

By: Senator(s) Bryan

To: Judiciary, Division B

SENATE BILL NO. 2397  
(As Passed the Senate)

1 AN ACT TO CREATE A NEW SECTION WITHIN TITLE 41, CHAPTER 29,  
2 ARTICLE 3, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE HEALTH  
3 OFFICER TO ISSUE AN ADMINISTRATIVE ORDER TO MIRROR A FEDERAL  
4 ACTION TO CLASSIFY OR DECLASSIFY A CONTROLLED SUBSTANCE; TO  
5 PROVIDE CERTAIN LIMITATIONS ON THE ORDER; TO PROVIDE AN AUTOMATIC  
6 DEFENSE TO PROSECUTION FOR ANY CHARGE THAT IS BROUGHT WITHIN TWO  
7 YEARS OF A FEDERAL DECLASSIFICATION OF A CONTROLLED SUBSTANCE THAT  
8 IS THE SUBJECT OF THE OFFENSE; AND FOR RELATED PURPOSES.

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

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

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

17 (b) The order issued under subsection (1)(a) of this  
18 section:

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



22 (ii) Shall not be effective to classify or  
23 declassify the controlled substance on the state schedules for any  
24 criminal purpose.

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

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

33 **SECTION 2.** This act shall take effect and be in force from  
34 and after July 1, 2022, and shall stand repealed on June 30, 2022.

