

By: Representatives Lamar, Felsher

To: Judiciary B

HOUSE BILL NO. 607

1 AN ACT TO AMEND SECTION 97-3-19, MISSISSIPPI CODE OF 1972, TO
 2 PROVIDE THAT FIRST-DEGREE MURDER SHALL BE APPLIED WHEN THE
 3 UNLAWFUL DISTRIBUTION OF ANY SUBSTANCE OR MIXTURE OF ANY SUBSTANCE
 4 DESCRIBED IN SECTION 41-29-113, 41-29-115, 41-29-117, 41-29-119 OR
 5 41-29-121 IS PROVEN TO BE THE PROXIMATE CAUSE OF DEATH OF A
 6 DECEASED PERSON WITH CERTAIN EXCEPTIONS; TO BRING FORWARD SECTION
 7 97-3-21, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; TO
 8 BRING FORWARD SECTIONS 41-29-139, 41-29-141, 41-29-142, 41-29-143,
 9 41-29-144 AND 41-29-145, MISSISSIPPI CODE OF 1972, WHICH PROVIDE
 10 PENALTIES FOR VIOLATION OF THE CONTROLLED SUBSTANCES LAW; AND FOR
 11 RELATED PURPOSES.

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

13 **SECTION 1.** Section 97-3-19, Mississippi Code of 1972, is
 14 amended as follows:

15 97-3-19. (1) The killing of a human being without the
 16 authority of law by any means or in any manner shall be murder in
 17 the following cases:

18 (a) When done with deliberate design to effect the
 19 death of the person killed, or of any human being, shall be
 20 first-degree murder;

21 (b) When done in the commission of an act eminently
 22 dangerous to others and evincing a depraved heart, regardless of



23 human life, although without any premeditated design to effect the
24 death of any particular individual, shall be second-degree murder;

25 (c) When done without any design to effect death by any
26 person engaged in the commission of any felony other than rape,
27 kidnapping, burglary, arson, robbery, sexual battery, unnatural
28 intercourse with any child under the age of twelve (12), or
29 nonconsensual unnatural intercourse with mankind, or felonious
30 abuse and/or battery of a child in violation of subsection (2) of
31 Section 97-5-39, or in any attempt to commit such felonies, shall
32 be first-degree murder;

33 (d) When done with deliberate design to effect the
34 death of an unborn child, shall be first-degree murder * * *;

35 (e) When done with deliberate design by a person
36 eighteen (18) years of age or older engaged in the unlawful
37 distribution of any substance, or mixture of any substances
38 described in Section 41-29-113, 41-29-115, 41-29-117, 41-29-119 or
39 41-29-121, when such substance or mixture is proven to be the
40 proximate cause of death of a deceased person, shall be
41 first-degree murder, unless the person in good faith seeks medical
42 assistance for the individual experiencing the overdose,
43 transports the individual experiencing the overdose to a medical
44 facility for care, or remains present to aid or assist in any way
45 someone who is experiencing a drug overdose.



46 (2) The killing of a human being without the authority of
47 law by any means or in any manner shall be capital murder in the
48 following cases:

49 (a) Murder which is perpetrated by killing a peace
50 officer or fireman while such officer or fireman is acting in his
51 official capacity or by reason of an act performed in his official
52 capacity, and with knowledge that the victim was a peace officer
53 or fireman. For purposes of this paragraph, the term "peace
54 officer" means any state or federal law enforcement officer,
55 including, but not limited to, a federal park ranger, the sheriff
56 of or police officer of a city or town, a conservation officer, a
57 parole officer, a judge, senior status judge, special judge,
58 district attorney, legal assistant to a district attorney, county
59 prosecuting attorney or any other court official, an agent of the
60 Alcoholic Beverage Control Division of the Department of Revenue,
61 an agent of the Bureau of Narcotics, personnel of the Mississippi
62 Highway Patrol, and the employees of the Department of Corrections
63 who are designated as peace officers by the Commissioner of
64 Corrections pursuant to Section 47-5-54, and the superintendent
65 and his deputies, guards, officers and other employees of the
66 Mississippi State Penitentiary;

67 (b) Murder which is perpetrated by a person who is
68 under sentence of life imprisonment;

69 (c) Murder which is perpetrated by use or detonation of
70 a bomb or explosive device;



