

By: Representatives Creekmore IV, Calvert,
Currie, Thompson

To: Drug Policy

HOUSE BILL NO. 233

1 AN ACT TO REQUIRE THE STATE DEPARTMENT OF HEALTH TO PROVIDE
2 TO PERSONS, FREE OF CHARGE, TESTING STRIPS INTENDED FOR USE IN
3 TESTING FOR THE PRESENCE OF CONTROLLED SUBSTANCES UPON REQUEST; TO
4 AMEND SECTION 41-29-105, MISSISSIPPI CODE OF 1972, TO EXCLUDE FROM
5 THE DEFINITION OF "PARAPHERNALIA" UNDER THE UNIFORM CONTROLLED
6 SUBSTANCES LAW ANY MATERIALS USED OR INTENDED FOR USE IN TESTING
7 FOR THE PRESENCE OF A CONTROLLED SUBSTANCE; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** The State Department of Health shall provide to
11 persons, free of charge, testing strips intended for use in
12 testing for the presence of controlled substances upon request.

13 **SECTION 2.** Section 41-29-105, Mississippi Code of 1972, is
14 amended as follows:

15 41-29-105. The following words and phrases, as used in this
16 article, shall have the following meanings, unless the context
17 otherwise requires:

18 (a) "Administer" means the direct application of a
19 controlled substance, whether by injection, inhalation, ingestion
20 or any other means, to the body of a patient or research subject
21 by:



22 (i) A practitioner (or, in his presence, by his
23 authorized agent); or

24 (ii) The patient or research subject at the
25 direction and in the presence of the practitioner.

26 (b) "Agent" means an authorized person who acts on
27 behalf of or at the direction of a manufacturer, distributor or
28 dispenser. Such word does not include a common or contract
29 carrier, public warehouseman or employee of the carrier or
30 warehouseman. This definition shall not be applied to the term
31 "agent" when such term clearly designates a member or officer of
32 the Bureau of Narcotics or other law enforcement organization.

33 (c) "Board" means the Mississippi State Board of
34 Medical Licensure.

35 (d) "Bureau" means the Mississippi Bureau of Narcotics.
36 However, where the title "Bureau of Drug Enforcement" occurs, that
37 term shall also refer to the Mississippi Bureau of Narcotics.

38 (e) "Commissioner" means the Commissioner of the
39 Department of Public Safety.

40 (f) "Controlled substance" means a drug, substance or
41 immediate precursor in Schedules I through V of Sections 41-29-113
42 through 41-29-121.

43 (g) "Counterfeit substance" means a controlled
44 substance which, or the container or labeling of which, without
45 authorization, bears the trademark, trade name, or other
46 identifying mark, imprint, number or device, or any likeness



47 thereof, of a manufacturer, distributor or dispenser other than
48 the person who in fact manufactured, distributed or dispensed the
49 substance.

50 (h) "Deliver" or "delivery" means the actual,
51 constructive, or attempted transfer from one person to another of
52 a controlled substance, whether or not there is an agency
53 relationship.

54 (i) "Director" means the Director of the Bureau of
55 Narcotics.

56 (j) "Dispense" means to deliver a controlled substance
57 to an ultimate user or research subject by or pursuant to the
58 lawful order of a practitioner, including the prescribing,
59 administering, packaging, labeling or compounding necessary to
60 prepare the substance for that delivery.

61 (k) "Dispenser" means a practitioner who dispenses.

62 (l) "Distribute" means to deliver other than by
63 administering or dispensing a controlled substance.

64 (m) "Distributor" means a person who distributes.

65 (n) "Drug" means (i) a substance recognized as a drug
66 in the official United States Pharmacopoeia, official Homeopathic
67 Pharmacopoeia of the United States, or official National
68 Formulary, or any supplement to any of them; (ii) a substance
69 intended for use in the diagnosis, cure, mitigation, treatment, or
70 prevention of disease in man or animals; (iii) a substance (other
71 than food) intended to affect the structure or any function of the



72 body of man or animals; and (iv) a substance intended for use as a
73 component of any article specified in this paragraph. Such word
74 does not include devices or their components, parts, or
75 accessories.

76 (o) "Hashish" means the resin extracted from any part
77 of the plants of the genus Cannabis and all species thereof or any
78 preparation, mixture or derivative made from or with that resin.

79 (p) "Immediate precursor" means a substance which the
80 board has found to be and by rule designates as being the
81 principal compound commonly used or produced primarily for use,
82 and which is an immediate chemical intermediary used or likely to
83 be used in the manufacture of a controlled substance, the control
84 of which is necessary to prevent, curtail, or limit manufacture.

