred (200) grams, by imprisonment for not less than four
533 (4) years nor more than sixteen (16) years or a fine of not more
534 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

535 4. If two hundred (200) or more grams, by
536 imprisonment for not less than six (6) years nor more than
537 twenty-four (24) years or a fine of not more than Five Hundred
538 Thousand Dollars (\$500,000.00), or both.



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

542 (A) If less than fifty (50) grams or less than one
543 hundred (100) dosage units, the offense is a misdemeanor and
544 punishable by not more than one (1) year or a fine of not more
545 than One Thousand Dollars (\$1,000.00), or both.

546 (B) If fifty (50) or more grams or one hundred
547 (100) or more dosage units, but less than one hundred fifty (150)
548 grams or five hundred (500) dosage units, by imprisonment for not
549 less than one (1) year nor more than four (4) years or a fine of
550 not more than Ten Thousand Dollars (\$10,000.00), or both.

551 (C) If one hundred fifty (150) or more grams or
552 five hundred (500) or more dosage units, but less than three
553 hundred (300) grams or one thousand (1,000) dosage units, by
554 imprisonment for not less than two (2) years nor more than eight
555 (8) years or a fine of not more than Fifty Thousand Dollars
556 (\$50,000.00), or both.

557 (D) If three hundred (300) or more grams or one
558 thousand (1,000) or more dosage units, but less than five hundred
559 (500) grams or two thousand five hundred (2,500) dosage units, by
560 imprisonment for not less than four (4) years nor more than
561 sixteen (16) years or a fine of not more than Two Hundred Fifty
562 Thousand Dollars (\$250,000.00), or both.



563 (d) **Paraphernalia.** (1) It is unlawful for a person who is
564 not authorized by the State Board of Medical Licensure, State
565 Board of Pharmacy, or other lawful authority to use, or to possess
566 with intent to use, paraphernalia to plant, propagate, cultivate,
567 grow, harvest, manufacture, compound, convert, produce, process,
568 prepare, test, analyze, pack, repack, store, contain, conceal,
569 inject, ingest, inhale or otherwise introduce into the human body
570 a controlled substance in violation of the Uniform Controlled
571 Substances Law. Any person who violates this subsection (d)(1) is
572 guilty of a misdemeanor and, upon conviction, may be confined in
573 the county jail for not more than six (6) months, or fined not
574 more than Five Hundred Dollars (\$500.00), or both * * *.

575 (2) It is unlawful for any person to deliver, sell,
576 possess with intent to deliver or sell, or manufacture with intent
577 to deliver or sell, paraphernalia, knowing, or under circumstances
578 where one reasonably should know, that it will be used to plant,
579 propagate, cultivate, grow, harvest, manufacture, compound,
580 convert, produce, process, prepare, test, analyze, pack, repack,
581 store, contain, conceal, inject, ingest, inhale, or otherwise
582 introduce into the human body a controlled substance in violation
583 of the Uniform Controlled Substances Law. Except as provided in
584 subsection (d)(3), a person who violates this subsection (d)(2) is
585 guilty of a misdemeanor and, upon conviction, may be confined in
586 the county jail for not more than six (6) months, or fined not
587 more than Five Hundred Dollars (\$500.00), or both.



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

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

604 (e) It shall be unlawful for any physician practicing
605 medicine in this state to prescribe, dispense or administer any
606 amphetamine or amphetamine-like anorectics and/or central nervous
607 system stimulants classified in Schedule II, pursuant to Section
608 41-29-115, for the exclusive treatment of obesity, weight control
609 or weight loss. Any person who violates this subsection, upon
610 conviction, is guilty of a misdemeanor and may be confined for a
611 period not to exceed six (6) months, or fined not more than One
612 Thousand Dollars (\$1,000.00), or both.