71 (d) Murder which is perpetrated by any person who has
72 been offered or has received anything of value for committing the
73 murder, and all parties to such a murder, are guilty as
74 principals;

75 (e) When done with or without any design to effect
76 death, by any person engaged in the commission of the crime of
77 rape, burglary, kidnapping, arson, robbery, sexual battery,
78 unnatural intercourse with any child under the age of twelve (12),
79 or nonconsensual unnatural intercourse with mankind, or in any
80 attempt to commit such felonies;

81 (f) When done with or without any design to effect
82 death, by any person engaged in the commission of the crime of
83 felonious abuse and/or battery of a child in violation of
84 subsection (2) of Section 97-5-39, or in any attempt to commit
85 such felony;

86 (g) Murder which is perpetrated on educational property
87 as defined in Section 97-37-17;

88 (h) Murder which is perpetrated by the killing of any
89 elected official of a county, municipal, state or federal
90 government with knowledge that the victim was such public
91 official;

92 (i) Murder of three (3) or more persons who are killed
93 incident to one (1) act, scheme, course of conduct or criminal
94 episode;



95 (j) Murder of more than three (3) persons within a
96 three-year period;

97 (k) Murder which is perpetrated by the killing of a
98 person who: (i) is or would be a witness for the state or federal
99 government in a criminal trial; (ii) is a confidential informant
100 for any agency of the state or federal government; or (iii) is any
101 other person who was cooperating or assisting the state or federal
102 government or was suspected of cooperation or assistance to the
103 state or federal government, if the motive for the killing was
104 either the person's status as a witness, potential witness or
105 informant, or was to prevent the cooperation or assistance to the
106 prosecution. It shall not be a defense to a killing under this
107 subsection that the defendant erroneously suspected or believed
108 the victim to have cooperated or assisted the state or federal
109 government.

110 (3) An indictment for murder or capital murder shall serve
111 as notice to the defendant that the indictment may include any and
112 all lesser included offenses thereof, including, but not limited
113 to, manslaughter.

114 **SECTION 2.** Section 97-3-21, Mississippi Code of 1972, is
115 brought forward as follows:

116 97-3-21. (1) Every person who shall be convicted of
117 first-degree murder shall be sentenced by the court to
118 imprisonment for life in the custody of the Department of
119 Corrections.



120 (2) Every person who shall be convicted of second-degree
121 murder shall be imprisoned for life in the custody of the
122 Department of Corrections if the punishment is so fixed by the
123 jury in its verdict after a separate sentencing proceeding. If the
124 jury fails to agree on fixing the penalty at imprisonment for
125 life, the court shall fix the penalty at not less than twenty (20)
126 nor more than forty (40) years in the custody of the Department of
127 Corrections.

128 (3) Every person who shall be convicted of capital murder
129 shall be sentenced (a) to death; (b) to imprisonment for life in
130 the State Penitentiary without parole; or (c) to imprisonment for
131 life in the State Penitentiary with eligibility for parole as
132 provided in Section 47-7-3(1)(f).

133 **SECTION 3.** Section 41-29-139, Mississippi Code of 1972, is
134 brought forward as follows:

135 41-29-139. (a) **Transfer and possession with intent to**
136 **transfer.** Except as authorized by this article, it is unlawful for
137 any person knowingly or intentionally:

138 (1) To sell, barter, transfer, manufacture, distribute,
139 dispense or possess with intent to sell, barter, transfer,
140 manufacture, distribute or dispense, a controlled substance; or

141 (2) To create, sell, barter, transfer, distribute,
142 dispense or possess with intent to create, sell, barter, transfer,
143 distribute or dispense, a counterfeit substance.



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

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

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

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

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

164 (2) (A) For marijuana:

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



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

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

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

180 (B) For synthetic cannabinoids:

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

184 2. If more than ten (10) grams but less than
185 twenty (20) grams, by imprisonment for not more than five (5)
186 years or a fine of not more than Five Thousand Dollars
187 (\$5,000.00), or both;

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



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

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

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

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

205 (C) If ten (10) or more grams or twenty (20) or
206 more dosage units, but less than thirty (30) grams or forty (40)
207 dosage units, by imprisonment for not more than fifteen (15) years
208 or a fine of not more than One Hundred Thousand Dollars
209 (\$100,000.00), or both;

