

By: Representative Hines

To: Public Health and Human Services

HOUSE BILL NO. 122

1 AN ACT TO AUTHORIZE ALCORN STATE UNIVERSITY TO ESTABLISH A
 2 PROGRAM OF COOPERATIVE FARMING FOR THE CULTIVATION OF MARIJUANA
 3 FOR DISTRIBUTION TO OUT-OF-STATE VENDORS LEGALLY AUTHORIZED TO
 4 DISPENSE MARIJUANA FOR MEDICAL PURPOSES; TO DEFINE CERTAIN TERMS;
 5 TO PRESCRIBE CERTAIN PROVISIONS REGARDING THE CULTIVATION OF
 6 MARIJUANA FOR MEDICAL PURPOSES WHICH MUST BE INCLUDED IN A
 7 MEMORANDUM OF UNDERSTANDING BETWEEN A LOCAL FARMER AND ALCORN
 8 STATE UNIVERSITY; TO CREATE THE MEDICAL MARIJUANA LOCAL FARMERS
 9 SPECIAL FUND IN THE STATE TREASURY FOR THE DEPOSIT OF CERTAIN
 10 MONIES COLLECTED IN CONNECTION WITH THE CULTIVATION OF MARIJUANA;
 11 TO AUTHORIZE LOCAL JURISDICTIONS TO ENACT ORDINANCES RESTRICTING
 12 FARMS FOR THE CULTIVATION OF MARIJUANA FOR MEDICAL PURPOSES UNDER
 13 THIS ACT; TO AMEND SECTIONS 41-29-125, 41-29-127, 41-29-136,
 14 41-29-137, 41-29-139, 41-29-141 AND 41-29-143, MISSISSIPPI CODE OF
 15 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
 16 PURPOSES.

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

18 **SECTION 1.** (1) For the purposes of this section, the
 19 following words and phrases have the meanings ascribed in this
 20 subsection unless the context clearly indicates otherwise:

21 (a) "Local farmer" means the owner or operator of a
 22 farm in Mississippi who is a legal resident of the state and who
 23 is a natural person. The term "local farmer" does not include any
 24 corporation, partnership, company or any other legally recognized
 25 business entity.



26 (b) "Medical marijuana" means marijuana used
27 exclusively under the prescription of a licensed medical doctor
28 who is authorized to prescribe marijuana for the treatment of a
29 medical condition.

30 (c) "Vendor" means a medical provider outside the State
31 of Mississippi who is authorized in the state in which the medical
32 provider practices to dispense marijuana for medical purposes.

33 (2) Alcorn State University may establish a program of
34 cooperative farming for the cultivation of marijuana strictly for
35 distribution to legal vendors of medical marijuana outside the
36 State of Mississippi. Under the program, the university may enter
37 into a memorandum of understanding with an approved local farmer
38 or group of farmers working together authorizing the farmer or
39 farmers to grow a specified amount of marijuana to be distributed
40 exclusively to out-of-state vendors legally authorized to dispense
41 medical marijuana.

42 (3) A local farmer who grows marijuana in strict accordance
43 within the terms of this act and the memorandum of understanding
44 entered into with Alcorn State University may not be considered to
45 be in violation of state laws prohibiting the cultivation,
46 possession, sale or distribution of marijuana.

47 (4) Alcorn State University shall develop rules and
48 regulations for medical marijuana cultivation farmers entering
49 into a memorandum of understanding with the university. The rules
50 and regulations must address no less than the following:



51 (a) Limitations on ownership interests in a medical
52 marijuana cultivation farm;

53 (b) The maximum allowable total marijuana that may be
54 cultivated by the number of plants, surface area used for
55 cultivation or output by weight for a medical marijuana
56 cultivation farm;

57 (c) Regulations governing the legal procurement of
58 seeds for the cultivation of marijuana for medical purposes;

59 (d) Requirements for a seed-to-sale tracking system
60 that requires all farmers of marijuana cultivated for medical
61 purposes to ensure the appropriate track and trace of all
62 marijuana cultivated, sold and distributed to out-of-state medical
63 marijuana vendors;

64 (e) Requirements for securing the premises of the
65 medical marijuana cultivation farm from invasion or theft;

66 (f) The procedures to be followed by a farmer in filing
67 a report with law enforcement officials if there is a suspicion
68 that the premises of the marijuana crop have been trespassed or
69 that a theft on the premises has occurred;

70 (g) Strict accountability measures under which a farmer
71 is able to document that one hundred percent (100%) of the medical
72 marijuana crop has either been distributed to a legal vendor of
73 medical marijuana outside Mississippi or has been destroyed in
74 such a manner that the marijuana may not be used in any way for
75 recreational purposes;



76 (h) The manner in which marijuana sold to an
77 out-of-state vendor for dispensing as medical marijuana may be
78 transported securely from the farm to the vendor;

79 (i) The oversight authority of Alcorn State University
80 in assuring that the marijuana cultivation farmer is in strict
81 compliance with all state laws, agency rules and regulations and
82 the memorandum of understanding regarding the cultivation and
83 distribution of medical marijuana and the power to cause audits
84 and investigations of records and the premises of the farmer; and

85 (j) Fees that are payable to and collected by Alcorn
86 State University for the support of the Medical Marijuana Local
87 Farmers Special Fund established under Section 2 of this act.