613 (f) **Trafficking.** (1) Any person trafficking in controlled
614 substances shall be guilty of a felony and, upon conviction, shall
615 be imprisoned for a term of not less than ten (10) years nor more
616 than forty (40) years and shall be fined not less than Five
617 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
618 (\$1,000,000.00). The ten-year mandatory sentence shall not be
619 reduced or suspended. The person shall not be eligible for
620 probation or parole, the provisions of Sections 41-29-149,
621 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

622 (2) "Trafficking in controlled substances" as used
623 herein means:

624 (A) A violation of subsection (a) of this section
625 involving thirty (30) or more grams or forty (40) or more dosage
626 units of a Schedule I or II controlled substance except * * *
627 cannabinoids;

628 (B) A violation of subsection (a) of this section
629 involving five hundred (500) or more grams or two thousand five
630 hundred (2,500) or more dosage units of a Schedule III, IV or V
631 controlled substance;

632 (C) A violation of subsection (c) of this section
633 involving thirty (30) or more grams or forty (40) or more dosage
634 units of a Schedule I or II controlled substance except * * *
635 synthetic cannabinoids;

636 (D) A violation of subsection (c) of this section
637 involving five hundred (500) or more grams or two thousand five



638 hundred (2,500) or more dosage units of a Schedule III, IV or V
639 controlled substance; or

640 (E) A violation of subsection (a) of this section
641 involving * * * two hundred (200) grams or more of synthetic
642 cannabinoids.

643 (g) **Aggravated trafficking.** Any person trafficking in
644 Schedule I or II controlled substances, except * * * synthetic
645 cannabinoids, of two hundred (200) grams or more shall be guilty
646 of aggravated trafficking and, upon conviction, shall be sentenced
647 to a term of not less than twenty-five (25) years nor more than
648 life in prison and shall be fined not less than Five Thousand
649 Dollars (\$5,000.00) nor more than One Million Dollars
650 (\$1,000,000.00). The twenty-five-year sentence shall be a
651 mandatory sentence and shall not be reduced or suspended. The
652 person shall not be eligible for probation or parole, the
653 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to
654 the contrary notwithstanding.

655 (h) **Sentence mitigation.** (1) Notwithstanding any provision
656 of this section, a person who has been convicted of an offense
657 under this section that requires the judge to impose a prison
658 sentence which cannot be suspended or reduced and is ineligible
659 for probation or parole may, at the discretion of the court,
660 receive a sentence of imprisonment that is no less than
661 twenty-five percent (25%) of the sentence prescribed by the



662 applicable statute. In considering whether to apply the departure
663 from the sentence prescribed, the court shall conclude that:

664 (A) The offender was not a leader of the criminal
665 enterprise;

666 (B) The offender did not use violence or a weapon
667 during the crime;

668 (C) The offense did not result in a death or
669 serious bodily injury of a person not a party to the criminal
670 enterprise; and

671 (D) The interests of justice are not served by the
672 imposition of the prescribed mandatory sentence.

673 The court may also consider whether information and
674 assistance were furnished to a law enforcement agency, or its
675 designee, which, in the opinion of the trial judge, objectively
676 should or would have aided in the arrest or prosecution of others
677 who violate this subsection. The accused shall have adequate
678 opportunity to develop and make a record of all information and
679 assistance so furnished.

680 (2) If the court reduces the prescribed sentence
681 pursuant to this subsection, it must specify on the record the
682 circumstances warranting the departure.

683 **SECTION 3.** Section 41-29-105, Mississippi Code of 1972, is
684 amended as follows:



685 41-29-105. The following words and phrases, as used in this
686 article, shall have the following meanings, unless the context
687 otherwise requires:

688 (a) "Administer" means the direct application of a
689 controlled substance, whether by injection, inhalation, ingestion
690 or any other means, to the body of a patient or research subject
691 by:

692 (* * *i) A practitioner (or, in his presence, by
693 his authorized agent); or

694 (* * *ii) The patient or research subject at the
695 direction and in the presence of the practitioner.

696 (b) "Agent" means an authorized person who acts on
697 behalf of or at the direction of a manufacturer, distributor or
698 dispenser. Such word does not include a common or contract
699 carrier, public warehouseman or employee of the carrier or
700 warehouseman. This definition shall not be applied to the term
701 "agent" when such term clearly designates a member or officer of
702 the Bureau of Narcotics or other law enforcement organization.

703 (c) "Board" means the Mississippi State Board of
704 Medical Licensure.

705 (d) "Bureau" means the Mississippi Bureau of Narcotics.
706 However, where the title "Bureau of Drug Enforcement" occurs, that
707 term shall also refer to the Mississippi Bureau of Narcotics.

708 (e) "Commissioner" means the Commissioner of the
709 Department of Public Safety.



710 (f) "Controlled substance" means a drug, substance or
711 immediate precursor in Schedules I through V of Sections 41-29-113
712 through 41-29-121.