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

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



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

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

224 (C) If ten (10) or more grams or twenty (20) or
225 more dosage units, but less than thirty (30) grams or forty (40)
226 dosage units, by imprisonment for not more than ten (10) years or
227 a fine of not more than Twenty Thousand Dollars (\$20,000.00), or
228 both;

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

234 (c) **Simple possession.** It is unlawful for any person
235 knowingly or intentionally to possess any controlled substance
236 unless the substance was obtained directly from, or pursuant to, a
237 valid prescription or order of a practitioner while acting in the
238 course of his professional practice, or except as otherwise
239 authorized by this article. The penalties for any violation of
240 this subsection (c) with respect to a controlled substance
241 classified in Schedules I, II, III, IV or V, as set out in Section



242 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including
243 marijuana or synthetic cannabinoids, shall be based on dosage unit
244 as defined herein or the weight of the controlled substance as set
245 forth herein as appropriate:

246 "Dosage unit (d.u.)" means a tablet or capsule, or in the
247 case of a liquid solution, one (1) milliliter. In the case of
248 lysergic acid diethylamide (LSD) the term, "dosage unit" means a
249 stamp, square, dot, microdot, tablet or capsule of a controlled
250 substance.

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

254 The weight set forth refers to the entire weight of any
255 mixture or substance containing a detectable amount of the
256 controlled substance.

257 If a mixture or substance contains more than one (1)
258 controlled substance, the weight of the mixture or substance is
259 assigned to the controlled substance that results in the greater
260 punishment.

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

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

265 (A) If less than one-tenth (0.1) gram or two (2)
266 dosage units, the violation is a misdemeanor and punishable by



267 imprisonment for not more than one (1) year or a fine of not more
268 than One Thousand Dollars (\$1,000.00), or both.

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

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

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

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

284 1. If thirty (30) grams or less of marijuana
285 or ten (10) grams or less of synthetic cannabinoids, by a fine of
286 not less than One Hundred Dollars (\$100.00) nor more than Two
287 Hundred Fifty Dollars (\$250.00). The provisions of this paragraph
288 (2) (A) may be enforceable by summons if the offender provides
289 proof of identity satisfactory to the arresting officer and gives
290 written promise to appear in court satisfactory to the arresting
291 officer, as directed by the summons. A second conviction under



292 this section within two (2) years is a misdemeanor punishable by a
293 fine of Two Hundred Fifty Dollars (\$250.00), not more than sixty
294 (60) days in the county jail, and mandatory participation in a
295 drug education program approved by the Division of Alcohol and
296 Drug Abuse of the State Department of Mental Health, unless the
297 court enters a written finding that a drug education program is
298 inappropriate. A third or subsequent conviction under this
299 paragraph (2) (A) within two (2) years is a misdemeanor punishable
300 by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor
301 more than One Thousand Dollars (\$1,000.00) and confinement for not
302 more than six (6) months in the county jail.

303 Upon a first or second conviction under this paragraph
304 (2) (A), the courts shall forward a report of the conviction to the
305 Mississippi Bureau of Narcotics which shall make and maintain a
306 private, nonpublic record for a period not to exceed two (2) years
307 from the date of conviction. The private, nonpublic record shall
308 be solely for the use of the courts in determining the penalties
309 which attach upon conviction under this paragraph (2) (A) and shall
310 not constitute a criminal record for the purpose of private or
311 administrative inquiry and the record of each conviction shall be
312 expunged at the end of the period of two (2) years following the
313 date of such conviction;

314 2. Additionally, a person who is the operator
315 of a motor vehicle, who possesses on his person or knowingly keeps
316 or allows to be kept in a motor vehicle within the area of the



317 vehicle normally occupied by the driver or passengers, more than
318 one (1) gram, but not more than thirty (30) grams of marijuana or
319 not more than ten (10) grams of synthetic cannabinoids is guilty
320 of a misdemeanor and, upon conviction, may be fined not more than
321 One Thousand Dollars (\$1,000.00) or confined for not more than
322 ninety (90) days in the county jail, or both. For the purposes of
323 this subsection, such area of the vehicle shall not include the
324 trunk of the motor vehicle or the areas not normally occupied by
325 the driver or passengers if the vehicle is not equipped with a
326 trunk. A utility or glove compartment shall be deemed to be
327 within the area occupied by the driver and passengers;

328 (B) Marijuana:

