

By: Representatives Creekmore IV, Lancaster, Thompson To: Drug Policy

HOUSE BILL NO. 231

1 AN ACT TO AMEND SECTION 41-113-1, MISSISSIPPI CODE OF 1972,
2 TO INCLUDE DRUG ABUSE IN THE LEGISLATIVE INTENT FOR THE TOBACCO
3 EDUCATION, PREVENTION AND CESSATION PROGRAM; TO AMEND SECTION
4 41-113-3, MISSISSIPPI CODE OF 1972, TO REVISE THE DUTIES OF THE
5 OFFICE OF TOBACCO CONTROL BY ADDING FENTANYL AND DRUG ABUSE
6 PREVENTION EDUCATION; TO AMEND SECTION 41-113-5, MISSISSIPPI CODE
7 OF 1972, TO REVISE THE DUTIES OF THE DIRECTOR OF THE OFFICE OF
8 TOBACCO CONTROL TO INCLUDE IMPLEMENTATION OF A FENTANYL DRUG ABUSE
9 EDUCATION, PREVENTION AND CESSATION PROGRAM; TO AMEND SECTION
10 41-113-7, MISSISSIPPI CODE OF 1972, TO REVISE THE DUTIES OF THE
11 OFFICE OF TOBACCO CONTROL BY ADDING FENTANYL AND DRUG ABUSE
12 PREVENTION EDUCATION; TO AMEND SECTION 41-114-1, MISSISSIPPI CODE
13 OF 1972, TO INCLUDE VAPORIZING DEVICES IN THE DEFINITION OF
14 "SMOKE" OR "SMOKING" FOR THE PROVISIONS OF LAW THAT RESTRICT
15 TOBACCO USE IN PUBLIC FACILITIES; TO BRING FORWARD SECTIONS
16 41-113-9 AND 41-113-11, MISSISSIPPI CODE OF 1972, WHICH PROVIDE
17 FOR THE MISSISSIPPI TOBACCO CONTROL ADVISORY COUNCIL AND THE
18 TOBACCO CONTROL PROGRAM FUND, FOR PURPOSES OF AMENDMENT; AND FOR
19 RELATED PURPOSES.

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

21 SECTION 1. Section 41-113-1, Mississippi Code of 1972, is
22 amended as follows:

23 41-113-1. (1) The Mississippi Legislature recognizes the
24 devastating impact that tobacco use * * *, fentanyl use and drug
25 abuse have on the citizens of our state. Tobacco use * * *,
26 fentanyl use and drug abuse are the * * * most preventable causes



27 of death and disease in this country and this state. Each year,
28 thousands of Mississippians lose their lives to diseases caused by
29 tobacco use, fentanyl use and drug abuse, and the cost to the
30 state is hundreds of millions of dollars. Tobacco use * * *,
31 fentanyl use and drug abuse are a large burden on the families and
32 businesses of Mississippi. It is therefore the intent of the
33 Legislature that there be developed, implemented and fully funded
34 a comprehensive and statewide tobacco use, fentanyl use and drug
35 abuse education, prevention and cessation program that is
36 consistent with the Best Practices for Tobacco Control
37 Programs * * * and youth high risk drug use prevention guidelines
38 from the federal Centers for Disease Control and Prevention, as
39 periodically amended. It is also the intent of the Legislature
40 that all reasonable efforts be made to maximize the amount of
41 federal funds available for this program.

42 (2) The goals of the tobacco use, fentanyl use and drug
43 abuse education, prevention and cessation program include, but are
44 not limited to, the following:

45 (a) Preventing the initiation of use of tobacco
46 products, fentanyl and abuse of drugs by youth;

47 (b) Encouraging and helping smokers to quit and
48 reducing the numbers of youth and adults who use tobacco products,
49 fentanyl or abuse drugs;

50 (c) Assisting in the protection from secondhand smoke;



51 (d) Supporting the enforcement of laws prohibiting
52 youth access to tobacco products, fantanyl and youth drug abuse;

53 (e) Eliminating the racial and cultural disparities
54 related to use of tobacco products, fantanyl and youth drug abuse;
55 and

56 (f) Educating the public and changing the cultural
57 perception of use of tobacco products, fantanyl and youth drug
58 abuse in Mississippi.