85 (q) "Manufacture" means the production, preparation,
86 propagation, compounding, conversion or processing of a controlled
87 substance, either directly or indirectly, by extraction from
88 substances of natural origin, or independently by means of
89 chemical synthesis, or by a combination of extraction and chemical
90 synthesis, and includes any packaging or repackaging of the
91 substance or labeling or relabeling of its container. The term
92 "manufacture" does not include the preparation, compounding,
93 packaging or labeling of a controlled substance in conformity with
94 applicable state and local law:



95 (i) By a practitioner as an incident to his
96 administering or dispensing of a controlled substance in the
97 course of his professional practice; or

98 (ii) By a practitioner, or by his authorized agent
99 under his supervision, for the purpose of, or as an incident to,
100 research, teaching or chemical analysis and not for sale.

101 (r) "Marijuana" means all parts of the plant of the
102 genus Cannabis and all species thereof, whether growing or not,
103 the seeds thereof, and every compound, manufacture, salt,
104 derivative, mixture or preparation of the plant or its seeds,
105 excluding hashish.

106 The term "marijuana" does not include "hemp" as defined in
107 and regulated by Sections 69-25-201 through 69-25-221.

108 (s) "Narcotic drug" means any of the following, whether
109 produced directly or indirectly by extraction from substances of
110 vegetable origin, or independently by means of chemical synthesis,
111 or by a combination of extraction and chemical synthesis:

112 (i) Opium and opiate, and any salt, compound,
113 derivative or preparation of opium or opiate;

114 (ii) Any salt, compound, isomer, derivative or
115 preparation thereof which is chemically equivalent or identical
116 with any of the substances referred to in subparagraph (i), but
117 not including the isoquinoline alkaloids of opium;

118 (iii) Opium poppy and poppy straw; and



119 (iv) Cocaine, coca leaves and any salt, compound,
120 derivative or preparation of cocaine, coca leaves, and any salt,
121 compound, isomer, derivative or preparation thereof which is
122 chemically equivalent or identical with any of these substances,
123 but not including decocainized coca leaves or extractions of coca
124 leaves which do not contain cocaine or ecgonine.

125 (t) "Opiate" means any substance having an
126 addiction-forming or addiction-sustaining liability similar to
127 morphine or being capable of conversion into a drug having
128 addiction-forming or addiction-sustaining liability. It does not
129 include, unless specifically designated as controlled under
130 Section 41-29-111, the dextrorotatory isomer of
131 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
132 Such word does include its racemic and levorotatory forms.

133 (u) "Opium poppy" means the plant of the species
134 *Papaver somniferum* L., except its seeds.

135 (v) (i) "Paraphernalia" means all equipment, products
136 and materials of any kind which are used, intended for use, or
137 designed for use, in planting, propagating, cultivating, growing,
138 harvesting, manufacturing, compounding, converting, producing,
139 processing, preparing, testing, analyzing, packaging, repackaging,
140 storing, containing, concealing, injecting, ingesting, inhaling or
141 otherwise introducing into the human body a controlled substance
142 in violation of the Uniform Controlled Substances Law. It
143 includes, but is not limited to:



144 1. Kits used, intended for use, or designed
145 for use in planting, propagating, cultivating, growing or
146 harvesting of any species of plant which is a controlled substance
147 or from which a controlled substance can be derived;

148 2. Kits used, intended for use, or designed
149 for use in manufacturing, compounding, converting, producing,
150 processing or preparing controlled substances;

151 3. Isomerization devices used, intended for
152 use or designed for use in increasing the potency of any species
153 of plant which is a controlled substance;

154 4. Testing equipment used, intended for use,
155 or designed for use in identifying or in analyzing the strength,
156 effectiveness or purity of controlled substances;

157 5. Scales and balances used, intended for use
158 or designed for use in weighing or measuring controlled
159 substances;

160 6. Diluents and adulterants, such as quinine
161 hydrochloride, mannitol, mannite, dextrose and lactose, used,
162 intended for use or designed for use in cutting controlled
163 substances;

164 7. Separation gins and sifters used, intended
165 for use or designed for use in removing twigs and seeds from, or
166 in otherwise cleaning or refining, marijuana;



167 8. Blenders, bowls, containers, spoons and
168 mixing devices used, intended for use or designed for use in
169 compounding controlled substances;

170 9. Capsules, balloons, envelopes and other
171 containers used, intended for use or designed for use in packaging
172 small quantities of controlled substances;

173 10. Containers and other objects used,
174 intended for use or designed for use in storing or concealing
175 controlled substances;