329 1. If more than thirty (30) grams but less
330 than two hundred fifty (250) grams, by a fine of not more than One
331 Thousand Dollars (\$1,000.00), or confinement in the county jail
332 for not more than one (1) year, or both; or by a fine of not more
333 than Three Thousand Dollars (\$3,000.00), or imprisonment in the
334 custody of the Department of Corrections for not more than three
335 (3) years, or both;

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

340 3. If five hundred (500) or more grams but
341 less than one (1) kilogram, by imprisonment for not less than four



342 (4) years nor more than sixteen (16) years or a fine of not more
343 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

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

348 5. If five (5) kilograms or more, by
349 imprisonment for not less than ten (10) years nor more than thirty
350 (30) years or a fine of not more than One Million Dollars
351 (\$1,000,000.00), or both.

352 (C) Synthetic cannabinoids:

353 1. If more than ten (10) grams but less than
354 twenty (20) grams, by a fine of not more than One Thousand Dollars
355 (\$1,000.00), or confinement in the county jail for not more than
356 one (1) year, or both; or by a fine of not more than Three
357 Thousand Dollars (\$3,000.00), or imprisonment in the custody of
358 the Department of Corrections for not more than three (3) years,
359 or both;

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

364 3. If forty (40) or more grams but less than
365 two hundred (200) grams, by imprisonment for not less than four



366 (4) years nor more than sixteen (16) years or a fine of not more
367 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

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

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

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

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

384 (C) If one hundred fifty (150) or more grams or
385 five hundred (500) or more dosage units, but less than three
386 hundred (300) grams or one thousand (1,000) dosage units, by
387 imprisonment for not less than two (2) years nor more than eight
388 (8) years or a fine of not more than Fifty Thousand Dollars
389 (\$50,000.00), or both.



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

396 (d) **Paraphernalia.** (1) It is unlawful for a person who is
397 not authorized by the State Board of Medical Licensure, State
398 Board of Pharmacy, or other lawful authority to use, or to possess
399 with intent to use, paraphernalia to plant, propagate, cultivate,
400 grow, harvest, manufacture, compound, convert, produce, process,
401 prepare, test, analyze, pack, repack, store, contain, conceal,
402 inject, ingest, inhale or otherwise introduce into the human body
403 a controlled substance in violation of the Uniform Controlled
404 Substances Law. Any person who violates this subsection (d)(1) is
405 guilty of a misdemeanor and, upon conviction, may be confined in
406 the county jail for not more than six (6) months, or fined not
407 more than Five Hundred Dollars (\$500.00), or both; however, no
408 person shall be charged with a violation of this subsection when
409 such person is also charged with the possession of thirty (30)
410 grams or less of marijuana under subsection (c)(2)(A) of this
411 section.

412 (2) It is unlawful for any person to deliver, sell,
413 possess with intent to deliver or sell, or manufacture with
414 intent to deliver or sell, paraphernalia, knowing, or under



415 circumstances where one reasonably should know, that it will be
416 used to plant, propagate, cultivate, grow, harvest, manufacture,
417 compound, convert, produce, process, prepare, test, analyze,
418 pack, repack, store, contain, conceal, inject, ingest, inhale, or
419 otherwise introduce into the human body a controlled substance in
420 violation of the Uniform Controlled Substances Law. Except as
421 provided in subsection (d) (3), a person who violates this
422 subsection (d) (2) is guilty of a misdemeanor and, upon conviction,
423 may be confined in the county jail for not more than six (6)
424 months, or fined not more than Five Hundred Dollars (\$500.00), or
425 both.

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

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



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

442 (e) It shall be unlawful for any physician practicing
443 medicine in this state to prescribe, dispense or administer any
444 amphetamine or amphetamine-like anorectics and/or central nervous
445 system stimulants classified in Schedule II, pursuant to Section
446 41-29-115, for the exclusive treatment of obesity, weight control
447 or weight loss. Any person who violates this subsection, upon
448 conviction, is guilty of a misdemeanor and may be confined for a
449 period not to exceed six (6) months, or fined not more than One
450 Thousand Dollars (\$1,000.00), or both.