59 **SECTION 2.** Section 41-113-3, Mississippi Code of 1972, is
60 amended as follows:

61 41-113-3. (1) There is hereby created the Office of Tobacco
62 Control (office) which shall be an administrative division of the
63 State Department of Health.

64 (2) The Office of Tobacco Control, with the advice of the
65 Mississippi Tobacco Control Advisory Board, shall develop and
66 implement a comprehensive and statewide tobacco, fantanyl and drug
67 abuse education, prevention and cessation program that is
68 consistent with the recommendations for effective program
69 components and funding recommendations in the 1999 Best Practices
70 for Comprehensive Tobacco Control Programs of the federal Centers
71 for Disease Control and Prevention, as those Best Practices may be
72 periodically amended by the Centers for Disease Control and
73 Prevention and the youth high risk drug use resources created by
74 the federal Centers for Disease Control and Prevention.



75 (3) At a minimum, the program shall include the following
76 components, and may include additional components that are
77 contained within the Best Practices for Comprehensive Tobacco
78 Control Programs of the federal Centers for Disease Control and
79 Prevention, as periodically amended, and that based on scientific
80 data and research have been shown to be effective at accomplishing
81 the purposes of this section:

82 (a) The use of mass media, including paid advertising
83 and other communication tools to discourage the use of tobacco
84 products, fentanyl and drug abuse and to educate people,
85 especially youth, about the health hazards from the use of tobacco
86 products and/or drug abuse, which shall be designed to be
87 effective at achieving these goals and shall include, but need not
88 be limited to, television, radio, and print advertising, as well
89 as sponsorship, exhibits and other opportunities to raise
90 awareness statewide;

91 (b) Evidence-based curricula and programs implemented
92 in schools to educate youth about tobacco, fentanyl and drug abuse
93 and to discourage their use of tobacco products, fentanyl and
94 abuse of drugs, including, but not limited to, programs that
95 involve youth, educate youth about the health hazards from the use
96 of tobacco products, fentanyl and/or the abuse of drugs, help
97 youth develop skills to refuse tobacco products, and demonstrate
98 to youth how to stop using tobacco products;



99 (c) Local community programs, including, but not
100 limited to, youth-based partnerships that discourage the use of
101 tobacco products, fentanyl and abuse of drugs and involve
102 community-based organizations in tobacco, fentanyl and drug abuse
103 education, prevention and cessation programs in their communities;

104 (d) Enforcement of laws, regulations and policies
105 against the sale or other provision of tobacco products, fentanyl
106 and/or drugs to minors, and the possession of tobacco products,
107 fentanyl and/or drugs by minors;

108 (e) Programs to assist and help people to stop using
109 tobacco products, fentanyl and/or abusing drugs; and

110 (f) A surveillance and evaluation system that monitors
111 program accountability and results, produces publicly available
112 reports that review how monies expended for the program are spent,
113 and includes an evaluation of the program's effectiveness in
114 reducing and preventing the use of tobacco products, fentanyl and
115 the abuse of drugs, and annual recommendations for improvements to
116 enhance the program's effectiveness.

117 (4) All programs or activities funded by the State
118 Department of Health through the tobacco, fentanyl and drug abuse
119 education, prevention and cessation program, whether part of a
120 component described in subsection (2) or an additional component,
121 must be consistent with the Best Practices for Comprehensive
122 Tobacco Control Programs of the federal Centers for Disease
123 Control and Prevention, as periodically amended, and all resources



124 and guidelines established by the federal Centers for Disease
125 Control and Prevention to reduce and prevent fentanyl use and drug
126 abuse by youth, as periodically amended, all funds received by any
127 person or entity under any such program or activity must be
128 expended for purposes that are consistent with those Best
129 Practices and guidelines. The State Department of Health shall
130 exercise sole discretion in determining whether components are
131 consistent with the Best Practices for Comprehensive Tobacco
132 Control Programs of the federal Centers for Disease Control and
133 Prevention.