176 11. Hypodermic syringes, needles and other
177 objects used, intended for use or designed for use in parenterally
178 injecting controlled substances into the human body;

179 12. Objects used, intended for use or
180 designed for use in ingesting, inhaling or otherwise introducing
181 marijuana, cocaine, hashish or hashish oil into the human body,
182 such as:

183 a. Metal, wooden, acrylic, glass, stone,
184 plastic or ceramic pipes with or without screens, permanent
185 screens, hashish heads or punctured metal bowls;

186 b. Water pipes;

187 c. Carburetion tubes and devices;

188 d. Smoking and carburetion masks;

189 e. Roach clips, meaning objects used to
190 hold burning material, such as a marijuana cigarette, that has
191 become too small or too short to be held in the hand;



- 192 f. Miniature cocaine spoons and cocaine
193 vials;
- 194 g. Chamber pipes;
- 195 h. Carburetor pipes;
- 196 i. Electric pipes;
- 197 j. Air-driven pipes;
- 198 k. Chillums;
- 199 l. Bongs; and
- 200 m. Ice pipes or chillers.

201 (ii) In determining whether an object is
202 paraphernalia, a court or other authority should consider, in
203 addition to all other logically relevant factors, the following:

- 204 1. Statements by an owner or by anyone in
205 control of the object concerning its use;
- 206 2. Prior convictions, if any, of an owner, or
207 of anyone in control of the object, under any state or federal law
208 relating to any controlled substance;
- 209 3. The proximity of the object, in time and
210 space, to a direct violation of the Uniform Controlled Substances
211 Law;
- 212 4. The proximity of the object to controlled
213 substances;
- 214 5. The existence of any residue of controlled
215 substances on the object;



216 6. Direct or circumstantial evidence of the
217 intent of an owner, or of anyone in control of the object, to
218 deliver it to persons whom he knows, or should reasonably know,
219 intend to use the object to facilitate a violation of the Uniform
220 Controlled Substances Law; the innocence of an owner, or of anyone
221 in control of the object, as to a direct violation of the Uniform
222 Controlled Substances Law shall not prevent a finding that the
223 object is intended for use, or designed for use as paraphernalia;

224 7. Instructions, oral or written, provided
225 with the object concerning its use;

226 8. Descriptive materials accompanying the
227 object which explain or depict its use;

228 9. National and local advertising concerning
229 its use;

230 10. The manner in which the object is
231 displayed for sale;

232 11. Whether the owner or anyone in control of
233 the object is a legitimate supplier of like or related items to
234 the community, such as a licensed distributor or dealer of tobacco
235 products;

236 12. Direct or circumstantial evidence of the
237 ratio of sales of the object(s) to the total sales of the business
238 enterprise;

239 13. The existence and scope of legitimate
240 uses for the object in the community;



241 14. Expert testimony concerning its use.

242 (iii) "Paraphernalia" does not include any
243 materials used or intended for use in testing for the presence of
244 a controlled substance.

245 (w) "Person" means individual, corporation, government
246 or governmental subdivision or agency, business trust, estate,
247 trust, partnership or association, or any other legal entity.

248 (x) "Poppy straw" means all parts, except the seeds, of
249 the opium poppy, after mowing.

250 (y) "Practitioner" means:

251 (i) A physician, dentist, veterinarian, scientific
252 investigator, optometrist certified to prescribe and use
253 therapeutic pharmaceutical agents under Sections 73-19-153 through
254 73-19-165, or other person licensed, registered or otherwise
255 permitted to distribute, dispense, conduct research with respect
256 to or to administer a controlled substance in the course of
257 professional practice or research in this state; and

258 (ii) A pharmacy, hospital or other institution
259 licensed, registered, or otherwise permitted to distribute,
260 dispense, conduct research with respect to or to administer a
261 controlled substance in the course of professional practice or
262 research in this state.

263 (z) "Production" includes the manufacture, planting,
264 cultivation, growing or harvesting of a controlled substance.



265 (aa) "Sale," "sell" or "selling" means the actual,
266 constructive or attempted transfer or delivery of a controlled
267 substance for remuneration, whether in money or other
268 consideration.

269 (bb) "State," when applied to a part of the United
270 States, includes any state, district, commonwealth, territory,
271 insular possession thereof, and any area subject to the legal
272 authority of the United States of America.

273 (cc) "Ultimate user" means a person who lawfully
274 possesses a controlled substance for his own use or for the use of
275 a member of his household or for administering to an animal owned
276 by him or by a member of his household.

277 **SECTION 3.** This act shall take effect and be in force from
278 and after July 1, 2023.