88 **SECTION 2.** (a) There is created in the State Treasury a
89 special fund to be known as the Medical Marijuana Local Farmers
90 Special Fund. All monies collected by Alcorn State University
91 through a memorandum of understanding entered into pursuant to
92 Section 1 of this act, less three percent (3%) which may be
93 retained to help defray the cost of administering the memorandum
94 of understanding, must be transmitted to the State Treasurer, who
95 shall credit the same to the Medical Marijuana Local Farmers
96 Special Fund. The fund consists of:

97 (i) Monies collected by Alcorn State University;

98 (ii) Any additional general fund monies

99 appropriated to the fund which are necessary for the regulation of
100 the farms cultivating marijuana for medical purposes; and



101 (iii) Any penalties that may be assessed against a
102 local farmer for violations of this act or the memorandum of
103 understanding.

104 (b) Monies in the fund are subject to annual
105 appropriation by the Legislature to the state institutions of
106 higher learning for the purposes of attracting students to
107 professions in which a documented shortage of licensed
108 professionals in the state exists, including, but not limited to,
109 teachers, nurses and social workers.

110 (c) Any monies in the Medical Marijuana Local Farmers
111 Special Fund not expended for these purposes may be invested by
112 the State Treasurer as provided by law. All interest and income
113 derived from the investment and deposit of monies in the fund must
114 be credited to the fund. Any unexpended and unencumbered monies
115 remaining in the fund at the end of a fiscal year shall remain in
116 the fund and may not be credited or transferred to the general
117 fund or another fund.

118 **SECTION 3.** (1) A local jurisdiction may enact ordinances or
119 regulations governing the manner and number of medical marijuana
120 farms that may be operated in that jurisdiction or may prohibit
121 the operation of medical marijuana farms through the enactment of
122 an ordinance or regulation.

123 (2) This act sets forth the exclusive means by which
124 cultivation, sale and distribution of medical marijuana by local
125 farmers may occur in the State of Mississippi.



126 **SECTION 4.** Before January 1, 2021, and each year thereafter,
127 Alcorn State University shall submit a report to the Legislature
128 which contains the following information:

129 (a) An overview of the local farmers engaged in the
130 cultivation of medical marijuana for out-of-state vendors under a
131 memorandum of understanding with the university;

132 (b) Details of the amount of revenue generated by the
133 medical marijuana farming operations; and

134 (c) The enforcement measures required to be taken
135 against local farmers authorized to cultivate marijuana pursuant
136 to this act for violations of the act and a memorandum of
137 understanding entered into pursuant to this act.

138 **SECTION 5.** Section 41-29-125, Mississippi Code of 1972, is
139 amended as follows:

140 41-29-125. (1) The State Board of Pharmacy may promulgate
141 rules and regulations relating to the registration and control of
142 the manufacture, distribution and dispensing of controlled
143 substances within this state and the distribution and dispensing
144 of controlled substances into this state from an out-of-state
145 location.

146 (a) Every person who manufactures, distributes or
147 dispenses any controlled substance within this state or who
148 distributes or dispenses any controlled substance into this state
149 from an out-of-state location, or who proposes to engage in the
150 manufacture, distribution or dispensing of any controlled



151 substance within this state or the distribution or dispensing of
152 any controlled substance into this state from an out-of-state
153 location, must obtain a registration issued by the State Board of
154 Pharmacy, the State Board of Medical Licensure, the State Board of
155 Dental Examiners, the Mississippi Board of Nursing or the
156 Mississippi Board of Veterinary Medicine, as appropriate, in
157 accordance with its rules and the law of this state. Such
158 registration shall be obtained annually or biennially, as
159 specified by the issuing board, and a reasonable fee may be
160 charged by the issuing board for such registration.

161 (b) Persons registered by the State Board of Pharmacy,
162 with the consent of the United States Drug Enforcement
163 Administration and the State Board of Medical Licensure, the State
164 Board of Dental Examiners, the Mississippi Board of Nursing or the
165 Mississippi Board of Veterinary Medicine to manufacture,
166 distribute, dispense or conduct research with controlled
167 substances may possess, manufacture, distribute, dispense or
168 conduct research with those substances to the extent authorized by
169 their registration and in conformity with the other provisions of
170 this article.

171 (c) The following persons need not register and may
172 lawfully possess controlled substances under this article:

173 (* * *i) An agent or employee of any registered
174 manufacturer, distributor or dispenser of any controlled substance
175 if he is acting in the usual course of his business or employment;



176 (* * *ii) A common or contract carrier or
177 warehouse, or an employee thereof, whose possession of any
178 controlled substance is in the usual course of business or
179 employment;

180 (* * *iii) An ultimate user or a person in
181 possession of any controlled substance pursuant to a valid
182 prescription or in lawful possession of a Schedule V substance as
183 defined in Section 41-29-121.

