

By: Senator(s) Bryan

To: Judiciary, Division B

SENATE BILL NO. 2397

1 AN ACT TO CREATE A NEW SECTION WITHIN TITLE 41, CHAPTER 29,
2 ARTICLE 3, MISSISSIPPI CODE OF 1972, TO PROVIDE AN AUTOMATIC
3 DEFENSE TO PROSECUTION FOR ANY CHARGE THAT IS BROUGHT WITHIN TWO
4 YEARS OF A FEDERAL DECLASSIFICATION OF A CONTROLLED SUBSTANCE THAT
5 IS THE SUBJECT OF THE OFFENSE; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** The following shall be codified as a separate
8 section within Title 41, Chapter 29, Article 3, Mississippi Code
9 of 1972:

10 41-29-_____. (1) (a) In the event of a classification or
11 declassification of a controlled substance on the federal schedule
12 of controlled substances, the State Health Officer shall issue an
13 order under this section that mirrors the federal action.

14 (b) The order issued under subsection (2)(a) of this
15 section:

16 (i) Shall be effective to classify or declassify
17 the controlled substance on the state schedules only for a period
18 of two (2) years from the date of the federal action.



19 (ii) Shall not be effective to classify or
20 declassify the controlled substance on the state schedules for any
21 criminal purpose.

22 (2) (a) If a charge is brought under this article within
23 two (2) years from the date of a declassification of a controlled
24 substance or the federal schedule of controlled substances and
25 that federally declassified controlled substance is the subject of
26 the offense, there shall be an automatic defense to prosecution.

27 (b) The defense shall be raised sua sponte by the court
28 or by any party to the proceeding and shall bar the prosecution of
29 the charge.

30 **SECTION 2.** This act shall take effect and be in force from
31 and after July 1, 2022.