713 (g) "Counterfeit substance" means a controlled
714 substance which, or the container or labeling of which, without
715 authorization, bears the trademark, trade name, or other
716 identifying mark, imprint, number or device, or any likeness
717 thereof, of a manufacturer, distributor or dispenser other than
718 the person who in fact manufactured, distributed or dispensed the
719 substance.

720 (h) "Deliver" or "delivery" means the actual,
721 constructive, or attempted transfer from one person to another of
722 a controlled substance, whether or not there is an agency
723 relationship.

724 (i) "Director" means the Director of the Bureau of
725 Narcotics.

726 (j) "Dispense" means to deliver a controlled substance
727 to an ultimate user or research subject by or pursuant to the
728 lawful order of a practitioner, including the prescribing,
729 administering, packaging, labeling or compounding necessary to
730 prepare the substance for that delivery.

731 (k) "Dispenser" means a practitioner who dispenses.

732 (l) "Distribute" means to deliver other than by
733 administering or dispensing a controlled substance.

734 (m) "Distributor" means a person who distributes.



735 (n) "Drug" means (* * *i) a substance recognized as a
736 drug in the official United States Pharmacopoeia, official
737 Homeopathic Pharmacopoeia of the United States, or official
738 National Formulary, or any supplement to any of them; (* * *ii) a
739 substance intended for use in the diagnosis, cure, mitigation,
740 treatment, or prevention of disease in man or animals; (* * *iii)
741 a substance (other than food) intended to affect the structure or
742 any function of the body of man or animals; and (* * *iv) a
743 substance intended for use as a component of any article specified
744 in this paragraph. Such word does not include devices or their
745 components, parts, or accessories.

746 (o) "Hashish" means the resin extracted from any part
747 of the plants of the genus Cannabis and all species thereof or any
748 preparation, mixture or derivative made from or with that resin.

749 (p) "Immediate precursor" means a substance which the
750 board has found to be and by rule designates as being the
751 principal compound commonly used or produced primarily for use,
752 and which is an immediate chemical intermediary used or likely to
753 be used in the manufacture of a controlled substance, the control
754 of which is necessary to prevent, curtail, or limit manufacture.

755 (q) "Manufacture" means the production, preparation,
756 propagation, compounding, conversion or processing of a controlled
757 substance, either directly or indirectly, by extraction from
758 substances of natural origin, or independently by means of
759 chemical synthesis, or by a combination of extraction and chemical



760 synthesis, and includes any packaging or repackaging of the
761 substance or labeling or relabeling of its container. The term
762 "manufacture" does not include the preparation, compounding,
763 packaging or labeling of a controlled substance in conformity with
764 applicable state and local law:

765 (* * *i) By a practitioner as an incident to his
766 administering or dispensing of a controlled substance in the
767 course of his professional practice; or

768 (* * *ii) By a practitioner, or by his authorized
769 agent under his supervision, for the purpose of, or as an incident
770 to, research, teaching or chemical analysis and not for sale.

771 * * *

772 (* * *r) "Narcotic drug" means any of the following,
773 whether produced directly or indirectly by extraction from
774 substances of vegetable origin, or independently by means of
775 chemical synthesis, or by a combination of extraction and chemical
776 synthesis:

777 (* * *i) Opium and opiate, and any salt,
778 compound, derivative or preparation of opium or opiate;

779 (* * *ii) Any salt, compound, isomer, derivative
780 or preparation thereof which is chemically equivalent or identical
781 with any of the substances referred to in clause 1, but not
782 including the isoquinoline alkaloids of opium;

783 (* * *iii) Opium poppy and poppy straw; and



784 (* * *iv) Cocaine, coca leaves and any salt,
785 compound, derivative or preparation of cocaine, coca leaves, and
786 any salt, compound, isomer, derivative or preparation thereof
787 which is chemically equivalent or identical with any of these
788 substances, but not including decocainized coca leaves or
789 extractions of coca leaves which do not contain cocaine or
790 ecgonine.

791 (* * *s) "Opiate" means any substance having an
792 addiction-forming or addiction-sustaining liability similar to
793 morphine or being capable of conversion into a drug having
794 addiction-forming or addiction-sustaining liability. It does not
795 include, unless specifically designated as controlled under
796 Section 41-29-111, the dextrorotatory isomer of
797 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
798 Such word does include its racemic and levorotatory forms.

799 (* * *t) "Opium poppy" means the plant of the species
800 Papaver somniferum L., except its seeds.