184 (d) The State Board of Pharmacy may waive by rule the
185 requirement for registration of certain manufacturers,
186 distributors or dispensers if it finds it consistent with the
187 public health and safety.

188 (e) A separate registration is required at each
189 principal place of business or professional practice where an
190 applicant within the state manufactures, distributes or dispenses
191 controlled substances and for each principal place of business or
192 professional practice located out-of-state from which controlled
193 substances are distributed or dispensed into the state.

194 (f) The State Board of Pharmacy, the Mississippi Bureau
195 of Narcotics, the State Board of Medical Licensure, the State
196 Board of Dental Examiners, the Mississippi Board of Nursing and
197 the Mississippi Board of Veterinary Medicine may inspect the
198 establishment of a registrant or applicant for registration in
199 accordance with the regulations of these agencies as approved by
200 the board.



201 (2) Whenever a pharmacy ships, mails or delivers any
202 Schedule II controlled substance listed in Section 41-29-115 to a
203 private residence in this state, the pharmacy shall arrange with
204 the entity that will actually deliver the controlled substance to
205 a recipient in this state that the entity will: (a) deliver the
206 controlled substance only to a person who is eighteen (18) years
207 of age or older; and (b) obtain the signature of that person
208 before delivering the controlled substance. The requirements of
209 this subsection shall not apply to a pharmacy serving a nursing
210 facility or to a pharmacy owned and/or operated by a hospital,
211 nursing facility or clinic to which the general public does not
212 have access to purchase pharmaceuticals on a retail basis.

213 (3) This section does not apply to any of the actions
214 regarding the cultivation, sale and distribution of marijuana by
215 local farmers to licensed out-of-state vendors of medical
216 marijuana under the provisions of this act.

217 **SECTION 6.** Section 41-29-127, Mississippi Code of 1972, is
218 amended as follows:

219 41-29-127. (a) The State Board of Pharmacy shall register
220 an applicant to manufacture or distribute controlled substances
221 included in Sections 41-29-113 through 41-29-121 unless it
222 determines that the issuance of that registration would be
223 inconsistent with the public interest. In determining the public
224 interest, the State Board of Pharmacy shall consider the following
225 factors:



226 (1) Maintenance of effective controls against diversion
227 of controlled substances into other than legitimate medical,
228 scientific, or industrial channels;

229 (2) Compliance with applicable state and local law;

230 (3) Any convictions of the applicant under any federal
231 and state laws relating to any controlled substance;

232 (4) Past experience in the manufacture or distribution
233 of controlled substances and the existence in the applicant's
234 establishment of effective controls against diversion;

235 (5) Furnishing by the applicant of false or fraudulent
236 material in any application filed under this article;

237 (6) Suspension or revocation of the applicant's federal
238 registration to manufacture, distribute, or dispense controlled
239 substances as authorized by federal law; and

240 (7) Any other factors relevant to and consistent with
241 the public health and safety.

242 (b) Registration under subsection (a) does not entitle a
243 registrant to manufacture and distribute controlled substances in
244 Schedule I or II, as set out in Sections 41-29-113 and 41-29-115,
245 other than those specified in the registration.

246 (c) Practitioners must be registered to dispense any
247 controlled substances or to conduct research with controlled
248 substances in Schedules II through V, as set out in Sections
249 41-29-115 through 41-29-121, if they are authorized to dispense or
250 conduct research under the law of this state. The State Board of



251 Pharmacy need not require separate registration under this section
252 for practitioners engaging in research with nonnarcotic controlled
253 substances in the said Schedules II through V where the registrant
254 is already registered therein in another capacity. Practitioners
255 registered under federal law to conduct research with Schedule I
256 substances, as set out in Section 41-29-113, may conduct research
257 with Schedule I substances within this state upon furnishing the
258 State Board of Health evidence of that federal registration.

259 (d) Compliance by manufacturers and distributors with the
260 provisions of the federal law respecting registration (excluding
261 fees) entitles them to be registered under this article.

262 (e) This section does not apply to any of the actions
263 regarding the cultivation, sale and distribution of marijuana by
264 local farmers to licensed out-of-state vendors of medical
265 marijuana under the provisions of this act.

266 **SECTION 7.** Section 41-29-136, Mississippi Code of 1972, is
267 amended as follows:

268 41-29-136. (1) "CBD solution" means a pharmaceutical
269 preparation consisting of processed cannabis plant extract in oil
270 or other suitable vehicle.

271 (2) (a) CBD solution prepared from Cannabis plant extract
272 that is provided by the National Center for Natural Products
273 Research at the University of Mississippi under appropriate
274 federal and state regulatory approvals may be dispensed by the
275 Department of Pharmacy Services at the University of Mississippi



276 Medical Center (UMMC Pharmacy) after mixing the extract with a
277 suitable vehicle. The CBD solution may be prepared by the UMMC
278 Pharmacy or by another pharmacy or laboratory in the state under
279 appropriate federal and state regulatory approvals and
280 registrations. For the purposes of clinical trials under this
281 section, CBD solution must meet the standard of exemption from
282 control under Section 41-29-113.