134 (5) Funding for the different components of the program
135 shall be apportioned between the components based on the
136 recommendations in the Best Practices for Comprehensive Tobacco
137 Control Programs of the federal Centers for Disease Control and
138 Prevention, as periodically amended, or any additional programs as
139 determined by the State Board of Health to provide adequate
140 program development, implementation and evaluation for effective
141 control of the use of tobacco products and preventive measures for
142 fentanyl use and drug abuse. While the office shall develop
143 annual budgets based on strategic planning, components of the
144 program shall be funded using the following areas as guidelines
145 for priority:

- 146 (a) School nurses and school programs;
- 147 (b) Mass media (counter-marketing);
- 148 (c) Cessation programs (including media promotions);



149 (d) Community programs;
150 (e) Surveillance and evaluation;
151 (f) Law enforcement; and
152 (g) Administration and management; however, not more
153 than five percent (5%) of the total budget may be expended for
154 administration and management purposes.

155 (6) In funding the components of the program, the State
156 Department of Health may provide funding for health care programs
157 at the University of Mississippi Medical Center and Mississippi
158 Quality Health Center Grants that are related to the prevention
159 and cessation of the use of tobacco products and the treatment of
160 illnesses that are related to the use of tobacco products.

161 (7) No statewide, district, local, county or municipal
162 elected official shall take part as a public official in mass
163 media advertising under the provisions of this chapter.

164 **SECTION 3.** Section 41-113-5, Mississippi Code of 1972, is
165 amended as follows:

166 41-113-5. (1) The Office of Tobacco Control shall be under
167 the management of a director, who shall be appointed by the State
168 Health Officer. The responsibility for implementation of the
169 comprehensive and statewide tobacco, fentanyl and drug abuse
170 education, prevention and cessation program shall be vested in the
171 director. The director shall be an individual who has knowledge
172 and experience in public health, medical care, health care
173 services, mental health care services, preventive health



174 measures * * *, tobacco use control or drug abuse prevention
175 and/or treatment measures. The director shall be the
176 administrative officer of the Office of Tobacco Control, and shall
177 perform the duties that are required of him or her by law and such
178 other duties as may be assigned to him or her by the State Board
179 of Health. The director shall receive such compensation as may be
180 fixed by the State Board of Health, subject to the approval of the
181 State Personnel Board.

182 (2) The State Health Officer may employ such other persons
183 as may be necessary to carry out the provisions of this chapter.
184 The compensation and the terms and conditions of their employment
185 shall be determined by the State Board of Health in accordance
186 with applicable state law and rules and regulations of the State
187 Personnel Board.

188 **SECTION 4.** Section 41-113-7, Mississippi Code of 1972, is
189 amended as follows:

190 41-113-7. The Office of Tobacco Control shall perform the
191 following duties, with the advice of the Mississippi Tobacco
192 Control Advisory Council:

193 (a) Develop and implement appropriate policies and
194 procedures for the operation of the tobacco, fentanyl and drug
195 abuse education, prevention and cessation program;

196 (b) Develop and implement a * * * strategic plan
197 for * * * a tobacco, fentanyl and drug abuse education, prevention
198 and cessation program;



199 (c) Develop and maintain an annual operating budget and
200 oversee fiscal management of the tobacco, fentanyl and drug abuse
201 education, prevention and cessation program;

202 (d) Execute any contracts, agreements or other
203 documents with any governmental agency or any person, corporation,
204 association, partnership or other organization or entity that are
205 necessary to accomplish the purposes of this chapter;

206 (e) Receive grants, bequeaths, gifts, donations or any
207 other contributions made to the office to be used for specific
208 purposes related to the goals of this chapter;

209 (f) Submit an annual report to the Legislature
210 regarding the operation of the office;

211 (g) Submit to the State Auditor any financial records
212 that are necessary for the Auditor to perform an annual audit of
213 the office as required by law; and

214 (h) Take any other actions that are necessary to carry
215 out the purposes of this chapter.