801 (* * *u) (i) "Paraphernalia" means all equipment,
802 products and materials of any kind which are used, intended for
803 use, or designed for use, in planting, propagating, cultivating,
804 growing, harvesting, manufacturing, compounding, converting,
805 producing, processing, preparing, testing, analyzing, packaging,
806 repackaging, storing, containing, concealing, injecting,
807 ingesting, inhaling or otherwise introducing into the human body a



808 controlled substance in violation of the Uniform Controlled
809 Substances Law. It includes, but is not limited to:

810 * * *1. Kits used, intended for use, or
811 designed for use in planting, propagating, cultivating, growing or
812 harvesting of any species of plant which is a controlled substance
813 or from which a controlled substance can be derived;

814 * * *2. Kits used, intended for use, or
815 designed for use in manufacturing, compounding, converting,
816 producing, processing or preparing controlled substances;

817 * * *3. Isomerization devices used, intended
818 for use or designed for use in increasing the potency of any
819 species of plant which is a controlled substance;

820 * * *4. Testing equipment used, intended for
821 use, or designed for use in identifying or in analyzing the
822 strength, effectiveness or purity of controlled substances;

823 * * *5. Scales and balances used, intended
824 for use or designed for use in weighing or measuring controlled
825 substances;

826 * * *6. Diluents and adulterants, such as
827 quinine hydrochloride, mannitol, mannite, dextrose and lactose,
828 used, intended for use or designed for use in cutting controlled
829 substances;

830 * * *



831 * * *7. Blenders, bowls, containers, spoons
832 and mixing devices used, intended for use or designed for use in
833 compounding controlled substances;

834 * * *8. Capsules, balloons, envelopes and
835 other containers used, intended for use or designed for use in
836 packaging small quantities of controlled substances;

837 * * *9. Containers and other objects used,
838 intended for use or designed for use in storing or concealing
839 controlled substances;

840 * * *10. Hypodermic syringes, needles and
841 other objects used, intended for use or designed for use in
842 parenterally injecting controlled substances into the human body;

843 * * *11. Objects used, intended for use or
844 designed for use in ingesting, inhaling or otherwise
845 introducing * * * cocaine * * * into the human body, such as:

846 * * *a. Metal, wooden, acrylic, glass,
847 stone, plastic or ceramic pipes with or without screens, permanent
848 screens, hashish heads or punctured metal bowls;

849 * * *b. Water pipes;

850 * * *c. Carburetion tubes and devices;

851 * * *d. Smoking and carburetion masks;

852 * * *

853 * * *e. Miniature cocaine spoons and
854 cocaine vials;

855 * * *f. Chamber pipes;



- 856 * * *g. Carburetor pipes;
857 * * *h. Electric pipes;
858 * * *i. Air-driven pipes;
859 * * *j. Chillums;
860 * * *k. Bongs; and
861 * * *l. Ice pipes or chillers.

862 (ii) In determining whether an object is
863 paraphernalia, a court or other authority should consider, in
864 addition to all other logically relevant factors, the following:

865 * * *1. Statements by an owner or by anyone
866 in control of the object concerning its use;

867 * * *2. Prior convictions, if any, of an
868 owner, or of anyone in control of the object, under any state or
869 federal law relating to any controlled substance;

870 * * *3. The proximity of the object, in time
871 and space, to a direct violation of the Uniform Controlled
872 Substances Law;

873 * * *4. The proximity of the object to
874 controlled substances;

875 * * *5. The existence of any residue of
876 controlled substances on the object;

877 * * *6. Direct or circumstantial evidence of
878 the intent of an owner, or of anyone in control of the object, to
879 deliver it to persons whom he knows, or should reasonably know,
880 intend to use the object to facilitate a violation of the Uniform



881 Controlled Substances Law; the innocence of an owner, or of anyone
882 in control of the object, as to a direct violation of the Uniform
883 Controlled Substances Law shall not prevent a finding that the
884 object is intended for use, or designed for use as paraphernalia;

885 * * *7. Instructions, oral or written,
886 provided with the object concerning its use;

887 * * *8. Descriptive materials accompanying
888 the object which explain or depict its use;

889 * * *9. National and local advertising
890 concerning its use;

891 * * *10. The manner in which the object is
892 displayed for sale;

893 * * *11. Whether the owner or anyone in
894 control of the object is a legitimate supplier of like or related
895 items to the community, such as a licensed distributor or dealer
896 of tobacco products;

897 * * *12. Direct or circumstantial evidence
898 of the ratio of sales of the object(s) to the total sales of the
899 business enterprise;

900 * * *13. The existence and scope of
901 legitimate uses for the object in the community;

902 * * *14. Expert testimony concerning its
903 use.