283 (b) The patient or the patient's parent, guardian or
284 custodian must execute a hold-harmless agreement that releases
285 from liability the state and any division, agency, institution or
286 employee thereof involved in the research, cultivation,
287 processing, formulating, dispensing, prescribing or administration
288 of CBD solution obtained from entities authorized under this
289 section to produce or possess cannabidiol for research under
290 appropriate federal and state regulatory approvals and
291 registrations.

292 (c) The National Center for Natural Products Research
293 at the University of Mississippi and the Mississippi Agricultural
294 and Forestry Experiment Station at Mississippi State University
295 are the only entities authorized to produce cannabis plants for
296 cannabidiol research.

297 (d) Research of CBD solution under this section must
298 comply with the provisions of Section 41-29-125 regarding lawful
299 possession of controlled substances, of Section 41-29-137
300 regarding record-keeping requirements relative to the dispensing,



301 use or administration of controlled substances, and of Section
302 41-29-133 regarding inventory requirements, insofar as they are
303 applicable. Authorized entities may enter into public-private
304 partnerships to facilitate research.

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

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

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

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

322 (c) An employee of the state or any division, agency,
323 institution thereof involved in the research, cultivation,
324 processing, formulation, dispensing, prescribing or administration
325 of CBD solution shall not be subject to prosecution for unlawful



326 possession, use, distribution or prescription of marijuana under
327 the laws of this state for activities arising from or related to
328 the use of CBD solution in the treatment of individuals diagnosed
329 with a debilitating epileptic condition.

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

332 (5) This section does not apply to any of the actions
333 regarding the cultivation, sale and distribution of marijuana by
334 local farmers to licensed out-of-state vendors of medical
335 marijuana under the provisions of this act.

336 (6) This section shall stand repealed from and after July 1,
337 2021.

338 **SECTION 8.** Section 41-29-137, Mississippi Code of 1972, is
339 amended as follows:

340 41-29-137. (a) (1) Except when dispensed directly by a
341 practitioner, other than a pharmacy, to an ultimate user, no
342 controlled substance in Schedule II, as set out in Section
343 41-29-115, may be dispensed without the written valid prescription
344 of a practitioner. A practitioner shall keep a record of all
345 controlled substances in Schedule I, II and III administered,
346 dispensed or professionally used by him otherwise than by
347 prescription.

348 (2) In emergency situations, as defined by rule of the
349 State Board of Pharmacy, Schedule II drugs may be dispensed upon
350 the oral valid prescription of a practitioner, reduced promptly to



351 writing and filed by the pharmacy. Prescriptions shall be
352 retained in conformity with the requirements of Section 41-29-133.
353 No prescription for a Schedule II substance may be refilled unless
354 renewed by prescription issued by a licensed medical doctor.

355 (b) Except when dispensed directly by a practitioner, other
356 than a pharmacy, to an ultimate user, a controlled substance
357 included in Schedule III or IV, as set out in Sections 41-29-117
358 and 41-29-119, shall not be dispensed without a written or oral
359 valid prescription of a practitioner. The prescription shall not
360 be filled or refilled more than six (6) months after the date
361 thereof or be refilled more than five (5) times, unless renewed by
362 the practitioner.

363 (c) A controlled substance included in Schedule V, as set
364 out in Section 41-29-121, shall not be distributed or dispensed
365 other than for a medical purpose.

366 (d) An optometrist certified to prescribe and use
367 therapeutic pharmaceutical agents under Sections 73-19-153 through
368 73-19-165 shall be authorized to prescribe oral analgesic
369 controlled substances in Schedule IV or V, as pertains to
370 treatment and management of eye disease by written prescription
371 only.

372 (e) Administration by injection of any pharmaceutical
373 product authorized in this section is expressly prohibited except
374 when dispensed directly by a practitioner other than a pharmacy.



375 (f) (1) For the purposes of this article, Title 73, Chapter
376 21, and Title 73, Chapter 25, Mississippi Code of 1972, as it
377 pertains to prescriptions for controlled substances, a "valid
378 prescription" means a prescription that is issued for a legitimate
379 medical purpose in the usual course of professional practice by:

380 (A) A practitioner who has conducted at least one
381 (1) in-person medical evaluation of the patient; or

382 (B) A covering practitioner.

383 (2) (A) "In-person medical evaluation" means a medical
384 evaluation that is conducted with the patient in the physical
385 presence of the practitioner, without regard to whether portions
386 of the evaluation are conducted by other health professionals.

387 (B) "Covering practitioner" means a practitioner
388 who conducts a medical evaluation other than an in-person medical
389 evaluation at the request of a practitioner who has conducted at
390 least one (1) in-person medical evaluation of the patient or an
391 evaluation of the patient through the practice of telemedicine
392 within the previous twenty-four (24) months and who is temporarily
393 unavailable to conduct the evaluation of the patient.

