

By: Representative Holloway

To: Judiciary B

HOUSE BILL NO. 598

1 AN ACT TO AMEND SECTION 41-29-139, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A FIRST OFFENSE SIMPLE POSSESSION OF THIRTY GRAMS
3 OR LESS OF MARIJUANA OR TEN GRAMS OR LESS OF SYNTHETIC
4 CANNABINOIDS SHALL BE A CIVIL OFFENSE AND NOT A CRIMINAL OFFENSE;
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 41-29-139, Mississippi Code of 1972, is
8 amended as follows:

9 41-29-139. (a) **Transfer and possession with intent to**
10 **transfer.** Except as authorized by this article, it is unlawful
11 for any person knowingly or intentionally:

12 (1) To sell, barter, transfer, manufacture, distribute,
13 dispense or possess with intent to sell, barter, transfer,
14 manufacture, distribute or dispense, a controlled substance; or

15 (2) To create, sell, barter, transfer, distribute,
16 dispense or possess with intent to create, sell, barter, transfer,
17 distribute or dispense, a counterfeit substance.

18 (b) **Punishment for transfer and possession with intent to**
19 **transfer.** Except as otherwise provided in Section 41-29-142, any



20 person who violates subsection (a) of this section shall be, if
21 convicted, sentenced as follows:

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

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

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

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

38 (2) (A) For marijuana:

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

42 2. If more than thirty (30) grams but less
43 than two hundred fifty (250) grams, by imprisonment for not more



44 than five (5) years or a fine of not more than Five Thousand
45 Dollars (\$5,000.00), or both;

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

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

54 (B) For synthetic cannabinoids:

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

58 2. If more than ten (10) grams but less than
59 twenty (20) grams, by imprisonment for not more than five (5)
60 years or a fine of not more than Five Thousand Dollars
61 (\$5,000.00), or both;

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

66 4. If forty (40) or more grams but less than
67 two hundred (200) grams, by imprisonment for not less than five



68 (5) years nor more than twenty (20) years or a fine of not more
69 than Twenty Thousand Dollars (\$20,000.00), or both.

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

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

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

79 (C) If ten (10) or more grams or twenty (20) or
80 more dosage units, but less than thirty (30) grams or forty (40)
81 dosage units, by imprisonment for not more than fifteen (15) years
82 or a fine of not more than One Hundred Thousand Dollars
83 (\$100,000.00), or both;

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

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



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

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

98 (C) If ten (10) or more grams or twenty (20) or
99 more dosage units, but less than thirty (30) grams or forty (40)
100 dosage units, by imprisonment for not more than ten (10) years or
101 a fine of not more than Twenty Thousand Dollars (\$20,000.00), or
102 both;

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

108 (c) **Simple possession.** Except as otherwise provided under
109 subsection (i) of this section for actions that are lawful under
110 the Mississippi Medical Cannabis Act and in compliance with rules
111 and regulations adopted thereunder, it is unlawful for any person
112 knowingly or intentionally to possess any controlled substance
113 unless the substance was obtained directly from, or pursuant to, a
114 valid prescription or order of a practitioner while acting in the
115 course of his professional practice, or except as otherwise



116 authorized by this article. The penalties for any violation of
117 this subsection (c) with respect to a controlled substance
118 classified in Schedules I, II, III, IV or V, as set out in Section
119 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including
120 marijuana or synthetic cannabinoids, shall be based on dosage unit
121 as defined herein or the weight of the controlled substance as set
122 forth herein as appropriate:

123 "Dosage unit (d.u.)" means a tablet or capsule, or in the
124 case of a liquid solution, one (1) milliliter. In the case of
125 lysergic acid diethylamide (LSD) the term, "dosage unit" means a
126 stamp, square, dot, microdot, tablet or capsule of a controlled
127 substance.

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

131 The weight set forth refers to the entire weight of any
132 mixture or substance containing a detectable amount of the
133 controlled substance.

134 If a mixture or substance contains more than one (1)
135 controlled substance, the weight of the mixture or substance is
136 assigned to the controlled substance that results in the greater
137 punishment.

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



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

142 (A) If less than one-tenth (0.1) gram or two (2)
143 dosage units, the violation is a misdemeanor and punishable by
144 imprisonment for not more than one (1) year or a fine of not more
145 than One Thousand Dollars (\$1,000.00), or both.

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

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

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

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

161 1. If thirty (30) grams or less of marijuana
162 or ten (10) grams or less of synthetic cannabinoids, by a civil
163 fine of not less than One Hundred Dollars (\$100.00) nor more than
164 Two Hundred Fifty Dollars (\$250.00). The offense shall be a civil



165 offense, and shall not be a criminal offense. The civil fine
166 shall be paid to the municipality or county in which the offense
167 occurred. The provisions of this paragraph (2) (A) may be
168 enforceable by summons if the offender provides proof of identity
169 satisfactory to the arresting officer and gives written promise to
170 appear in court satisfactory to the arresting officer, as directed
171 by the summons. A second conviction under this section within two
172 (2) years * * * shall be a misdemeanor punishable by a civil fine
173 of Two Hundred Fifty Dollars (\$250.00), not more than sixty (60)
174 days in the county jail, and mandatory participation in a drug
175 education program approved by the Division of Alcohol and Drug
176 Abuse of the State Department of Mental Health, unless the court
177 enters a written finding that a drug education program is
178 inappropriate. A third or subsequent conviction under this
179 paragraph (2) (A) within two (2) years is a misdemeanor punishable
180 by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor
181 more than One Thousand Dollars (\$1,000.00) and confinement for not
182 more than six (6) months in the county jail.