904 (* * *y) "Person" means individual, corporation,
905 government or governmental subdivision or agency, business trust,



906 estate, trust, partnership or association, or any other legal
907 entity.

908 (* * *w) "Poppy straw" means all parts, except the
909 seeds, of the opium poppy, after mowing.

910 (* * *x) "Practitioner" means:

911 (* * *i) A physician, dentist, veterinarian,
912 scientific investigator, optometrist certified to prescribe and
913 use therapeutic pharmaceutical agents under Sections 73-19-153
914 through 73-19-165, or other person licensed, registered or
915 otherwise permitted to distribute, dispense, conduct research with
916 respect to or to administer a controlled substance in the course
917 of professional practice or research in this state; and

918 (* * *ii) A pharmacy, hospital or other
919 institution licensed, registered, or otherwise permitted to
920 distribute, dispense, conduct research with respect to or to
921 administer a controlled substance in the course of professional
922 practice or research in this state.

923 (* * *y) "Production" includes the manufacture,
924 planting, cultivation, growing or harvesting of a controlled
925 substance.

926 (* * *z) "Sale," "sell" or "selling" means the actual,
927 constructive or attempted transfer or delivery of a controlled
928 substance for remuneration, whether in money or other
929 consideration.



930 (* * *aa) "State," when applied to a part of the
931 United States, includes any state, district, commonwealth,
932 territory, insular possession thereof, and any area subject to the
933 legal authority of the United States of America.

934 (* * *bb) "Ultimate user" means a person who lawfully
935 possesses a controlled substance for his own use or for the use of
936 a member of his household or for administering to an animal owned
937 by him or by a member of his household.

938 **SECTION 4.** Section 41-29-136, Mississippi Code of 1972, is
939 amended as follows:

940 41-29-136. (1) "CBD solution" means a pharmaceutical
941 preparation consisting of processed cannabis plant extract in oil
942 or other suitable vehicle.

943 (2) (a) CBD solution prepared from Cannabis plant extract
944 that is provided by the National Center for Natural Products
945 Research at the University of Mississippi under appropriate
946 federal and state regulatory approvals may be dispensed by the
947 Department of Pharmacy Services at the University of Mississippi
948 Medical Center (UMMC Pharmacy) after mixing the extract with a
949 suitable vehicle. The CBD solution may be prepared by the UMMC
950 Pharmacy or by another pharmacy or laboratory in the state under
951 appropriate federal and state regulatory approvals and
952 registrations. For the purposes of clinical trials under this
953 section, CBD solution must meet the standard of exemption from
954 control under Section 41-29-113.



955 (b) The patient or the patient's parent, guardian or
956 custodian must execute a hold-harmless agreement that releases
957 from liability the state and any division, agency, institution or
958 employee thereof involved in the research, cultivation,
959 processing, formulating, dispensing, prescribing or administration
960 of CBD solution obtained from entities authorized under this
961 section to produce or possess cannabidiol for research under
962 appropriate federal and state regulatory approvals and
963 registrations.

964 (c) The National Center for Natural Products Research
965 at the University of Mississippi and the Mississippi Agricultural
966 and Forestry Experiment Station at Mississippi State University
967 are the only entities authorized to produce cannabis plants for
968 cannabidiol research.

969 (d) Research of CBD solution under this section must
970 comply with the provisions of Section 41-29-125 regarding lawful
971 possession of controlled substances, of Section 41-29-137
972 regarding record-keeping requirements relative to the dispensing,
973 use or administration of controlled substances, and of Section
974 41-29-133 regarding inventory requirements, insofar as they are
975 applicable. Authorized entities may enter into public-private
976 partnerships to facilitate research.

977 (3) (a) In a prosecution for the unlawful possession of
978 marijuana under the laws of this state, it is an affirmative and
979 complete defense to prosecution that:



980 (i) The defendant suffered from a debilitating
981 epileptic condition or related illness and the use or possession
982 of CBD solution was pursuant to the order of a physician as
983 authorized under this section; or

984 (ii) The defendant is the parent, guardian or
985 custodian of an individual who suffered from a debilitating
986 epileptic condition or related illness and the use or possession
987 of CBD solution was pursuant to the order of a physician as
988 authorized under this section.