394 (3) A prescription for a controlled substance based
395 solely on a consumer's completion of an online medical
396 questionnaire is not a valid prescription.

397 (4) Nothing in this subsection (* * *f) shall apply
398 to:



399 (A) A prescription issued by a practitioner
400 engaged in the practice of telemedicine as authorized under state
401 or federal law; or

402 (B) The dispensing or selling of a controlled
403 substance pursuant to practices as determined by the United States
404 Attorney General by regulation.

405 (5) This section does not apply to any of the actions
406 regarding the cultivation, sale and distribution of marijuana by
407 local farmers to licensed out-of-state vendors of medical
408 marijuana under the provisions of this act.

409 **SECTION 9.** Section 41-29-139, Mississippi Code of 1972, is
410 amended as follows:

411 41-29-139. (a) **Transfer and possession with intent to**
412 **transfer.** Except as authorized by this article, it is unlawful
413 for any person knowingly or intentionally:

414 (1) To sell, barter, transfer, manufacture, distribute,
415 dispense or possess with intent to sell, barter, transfer,
416 manufacture, distribute or dispense, a controlled substance; or

417 (2) To create, sell, barter, transfer, distribute,
418 dispense or possess with intent to create, sell, barter, transfer,
419 distribute or dispense, a counterfeit substance.

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



424 (1) For controlled substances classified in Schedule I
425 or II, as set out in Sections 41-29-113 and 41-29-115, other than
426 marijuana or synthetic cannabinoids:

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

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

435 (C) If ten (10) or more grams or twenty (20) or
436 more dosage units, but less than thirty (30) grams or forty (40)
437 dosage units, by imprisonment for not less than five (5) years nor
438 more than thirty (30) years or a fine of not more than Five
439 Hundred Thousand Dollars (\$500,000.00), or both.

440 (2) (A) For marijuana:

441 1. If thirty (30) grams or less, by
442 imprisonment for not more than three (3) years or a fine of not
443 more than Three Thousand Dollars (\$3,000.00), or both;

444 2. If more than thirty (30) grams but less
445 than two hundred fifty (250) grams, by imprisonment for not more
446 than five (5) years or a fine of not more than Five Thousand
447 Dollars (\$5,000.00), or both;



448 3. If two hundred fifty (250) or more grams
449 but less than five hundred (500) grams, by imprisonment for not
450 less than three (3) years nor more than ten (10) years or a fine
451 of not more than Fifteen Thousand Dollars (\$15,000.00), or both;

452 4. If five hundred (500) or more grams but
453 less than one (1) kilogram, by imprisonment for not less than five
454 (5) years nor more than twenty (20) years or a fine of not more
455 than Twenty Thousand Dollars (\$20,000.00), or both.

456 (B) For synthetic cannabinoids:

457 1. If ten (10) grams or less, by imprisonment
458 for not more than three (3) years or a fine of not more than Three
459 Thousand Dollars (\$3,000.00), or both;

460 2. If more than ten (10) grams but less than
461 twenty (20) grams, by imprisonment for not more than five (5)
462 years or a fine of not more than Five Thousand Dollars
463 (\$5,000.00), or both;

464 3. If twenty (20) or more grams but less than
465 forty (40) grams, by imprisonment for not less than three (3)
466 years nor more than ten (10) years or a fine of not more than
467 Fifteen Thousand Dollars (\$15,000.00), or both;

468 4. If forty (40) or more grams but less than
469 two hundred (200) grams, by imprisonment for not less than five
470 (5) years nor more than twenty (20) years or a fine of not more
471 than Twenty Thousand Dollars (\$20,000.00), or both.



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

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

477 (B) If two (2) or more grams or ten (10) or more
478 dosage units, but less than ten (10) grams or twenty (20) dosage
479 units, by imprisonment for not more than eight (8) years or a fine
480 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

481 (C) If ten (10) or more grams or twenty (20) or
482 more dosage units, but less than thirty (30) grams or forty (40)
483 dosage units, by imprisonment for not more than fifteen (15) years
484 or a fine of not more than One Hundred Thousand Dollars
485 (\$100,000.00), or both;

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

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

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



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

500 (C) If ten (10) or more grams or twenty (20) or
501 more dosage units, but less than thirty (30) grams or forty (40)
502 dosage units, by imprisonment for not more than ten (10) years or
503 a fine of not more than Twenty Thousand Dollars (\$20,000.00), or
504 both;

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

510 (c) **Simple possession.** It is unlawful for any person
511 knowingly or intentionally to possess any controlled substance
512 unless the substance was obtained directly from, or pursuant to, a
513 valid prescription or order of a practitioner while acting in the
514 course of his professional practice, or except as otherwise
515 authorized by this article. The penalties for any violation of
516 this subsection (c) with respect to a controlled substance
517 classified in Schedules I, II, III, IV or V, as set out in Section
518 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including
519 marijuana or synthetic cannabinoids, shall be based on dosage unit



520 as defined herein or the weight of the controlled substance as set
521 forth herein as appropriate:

522 "Dosage unit (d.u.)" means a tablet or capsule, or in the
523 case of a liquid solution, one (1) milliliter. In the case of
524 lysergic acid diethylamide (LSD) the term, "dosage unit" means a
525 stamp, square, dot, microdot, tablet or capsule of a controlled
526 substance.