451 (f) **Trafficking.** (1) Any person trafficking in controlled
452 substances shall be guilty of a felony and, upon conviction, shall
453 be imprisoned for a term of not less than ten (10) years nor more
454 than forty (40) years and shall be fined not less than Five
455 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
456 (\$1,000,000.00). The ten-year mandatory sentence shall not be
457 reduced or suspended. The person shall not be eligible for
458 probation or parole, the provisions of Sections 41-29-149,
459 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

460 (2) "Trafficking in controlled substances" as used
461 herein means:

462 (A) A violation of subsection (a) of this section
463 involving thirty (30) or more grams or forty (40) or more dosage



464 units of a Schedule I or II controlled substance except marijuana
465 and synthetic cannabinoids;

466 (B) A violation of subsection (a) of this section
467 involving five hundred (500) or more grams or two thousand five
468 hundred (2,500) or more dosage units of a Schedule III, IV or V
469 controlled substance;

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

474 (D) A violation of subsection (c) of this section
475 involving five hundred (500) or more grams or two thousand five
476 hundred (2,500) or more dosage units of a Schedule III, IV or V
477 controlled substance; or

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

481 (g) **Aggravated trafficking.** Any person trafficking in
482 Schedule I or II controlled substances, except marijuana and
483 synthetic cannabinoids, of two hundred (200) grams or more shall
484 be guilty of aggravated trafficking and, upon conviction, shall be
485 sentenced to a term of not less than twenty-five (25) years nor
486 more than life in prison and shall be fined not less than Five
487 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
488 (\$1,000,000.00). The twenty-five-year sentence shall be a



489 mandatory sentence and shall not be reduced or suspended. The
490 person shall not be eligible for probation or parole, the
491 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to
492 the contrary notwithstanding.

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

502 (A) The offender was not a leader of the criminal
503 enterprise;

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

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

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

511 The court may also consider whether information and assistance
512 were furnished to a law enforcement agency, or its designee,
513 which, in the opinion of the trial judge, objectively should or



514 would have aided in the arrest or prosecution of others who
515 violate this subsection. The accused shall have adequate
516 opportunity to develop and make a record of all information and
517 assistance so furnished.

518 (2) If the court reduces the prescribed sentence pursuant to
519 this subsection, it must specify on the record the circumstances
520 warranting the departure.

521 **SECTION 4.** Section 41-29-141, Mississippi Code of 1972, is
522 brought forward as follows:

523 41-29-141. It is unlawful for any person:

524 (1) Who is subject to Section 41-29-125 to distribute
525 or dispense a controlled substance in violation of Section
526 41-29-137;

527 (2) Who is a registrant under Section 41-29-125 to
528 manufacture a controlled substance not authorized by his
529 registration, or to distribute or dispense a controlled substance
530 not authorized by his registration to another registrant or other
531 authorized person;

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

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

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



539 structure or place, which is resorted to by persons using
540 controlled substances in violation of this article for the purpose
541 of using these substances, or which is used for keeping or selling
542 them in violation of this article.

543 Any person who violates this section shall, with respect to
544 such violation, be subject to a civil penalty payable to the State
545 of Mississippi of not more than Twenty-five Thousand Dollars
546 (\$25,000.00).

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

552 **SECTION 5.** Section 41-29-142, Mississippi Code of 1972, is
553 brought forward as follows:

554 41-29-142. (1) Except as provided in subsection (f) of
555 Section 41-29-139 or in subsection (2) of this section, any person
556 who violates or conspires to violate Section 41-29-139(a)(1),
557 Mississippi Code of 1972, by selling, bartering, transferring,
558 manufacturing, distributing, dispensing or possessing with intent
559 to sell, barter, transfer, manufacture, distribute or dispense, a
560 controlled substance, in or on, or within one thousand five
561 hundred (1,500) feet of, a building or outbuilding which is all or
562 part of a public or private elementary, vocational or secondary
563 school, or any church, public park, ballpark, public gymnasium,



564 youth center or movie theater or within one thousand (1,000) feet
565 of, the real property comprising such public or private
566 elementary, vocational or secondary school, or any church, public
567 park, ballpark, public gymnasium, youth center or movie theater
568 shall, upon conviction thereof, be punished by the term of
569 imprisonment or a fine, or both, of that authorized by Section
570 41-29-139(b) and, in the discretion of the court, may be punished
571 by a term of imprisonment or a fine, or both, of up to twice that
572 authorized by Section 41-29-139(b).