989 (b) An agency of this state or a political subdivision
990 thereof, including any law enforcement agency, may not initiate
991 proceedings to remove a child from the home based solely upon the
992 possession or use of CBD solution by the child or parent, guardian
993 or custodian of the child as authorized under this section.

994 (c) An employee of the state or any division, agency,
995 institution thereof involved in the research, cultivation,
996 processing, formulation, dispensing, prescribing or administration
997 of CBD solution shall not be subject to prosecution for unlawful
998 possession, use, distribution or prescription of marijuana under
999 the laws of this state for activities arising from or related to
1000 the use of CBD solution in the treatment of individuals diagnosed
1001 with a debilitating epileptic condition.

1002 (* * *4) This section shall be known as "Harper Grace's
1003 Law."

1004 * * *



1005 **SECTION 5.** Section 41-29-147, Mississippi Code of 1972, is
1006 amended as follows:

1007 41-29-147. Except as otherwise provided in Section
1008 41-29-142, any person convicted of a second or subsequent offense
1009 under this article may be imprisoned for a term up to twice the
1010 term otherwise authorized, fined an amount up to twice that
1011 otherwise authorized, or both.

1012 For purposes of this section, an offense is considered a
1013 second or subsequent offense, if, prior to his conviction of the
1014 offense, the offender has at any time been convicted under this
1015 article or under any statute of the United States or of any state
1016 relating to narcotic drugs, * * * depressant, stimulant or
1017 hallucinogenic drugs.

1018 **SECTION 6.** Section 41-29-149.1, Mississippi Code of 1972, is
1019 amended as follows:

1020 41-29-149.1. (1) This section shall be known as the
1021 "Mississippi Medical Emergency Good Samaritan Act."

1022 (2) As used in this section, the following words shall have
1023 the meanings ascribed:

1024 (a) "Drug overdose" means an acute condition,
1025 including, but not limited to, extreme physical illness, decreased
1026 level of consciousness, respiratory depression, coma, mania, or
1027 death, resulting from the consumption or use of a controlled
1028 substance or dangerous drug in violation of this chapter or that a
1029 layperson would reasonably believe to be resulting from the



1030 consumption or use of a controlled substance or dangerous drug for
1031 which medical assistance is required.

1032 (b) "Drug violation" means:

1033 (i) A violation of Section 41-29-139 for
1034 possession of a controlled substance if the aggregate weight,
1035 including any mixture, is less than four (4) grams of a solid
1036 substance, less than twenty (20) dosage units, less than one (1)
1037 milliliter of liquid substance, or, if the substance is placed
1038 onto a secondary medium, has a combined weight of less than four
1039 (4) grams;

1040 (ii) A violation of Section 41-29-139 for
1041 possession of * * * ten (10) grams or less of synthetic
1042 cannabinoids; or

1043 (iii) A violation of Section 41-29-139(d) (2)
1044 relating to possession and use of paraphernalia.

1045 (c) "Medical assistance" means aid provided to a person
1046 experiencing or believed to be experiencing a drug overdose by a
1047 health care professional who is licensed, registered, or certified
1048 under the laws of this state and who, acting within the lawful
1049 scope of practice, may provide diagnosis, treatment, or emergency
1050 services relative to the overdose.

1051 (d) "Seeks medical assistance" means accesses or
1052 assists in accessing the E-911 system or otherwise contacts or
1053 assists in contacting law enforcement or a poison control center
1054 or provides care to a person experiencing or believed to be



1055 experiencing a drug overdose while awaiting the arrival of medical
1056 assistance to aid the person.

1057 (3) (a) Any person who in good faith seeks medical
1058 assistance for someone who is experiencing a drug overdose shall
1059 not be arrested, charged, or prosecuted for a drug violation if
1060 there is evidence that the person is under the influence of a
1061 controlled substance or in possession of a controlled substance as
1062 referenced in subsection (2)(b) of this section.

1063 (b) Any person who is experiencing a drug overdose and,
1064 in good faith, seeks medical assistance or is the subject of a
1065 request for medical assistance shall not be arrested, charged, or
1066 prosecuted for a drug violation if there is evidence that the
1067 person is under the influence of a controlled substance or in
1068 possession of a controlled substance as referenced in subsection
1069 (2)(b) of this section.