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

530 The weight set forth refers to the entire weight of any
531 mixture or substance containing a detectable amount of the
532 controlled substance.

533 If a mixture or substance contains more than one (1)
534 controlled substance, the weight of the mixture or substance is
535 assigned to the controlled substance that results in the greater
536 punishment.

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

539 (1) A controlled substance classified in Schedule I or
540 II, except marijuana and synthetic cannabinoids:

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



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

549 (C) If two (2) or more grams or ten (10) or more
550 dosage units, but less than ten (10) grams or twenty (20) dosage
551 units, by imprisonment for not more than eight (8) years or a fine
552 of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00),
553 or both.

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

559 (2) (A) Marijuana and synthetic cannabinoids:

560 1. If thirty (30) grams or less of marijuana
561 or ten (10) grams or less of synthetic cannabinoids, by a fine of
562 not less than One Hundred Dollars (\$100.00) nor more than Two
563 Hundred Fifty Dollars (\$250.00). The provisions of this paragraph
564 (2) (A) may be enforceable by summons if the offender provides
565 proof of identity satisfactory to the arresting officer and gives
566 written promise to appear in court satisfactory to the arresting
567 officer, as directed by the summons. A second conviction under
568 this section within two (2) years is a misdemeanor punishable by a
569 fine of Two Hundred Fifty Dollars (\$250.00), not more than sixty



570 (60) days in the county jail, and mandatory participation in a
571 drug education program approved by the Division of Alcohol and
572 Drug Abuse of the State Department of Mental Health, unless the
573 court enters a written finding that a drug education program is
574 inappropriate. A third or subsequent conviction under this
575 paragraph (2) (A) within two (2) years is a misdemeanor punishable
576 by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor
577 more than One Thousand Dollars (\$1,000.00) and confinement for not
578 more than six (6) months in the county jail.

579 Upon a first or second conviction under this paragraph
580 (2) (A), the courts shall forward a report of the conviction to the
581 Mississippi Bureau of Narcotics which shall make and maintain a
582 private, nonpublic record for a period not to exceed two (2) years
583 from the date of conviction. The private, nonpublic record shall
584 be solely for the use of the courts in determining the penalties
585 which attach upon conviction under this paragraph (2) (A) and shall
586 not constitute a criminal record for the purpose of private or
587 administrative inquiry and the record of each conviction shall be
588 expunged at the end of the period of two (2) years following the
589 date of such conviction;

590 2. Additionally, a person who is the operator
591 of a motor vehicle, who possesses on his person or knowingly keeps
592 or allows to be kept in a motor vehicle within the area of the
593 vehicle normally occupied by the driver or passengers, more than
594 one (1) gram, but not more than thirty (30) grams of marijuana or



595 not more than ten (10) grams of synthetic cannabinoids is guilty
596 of a misdemeanor and, upon conviction, may be fined not more than
597 One Thousand Dollars (\$1,000.00) or confined for not more than
598 ninety (90) days in the county jail, or both. For the purposes of
599 this subsection, such area of the vehicle shall not include the
600 trunk of the motor vehicle or the areas not normally occupied by
601 the driver or passengers if the vehicle is not equipped with a
602 trunk. A utility or glove compartment shall be deemed to be
603 within the area occupied by the driver and passengers;

604 (B) Marijuana:

605 1. If more than thirty (30) grams but less
606 than two hundred fifty (250) grams, by a fine of not more than One
607 Thousand Dollars (\$1,000.00), or confinement in the county jail
608 for not more than one (1) year, or both; or by a fine of not more
609 than Three Thousand Dollars (\$3,000.00), or imprisonment in the
610 custody of the Department of Corrections for not more than three
611 (3) years, or both;

612 2. If two hundred fifty (250) or more grams
613 but less than five hundred (500) grams, by imprisonment for not
614 less than two (2) years nor more than eight (8) years or by a fine
615 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

616 3. If five hundred (500) or more grams but
617 less than one (1) kilogram, by imprisonment for not less than four
618 (4) years nor more than sixteen (16) years or a fine of not more
619 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;



620 4. If one (1) kilogram or more but less than
621 five (5) kilograms, by imprisonment for not less than six (6)
622 years nor more than twenty-four (24) years or a fine of not more
623 than Five Hundred Thousand Dollars (\$500,000.00), or both;

624 5. If five (5) kilograms or more, by
625 imprisonment for not less than ten (10) years nor more than thirty
626 (30) years or a fine of not more than One Million Dollars
627 (\$1,000,000.00), or both.