216 **SECTION 5.** Section 41-114-1, Mississippi Code of 1972, is
217 amended as follows:

218 41-114-1. (1) As used in this section:

219 (a) The term "public facility" means any building,
220 gymnasium, athletic field, recreational area or park to which the
221 public is invited, whether there is charge for admission or not.

222 (b) The term "smoke" or "smoking" means inhaling,
223 exhaling, burning, vaporizing, carrying or otherwise possessing



224 any lighted cigarette, cigar, pipe, "alternative nicotine product"
225 or any other object or device of any form that contains lighted
226 tobacco or any other smoking or vaporizing product.

227 (2) During any time that persons under eighteen (18) years
228 of age are engaged in an organized athletic event at a public
229 facility in Mississippi, no participant in or spectator of the
230 athletic event shall smoke in the facility, if the facility is
231 enclosed, or within one hundred (100) feet of the facility, if the
232 facility is not enclosed, except as permitted under subsection
233 (3) (c) of this section.

234 (3) The person, agency or entity having jurisdiction or
235 supervision over a public facility shall not allow smoking at the
236 facility in violation of this section, and shall use reasonable
237 efforts to prevent smoking at the facility. The person, agency or
238 entity may take the following steps:

239 (a) Posting appropriate signs informing persons that
240 smoking is prohibited at the public facility.

241 (b) Securing the removal of persons who smoke at the
242 public facility in violation of this section.

243 (c) Providing a designated area separate from the
244 fields of activity, to which smoking shall be restricted.

245 (4) Any person who violates this section shall, upon
246 conviction, be subject to a civil fine and shall be liable as
247 follows:

248 (a) For a first conviction, a warning;



249 (b) For a second conviction, a fine of Seventy-five
250 Dollars (\$75.00); and

251 (c) For all later convictions, a fine not to exceed One
252 Hundred Fifty Dollars (\$150.00).

253 Anyone convicted under this section shall be recorded as
254 being guilty of a civil penalty and not for violating a criminal
255 statute. Any such violation shall be triable in any justice court
256 or municipal court with proper jurisdiction.

257 (5) It is the responsibility of all law enforcement officers
258 and law enforcement agencies of this state to ensure that the
259 provisions of this section are enforced.

260 (6) If the actions of a person violate both this section and
261 Section 97-32-29, the person shall be liable only under this
262 section or Section 97-32-29, but not under both sections.

263 **SECTION 6.** Section 41-113-9, Mississippi Code of 1972, is
264 brought forward as follows:

265 41-113-9. (1) There is created the Mississippi Tobacco
266 Control Advisory Council, which shall consist of thirteen (13)
267 members. The thirteen (13) members of the advisory council shall
268 consist of the following:

269 (a) Four (4) members appointed by the Governor, with
270 one (1) member from a list of three (3) physicians recommended by
271 the Mississippi State Medical Association, one (1) member from a
272 list of three (3) individuals recommended by the Mississippi
273 Chapter of the American Heart Association, and two (2) individuals



274 who are not affiliated with the tobacco industry who possess
275 knowledge, skill, and prior experience in scientifically proven
276 smoking prevention, reduction and cessation programs, health care
277 services or preventive health measures;

278 (b) Two (2) members appointed by the Lieutenant
279 Governor, with one (1) member from a list of three (3) nurses
280 recommended by the Mississippi Nurses' Association, and one (1)
281 member from a list of three (3) individuals recommended by the
282 Mississippi Chapter of the American Lung Association;

283 (c) Two (2) members approved by the Speaker of the
284 House of Representatives, with one (1) member from a list of three
285 (3) social workers recommended by the Mississippi Chapter of the
286 National Association of Social Workers (NASW), and one (1) member
287 from a list of three (3) individuals recommended by the
288 Mississippi Chapter of the American Cancer Society;