1070 (c) A person shall also not be subject to, if related
1071 to the seeking of medical assistance:

1072 (i) Penalties for a violation of a permanent or
1073 temporary protective order or restraining order;

1074 (ii) Sanctions for a violation of a condition of
1075 pretrial release, condition of probation, or condition of parole
1076 based on a drug violation; or

1077 (iii) Forfeiture of property pursuant to Section
1078 41-29-153 or 41-29-176 for a drug violation, except that prima
1079 facie contraband shall be subject to forfeiture.



1080 (4) Nothing in this section shall be construed:

1081 (a) To limit the admissibility of any evidence in
1082 connection with the investigation or prosecution of a crime with
1083 regard to a defendant who does not qualify for the protections of
1084 subsection (3) of this section or with regard to other crimes
1085 committed by a person who otherwise qualifies for protection
1086 pursuant to subsection (3) of this section;

1087 (b) To limit any seizure of evidence or contraband
1088 otherwise permitted by law; and

1089 (c) To limit or abridge the authority of a law
1090 enforcement officer to detain or take into custody a person in the
1091 course of an investigation or to effectuate an arrest for any
1092 offense except as provided in subsection (3) of this section.

1093 **SECTION 7.** Section 41-29-150, Mississippi Code of 1972, is
1094 amended as follows:

1095 41-29-150. (a) Any person convicted under Section 41-29-139
1096 may be required, in the discretion of the court, as a part of the
1097 sentence otherwise imposed, or in lieu of imprisonment in cases of
1098 probation or suspension of sentence, to attend a course of
1099 instruction conducted by the bureau, the State Board of Health, or
1100 any similar agency, on the effects, medically, psychologically and
1101 socially, of the misuse of controlled substances. The course may
1102 be conducted at any correctional institution, detention center or
1103 hospital, or at any center or treatment facility established for



1104 the purpose of education and rehabilitation of those persons
1105 committed because of abuse of controlled substances.

1106 (b) Any person convicted under Section 41-29-139 who is
1107 found to be dependent upon or addicted to any controlled substance
1108 shall be required, as a part of the sentence otherwise imposed, or
1109 in lieu of imprisonment in cases of parole, probation or
1110 suspension of sentence, to receive medical treatment for such
1111 dependency or addiction. The regimen of medical treatment may
1112 include confinement in a medical facility of any correctional
1113 institution, detention center or hospital, or at any center or
1114 facility established for treatment of those persons committed
1115 because of a dependence or addiction to controlled substances.

1116 (c) Those persons previously convicted of a felony under
1117 Section 41-29-139 and who are now confined at the Mississippi
1118 State Hospital at Whitfield, Mississippi, or at the East
1119 Mississippi State Hospital at Meridian, Mississippi, for the term
1120 of their sentence shall remain under the jurisdiction of the
1121 Mississippi Department of Corrections and shall be required to
1122 abide by all reasonable rules and regulations promulgated by the
1123 director and staff of said institutions and of the Department of
1124 Corrections. Any persons so confined who shall refuse to abide by
1125 said rules or who attempt an escape or who shall escape shall be
1126 transferred to the State Penitentiary or to a county jail, where
1127 appropriate, to serve the remainder of the term of imprisonment;



1128 this provision shall not preclude prosecution and conviction for
1129 escape from said institutions.

1130 (d) (1) If any person who has not previously been convicted
1131 of violating Section 41-29-139, or the laws of the United States
1132 or of another state relating to narcotic drugs, stimulant or
1133 depressant substances * * * or other controlled substances * * *
1134 is found to be guilty of a violation of subsection (c) or (d) of
1135 Section 41-29-139, after trial or upon a plea of guilty, the court
1136 may, without entering a judgment of guilty and with the consent of
1137 such person, defer further proceedings and place him on probation
1138 upon such reasonable conditions as it may require and for such
1139 period, not to exceed three (3) years, as the court may prescribe.
1140 Upon violation of a condition of the probation, the court may
1141 enter an adjudication of guilt and proceed as otherwise provided.
1142 The court may, in its discretion, dismiss the proceedings against
1143 such person and discharge him from probation before the expiration
1144 of the maximum period prescribed for such person's probation. If
1145 during the period of his probation such person does not violate
1146 any of the conditions of the probation, then upon expiration of
1147 such period the court shall discharge such person and dismiss the
1148 proceedings against him. Discharge and dismissal under this
1149 subsection shall be without court adjudication of guilt, but a
1150 nonpublic record thereof shall be retained by the bureau solely
1151 for the purpose of use by the courts in determining whether or
1152 not, in subsequent proceedings, such person qualifies under this