628 (C) Synthetic cannabinoids:

629 1. If more than ten (10) grams but less than
630 twenty (20) grams, by a fine of not more than One Thousand Dollars
631 (\$1,000.00), or confinement in the county jail for not more than
632 one (1) year, or both; or by a fine of not more than Three
633 Thousand Dollars (\$3,000.00), or imprisonment in the custody of
634 the Department of Corrections for not more than three (3) years,
635 or both;

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

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



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

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

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

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

660 (C) If one hundred fifty (150) or more grams or
661 five hundred (500) or more dosage units, but less than three
662 hundred (300) grams or one thousand (1,000) dosage units, by
663 imprisonment for not less than two (2) years nor more than eight
664 (8) years or a fine of not more than Fifty Thousand Dollars
665 (\$50,000.00), or both.

666 (D) If three hundred (300) or more grams or one
667 thousand (1,000) or more dosage units, but less than five hundred
668 (500) grams or two thousand five hundred (2,500) dosage units, by



669 imprisonment for not less than four (4) years nor more than
670 sixteen (16) years or a fine of not more than Two Hundred Fifty
671 Thousand Dollars (\$250,000.00), or both.

672 (d) **Paraphernalia.** (1) It is unlawful for a person who is
673 not authorized by the State Board of Medical Licensure, State
674 Board of Pharmacy, or other lawful authority to use, or to possess
675 with intent to use, paraphernalia to plant, propagate, cultivate,
676 grow, harvest, manufacture, compound, convert, produce, process,
677 prepare, test, analyze, pack, repack, store, contain, conceal,
678 inject, ingest, inhale or otherwise introduce into the human body
679 a controlled substance in violation of the Uniform Controlled
680 Substances Law. Any person who violates this subsection (d)(1) is
681 guilty of a misdemeanor and, upon conviction, may be confined in
682 the county jail for not more than six (6) months, or fined not
683 more than Five Hundred Dollars (\$500.00), or both; however, no
684 person shall be charged with a violation of this subsection when
685 such person is also charged with the possession of thirty (30)
686 grams or less of marijuana under subsection (c)(2)(A) of this
687 section.

688 (2) It is unlawful for any person to deliver, sell,
689 possess with intent to deliver or sell, or manufacture with intent
690 to deliver or sell, paraphernalia, knowing, or under circumstances
691 where one reasonably should know, that it will be used to plant,
692 propagate, cultivate, grow, harvest, manufacture, compound,
693 convert, produce, process, prepare, test, analyze, pack, repack,



694 store, contain, conceal, inject, ingest, inhale, or otherwise
695 introduce into the human body a controlled substance in violation
696 of the Uniform Controlled Substances Law. Except as provided in
697 subsection (d) (3), a person who violates this subsection (d) (2) is
698 guilty of a misdemeanor and, upon conviction, may be confined in
699 the county jail for not more than six (6) months, or fined not
700 more than Five Hundred Dollars (\$500.00), or both.

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

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

717 (e) It shall be unlawful for any physician practicing
718 medicine in this state to prescribe, dispense or administer any



719 amphetamine or amphetamine-like anorectics and/or central nervous
720 system stimulants classified in Schedule II, pursuant to Section
721 41-29-115, for the exclusive treatment of obesity, weight control
722 or weight loss. Any person who violates this subsection, upon
723 conviction, is guilty of a misdemeanor and may be confined for a
724 period not to exceed six (6) months, or fined not more than One
725 Thousand Dollars (\$1,000.00), or both.

726 (f) **Trafficking.** (1) Any person trafficking in controlled
727 substances shall be guilty of a felony and, upon conviction, shall
728 be imprisoned for a term of not less than ten (10) years nor more
729 than forty (40) years and shall be fined not less than Five
730 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
731 (\$1,000,000.00). The ten-year mandatory sentence shall not be
732 reduced or suspended. The person shall not be eligible for
733 probation or parole, the provisions of Sections 41-29-149,
734 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

735 (2) "Trafficking in controlled substances" as used
736 herein means:

737 (A) A violation of subsection (a) of this section
738 involving thirty (30) or more grams or forty (40) or more dosage
739 units of a Schedule I or II controlled substance except marijuana
740 and synthetic cannabinoids;

741 (B) A violation of subsection (a) of this section
742 involving five hundred (500) or more grams or two thousand five



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

745 (C) A violation of subsection (c) of this section
746 involving thirty (30) or more grams or forty (40) or more dosage
747 units of a Schedule I or II controlled substance except marijuana
748 and synthetic cannabinoids;

749 (D) A violation of subsection (c) of this section
750 involving five hundred (500) or more grams or two thousand five
751 hundred (2,500) or more dosage units of a Schedule III, IV or V
752 controlled substance; or

753 (E) A violation of subsection (a) of this section
754 involving one (1) kilogram or more of marijuana or two hundred
755 (200) grams or more of synthetic cannabinoids.