573 (2) Except as otherwise provided in subsection (f) of
574 Section 41-29-139, any person who violates or conspires to violate
575 Section 41-29-139(a) (1), Mississippi Code of 1972, by selling,
576 bartering, transferring, manufacturing, distributing, dispensing
577 or possessing with intent to sell, barter, transfer, manufacture,
578 distribute or dispense, a controlled substance, in or on, or
579 within one thousand five hundred (1,500) feet of, a building or
580 outbuilding which is all or part of a public or private
581 elementary, vocational or secondary school, or any church, public
582 park, ballpark, public gymnasium, youth center or movie theater or
583 within one thousand (1,000) feet of, the real property comprising
584 such public or private elementary, vocational or secondary school,
585 or any church, public park, ballpark, public gymnasium, youth
586 center or movie theater after a prior conviction under subsection
587 (1) of this section has become final, shall, upon conviction
588 thereof, be punished by a term of imprisonment of not less than



589 three (3) years and not more than life, and in the discretion of
590 the court, may be punished by a term of imprisonment of up to
591 three (3) times that authorized by Section 41-29-139(b), for a
592 first offense, or a fine of up to three (3) times that authorized
593 by Section 41-29-139(b), for a first offense, or both.

594 **SECTION 6.** Section 41-29-143, Mississippi Code of 1972, is
595 brought forward as follows:

596 41-29-143. It is unlawful for any person knowingly or
597 intentionally:

598 (1) To distribute as a registrant a controlled
599 substance classified in Schedule I or II, as set out in Sections
600 41-29-113 and 41-29-115, except pursuant to an order form as
601 required by Section 41-29-135;

602 (2) To use in the course of the manufacture or
603 distribution of a controlled substance a registration number which
604 is fictitious, revoked, suspended, or issued to another person.

605 (3) To furnish false or fraudulent material information
606 in, or omit any material information from, any application,
607 report, or other document required to be kept or filed under this
608 article, or any record required to be kept by this article; or

609 (4) To make, distribute, or possess any punch, die,
610 plate, stone, or other thing designed to print, imprint, or
611 reproduce the trademark, trade name, or other identifying mark,
612 imprint or device of another or any likeness of any of the



613 foregoing upon any drug or container or labeling thereof so as to
614 render the drug a counterfeit substance.

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

618 **SECTION 7.** Section 41-29-144, Mississippi Code of 1972, is
619 brought forward as follows:

620 41-29-144. (1) It is unlawful for any person knowingly or
621 intentionally to acquire or obtain possession or attempt to
622 acquire or obtain possession of a controlled substance or a legend
623 drug by larceny, embezzlement, misrepresentation, fraud, forgery,
624 deception or subterfuge.

625 (2) It is unlawful for any person knowingly or intentionally
626 to possess, sell, deliver, transfer or attempt to possess, sell,
627 deliver or transfer a false, fraudulent or forged prescription of
628 a practitioner.

629 (3) Any person who violates this section is guilty of a
630 crime and upon conviction shall be confined for not less than one
631 (1) year nor more than five (5) years and fined not more than One
632 Thousand Dollars (\$1,000.00), or both.

633 **SECTION 8.** Section 41-29-145, Mississippi Code of 1972, is
634 brought forward as follows:

635 41-29-145. Any person twenty-one (21) years of age or over
636 who violates subsections (a) and (b) of Section 41-29-139 with
637 reference to a controlled substance listed in Schedules I, II,



638 III, IV and V as set out in Sections 41-29-113 through 41-29-121,
639 inclusive, to a person under twenty-one (21) years of age may be
640 punished by the fine authorized by Section 41-29-139, or by a term
641 of imprisonment or confinement up to twice that authorized by said
642 Section 41-29-139, or both, or he may be punished as provided in
643 Section 41-29-142.

644 **SECTION 9.** Confidential informants shall be at least
645 twenty-one (21) years of age, and notified of their right to
646 contact an attorney, and all notifications shall happen at least
647 twenty-four (24) hours before they agree to serve. Any deal,
648 arrangement, or agreement must be detailed and in writing, and the
649 constitutional right to contact an attorney shall not be abridged
650 or undermined, and exercising this right shall incur no negative
651 consequences on any deal, arrangement, or agreement regarding
652 informant work. To protect the safety of the individuals
653 involved, informants may make no more than one (1) sale, purchase,
654 or transfer from any individual person.

655 **SECTION 10.** This act shall take effect and be in force from
656 and after July 1, 2022.