1153 subsection. Such discharge or dismissal shall not be deemed a
1154 conviction for purposes of disqualifications or disabilities
1155 imposed by law upon conviction of a crime, including the penalties
1156 prescribed under this article for second or subsequent conviction,
1157 or for any other purpose. Discharge and dismissal under this
1158 subsection may occur only once with respect to any person; and

1159 (2) Upon the dismissal of a person and discharge of
1160 proceedings against him under paragraph (1) of this subsection,
1161 the person may apply to the court for an order to expunge from all
1162 official records, other than the nonpublic records to be retained
1163 by the bureau under paragraph (1) of this subsection, all
1164 recordation relating to his arrest, indictment, trial, finding of
1165 guilt, and dismissal and discharge pursuant to this section. If
1166 the court determines, after hearing, that such person was
1167 dismissed and the proceedings against him discharged, or that the
1168 person had satisfactorily served his sentence or period of
1169 probation and parole, it shall enter an order of expunction. The
1170 effect of the order shall be to restore the person, in the
1171 contemplation of the law, to the status he occupied before such
1172 arrest or indictment. No person as to whom such an order has been
1173 entered shall be held thereafter under any provision of any law to
1174 be guilty of perjury or otherwise giving a false statement by
1175 reason of his failures to recite or acknowledge such arrest,
1176 indictment or trial in response to any inquiry made of him for any
1177 purpose. A person as to whom an order has been entered, upon



1178 request, shall be required to advise the court, in camera, of the
1179 previous conviction and expunction in any legal proceeding wherein
1180 the person has been called as a prospective juror. The court
1181 shall thereafter and before the selection of the jury advise the
1182 attorneys representing the parties of the previous conviction and
1183 expunction.

1184 (e) Every person who has been or may hereafter be convicted
1185 of a felony offense under Section 41-29-139 and sentenced under
1186 Section 41-29-150(c) shall be under the jurisdiction of the
1187 Mississippi Department of Corrections.

1188 (f) It shall be unlawful for any person confined under the
1189 provisions of subsection (b) or (c) of this section to escape or
1190 attempt to escape from said institution, and, upon conviction,
1191 said person shall be guilty of a felony and shall be imprisoned
1192 for a term not to exceed two (2) years.

1193 (g) It is the intent and purpose of the Legislature to
1194 promote the rehabilitation of persons convicted of offenses under
1195 the Uniform Controlled Substances Law.

1196 **SECTION 8.** Section 33-13-520, Mississippi Code of 1972, is
1197 amended as follows:

1198 33-13-520. (1) Any person subject to this code who uses,
1199 while on duty, any controlled substance listed in the Uniform
1200 Controlled Substances Law, not legally prescribed, or is found, by
1201 a chemical analysis of such person's blood or urine, to have in
1202 his blood, while on duty, any controlled substance described in



1203 subsection (3), not legally prescribed, shall be punished as a
1204 court-martial may direct.

1205 (2) Any person subject to this code who wrongfully uses,
1206 possesses, manufactures, distributes, imports into the customs
1207 territory of the United States, exports from the United States, or
1208 introduces into an installation, vessel, vehicle or aircraft used
1209 by or under the control of the state military forces a substance
1210 described in subsection (3) shall be punished as a court-martial
1211 may direct.

1212 (3) The substances referred to in subsections (1) and (2)
1213 are the following:

1214 (a) Opium, heroin, cocaine, amphetamine, lysergic acid
1215 diethylamide, methamphetamine, phencyclidine * * * and barbituric
1216 acid * * * and any compound or derivative of any such substance.

1217 (b) Any substance not specified in paragraph (a) that
1218 is listed on a schedule of controlled substance prescribed by the
1219 President for the purposes of the federal Uniform Code of Military
1220 Justice.

1221 (c) Any other substance not specified in paragraph (a)
1222 or contained on a list prescribed by the President under paragraph
1223 (b) that is listed in Schedules I through V of Section 202 of the
1224 federal Controlled Substances Act (21 USCS 812).

1225 **SECTION 9.** This act shall take effect and be in force from
1226 and after July 1, 2018.