756 (g) **Aggravated trafficking.** Any person trafficking in
757 Schedule I or II controlled substances, except marijuana and
758 synthetic cannabinoids, of two hundred (200) grams or more shall
759 be guilty of aggravated trafficking and, upon conviction, shall be
760 sentenced to a term of not less than twenty-five (25) years nor
761 more than life in prison and shall be fined not less than Five
762 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
763 (\$1,000,000.00). The twenty-five-year sentence shall be a
764 mandatory sentence and shall not be reduced or suspended. The
765 person shall not be eligible for probation or parole, the
766 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to
767 the contrary notwithstanding.



768 (h) **Sentence mitigation.** (1) Notwithstanding any provision
769 of this section, a person who has been convicted of an offense
770 under this section that requires the judge to impose a prison
771 sentence which cannot be suspended or reduced and is ineligible
772 for probation or parole may, at the discretion of the court,
773 receive a sentence of imprisonment that is no less than
774 twenty-five percent (25%) of the sentence prescribed by the
775 applicable statute. In considering whether to apply the departure
776 from the sentence prescribed, the court shall conclude that:

777 (A) The offender was not a leader of the criminal
778 enterprise;

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

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

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

786 The court may also consider whether information and
787 assistance were furnished to a law enforcement agency, or its
788 designee, which, in the opinion of the trial judge, objectively
789 should or would have aided in the arrest or prosecution of others
790 who violate this subsection. The accused shall have adequate
791 opportunity to develop and make a record of all information and
792 assistance so furnished.



793 (2) If the court reduces the prescribed sentence
794 pursuant to this subsection, it must specify on the record the
795 circumstances warranting the departure.

796 (i) This section does not apply to any of the actions
797 regarding the cultivation, sale and distribution of marijuana by
798 local farmers to licensed out-of-state vendors of medical
799 marijuana under the provisions of this act.

800 **SECTION 10.** Section 41-29-141, Mississippi Code of 1972, is
801 amended as follows:

802 41-29-141. It is unlawful for any person:

803 (1) Who is subject to Section 41-29-125 to distribute
804 or dispense a controlled substance in violation of Section
805 41-29-137;

806 (2) Who is a registrant under Section 41-29-125 to
807 manufacture a controlled substance not authorized by his
808 registration, or to distribute or dispense a controlled substance
809 not authorized by his registration to another registrant or other
810 authorized person;

811 (3) To refuse or fail to make, keep or furnish any
812 record, notification, order form, statement, invoice or
813 information required under this article;

814 (4) To refuse a lawful entry into any premises for any
815 inspection authorized by this article; or

816 (5) Knowingly to keep or maintain any store, shop,
817 warehouse, dwelling, building, vehicle, boat, aircraft, or other



818 structure or place, which is resorted to by persons using
819 controlled substances in violation of this article for the purpose
820 of using these substances, or which is used for keeping or selling
821 them in violation of this article.

822 Any person who violates this section shall, with respect to
823 such violation, be subject to a civil penalty payable to the State
824 of Mississippi of not more than Twenty-five Thousand Dollars
825 (\$25,000.00).

826 In addition to the civil penalty provided in the preceding
827 paragraph, any person who knowingly or intentionally violates this
828 section shall be guilty of a crime and upon conviction thereof may
829 be confined for a period of not more than one (1) year or fined
830 not more than One Thousand Dollars (\$1,000.00), or both.

831 This section does not apply to any of the actions regarding
832 the cultivation, sale and distribution of marijuana by local
833 farmers to licensed out-of-state vendors of medical marijuana
834 under the provisions of this act.

835 **SECTION 11.** Section 41-29-143, Mississippi Code of 1972, is
836 amended as follows:

837 41-29-143. It is unlawful for any person knowingly or
838 intentionally:

839 (1) To distribute as a registrant a controlled
840 substance classified in Schedule I or II, as set out in Sections
841 41-29-113 and 41-29-115, except pursuant to an order form as
842 required by Section 41-29-135;



843 (2) To use in the course of the manufacture or
844 distribution of a controlled substance a registration number which
845 is fictitious, revoked, suspended, or issued to another
846 person * * *;

847 (3) To furnish false or fraudulent material information
848 in, or omit any material information from, any application,
849 report, or other document required to be kept or filed under this
850 article, or any record required to be kept by this article; or

851 (4) To make, distribute, or possess any punch, die,
852 plate, stone, or other thing designed to print, imprint, or
853 reproduce the trademark, trade name, or other identifying mark,
854 imprint or device of another or any likeness of any of the
855 foregoing upon any drug or container or labeling thereof so as to
856 render the drug a counterfeit substance.

857 Any person who violates this section is guilty of a crime and
858 upon conviction may be confined for not more than one (1) year or
859 fined not more than One Thousand Dollars (\$1,000.00) or both.

860 This section does not apply to any of the actions regarding
861 the cultivation, sale and distribution of marijuana by local
862 farmers to licensed out-of-state vendors of medical marijuana
863 under the provisions of this act.

864 **SECTION 12.** This act shall take effect and be in force from
865 and after July 1, 2019.