289 (d) The Attorney General, or his or her designee;

290 (e) The State Superintendent of Public Education, or
291 his or her designee;

292 (f) The Vice-Chancellor of Health Affairs of the
293 University of Mississippi Medical Center, or his or her designee;

294 (g) The Dean of the College of Health at the University
295 of Southern Mississippi, or his or her designee; and

296 (h) The Administrator of the School of Health Sciences
297 of the College of Public Service at Jackson State University, or
298 his or her designee.



299 (2) The Lieutenant Governor shall appoint one (1) member of
300 the Senate and the Speaker of the House shall appoint one (1)
301 Representative to attend meetings of the Tobacco Control Advisory
302 Council.

303 (3) For those members that are required to be appointed from
304 lists of individuals recommended by certain nominating groups, if
305 none of the recommended names are acceptable to the appointing
306 official, then the nominating group shall submit another list of
307 three (3) different individuals until an acceptable individual is
308 submitted to the appointing official.

309 (4) The members who are state officials or university
310 officials shall serve as members for as long as they hold the
311 designated office or university position. The appointed members
312 shall serve for terms that are concurrent with the terms of the
313 appointing officials, or until their successors are appointed and
314 qualified.

315 (5) Any vacancy in an appointed member position shall be
316 filled within thirty (30) days of the vacancy by the original
317 appointing official, and the individual appointed to fill the
318 vacancy shall meet the same qualifications as required for the
319 former member.

320 (6) The initial appointments to the advisory council shall
321 be made not later than forty-five (45) days after March 30, 2007,
322 and the first meeting of the advisory council shall be held within



323 sixty (60) days after March 30, 2007, at a time, date and location
324 specified by the State Board of Health.

325 (7) The advisory council shall annually elect a chairman
326 from among its members. The advisory council shall meet at least
327 quarterly. A quorum for meetings of the advisory council shall be
328 a majority of the voting members of the advisory council. The
329 members of the advisory council shall receive the per diem
330 compensation provided under Section 25-3-69 plus expense
331 reimbursement as provided under Section 25-3-41 for attending
332 meetings and necessary business of the advisory council.

333 (8) The Mississippi Tobacco Advisory Council shall advise
334 and make recommendations to the State Board of Health regarding
335 rules and regulations promulgated pursuant to this program.

336 **SECTION 7.** Section 41-113-11, Mississippi Code of 1972, is
337 brought forward as follows:

338 41-113-11. (1) There is established in the State Treasury a
339 special fund to be known as the Tobacco Control Program Fund,
340 which shall be comprised of the funds specified in subsection (2)
341 of this section and any other funds that are authorized or
342 required to be deposited into the special fund.

343 (2) From the tobacco settlement installment payments that
344 the State of Mississippi receives during each calendar year, the
345 sum of Twenty Million Dollars (\$20,000,000.00) shall be deposited
346 into the special fund.



347 (3) Monies in the fund shall be expended solely for the
348 purposes specified in this chapter. None of the funds in the
349 special fund may be transferred to any other fund or appropriated
350 or expended for any other purpose.

351 (4) All income from the investment of the funds in the
352 Tobacco Control Program Fund shall be credited to the account of
353 the Tobacco Control Program Fund. Any funds in the Tobacco
354 Control Program Fund at the end of a fiscal year shall not lapse
355 into the State General Fund. Any funds appropriated from the
356 Tobacco Control Program Fund that are unexpended at the end of a
357 fiscal year shall lapse into the Tobacco Control Program Fund.
358 However, beginning with fiscal year 2020, any funds appropriated
359 from the Tobacco Control Program Fund that are unexpended at the
360 end of the fiscal year shall lapse into the Health Care Expendable
361 Fund.

362 **SECTION 8.** This act shall take effect and be in force from
363 and after July 1, 2023.