183 Upon a first or second conviction under this paragraph
184 (2) (A), the courts shall forward a report of the conviction to the
185 Mississippi Bureau of Narcotics which shall make and maintain a
186 private, nonpublic record for a period not to exceed two (2) years
187 from the date of conviction. The private, nonpublic record shall
188 be solely for the use of the courts in determining the penalties
189 which attach upon conviction under this paragraph (2) (A) and shall



190 not constitute a criminal record for the purpose of private or
191 administrative inquiry and the record of each conviction shall be
192 expunged at the end of the period of two (2) years following the
193 date of such conviction;

194 2. Additionally, a person who is the operator
195 of a motor vehicle, who possesses on his person or knowingly keeps
196 or allows to be kept in a motor vehicle within the area of the
197 vehicle normally occupied by the driver or passengers, more than
198 one (1) gram, but not more than thirty (30) grams of marijuana or
199 not more than ten (10) grams of synthetic cannabinoids is guilty
200 of a misdemeanor and, upon conviction, may be fined not more than
201 One Thousand Dollars (\$1,000.00) or confined for not more than
202 ninety (90) days in the county jail, or both. For the purposes of
203 this subsection, such area of the vehicle shall not include the
204 trunk of the motor vehicle or the areas not normally occupied by
205 the driver or passengers if the vehicle is not equipped with a
206 trunk. A utility or glove compartment shall be deemed to be
207 within the area occupied by the driver and passengers.

208 (B) Marijuana:

209 1. If more than thirty (30) grams but less
210 than two hundred fifty (250) grams, by a fine of not more than One
211 Thousand Dollars (\$1,000.00), or confinement in the county jail
212 for not more than one (1) year, or both; or by a fine of not more
213 than Three Thousand Dollars (\$3,000.00), or imprisonment in the



214 custody of the Department of Corrections for not more than three
215 (3) years, or both;

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

220 3. If five hundred (500) or more grams but
221 less than one (1) kilogram, by imprisonment for not less than four
222 (4) years nor more than sixteen (16) years or a fine of not more
223 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

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

228 5. If five (5) kilograms or more, by
229 imprisonment for not less than ten (10) years nor more than thirty
230 (30) years or a fine of not more than One Million Dollars
231 (\$1,000,000.00), or both.

232 (C) Synthetic cannabinoids:

233 1. If more than ten (10) grams but less than
234 twenty (20) grams, by a fine of not more than One Thousand Dollars
235 (\$1,000.00), or confinement in the county jail for not more than
236 one (1) year, or both; or by a fine of not more than Three
237 Thousand Dollars (\$3,000.00), or imprisonment in the custody of



238 the Department of Corrections for not more than three (3) years,
239 or both;

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

244 3. If forty (40) or more grams but less than
245 two hundred (200) grams, by imprisonment for not less than four
246 (4) years nor more than sixteen (16) years or a fine of not more
247 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

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

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

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

259 (B) If fifty (50) or more grams or one hundred
260 (100) or more dosage units, but less than one hundred fifty (150)
261 grams or five hundred (500) dosage units, by imprisonment for not



262 less than one (1) year nor more than four (4) years or a fine of
263 not more than Ten Thousand Dollars (\$10,000.00), or both.

264 (C) If one hundred fifty (150) or more grams or
265 five hundred (500) or more dosage units, but less than three
266 hundred (300) grams or one thousand (1,000) dosage units, by
267 imprisonment for not less than two (2) years nor more than eight
268 (8) years or a fine of not more than Fifty Thousand Dollars
269 (\$50,000.00), or both.

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

276 (d) **Paraphernalia.** (1) Except as otherwise provided under
277 subsection (i) of this section for actions that are lawful under
278 the Mississippi Medical Cannabis Act and in compliance with rules
279 and regulations adopted thereunder, it is unlawful for a person
280 who is not authorized by the State Board of Medical Licensure,
281 State Board of Pharmacy, or other lawful authority to use, or to
282 possess with intent to use, paraphernalia to plant, propagate,
283 cultivate, grow, harvest, manufacture, compound, convert, produce,
284 process, prepare, test, analyze, pack, repack, store, contain,
285 conceal, inject, ingest, inhale or otherwise introduce into the
286 human body a controlled substance in violation of the Uniform



287 Controlled Substances Law. Any person who violates this
288 subsection (d) (1) is guilty of a misdemeanor and, upon conviction,
289 may be confined in the county jail for not more than six (6)
290 months, or fined not more than Five Hundred Dollars (\$500.00), or
291 both; however, no person shall be charged with a violation of this
292 subsection when such person is also charged with the possession of
293 thirty (30) grams or less of marijuana under subsection (c) (2) (A)
294 of this section.

295 (2) It is unlawful for any person to deliver, sell,
296 possess with intent to deliver or sell, or manufacture with intent
297 to deliver or sell, paraphernalia, knowing, or under circumstances
298 where one reasonably should know, that it will be used to plant,
299 propagate, cultivate, grow, harvest, manufacture, compound,
300 convert, produce, process, prepare, test, analyze, pack, repack,
301 store, contain, conceal, inject, ingest, inhale, or otherwise
302 introduce into the human body a controlled substance in violation
303 of the Uniform Controlled Substances Law. Except as provided in
304 subsection (d) (3), a person who violates this subsection (d) (2) is
305 guilty of a misdemeanor and, upon conviction, may be confined in
306 the county jail for not more than six (6) months, or fined not
307 more than Five Hundred Dollars (\$500.00), or both.

308 (3) Any person eighteen (18) years of age or over who
309 violates subsection (d) (2) of this section by delivering or
310 selling paraphernalia to a person under eighteen (18) years of age
311 who is at least three (3) years his junior is guilty of a



312 misdemeanor and, upon conviction, may be confined in the county
313 jail for not more than one (1) year, or fined not more than One
314 Thousand Dollars (\$1,000.00), or both.

315 (4) It is unlawful for any person to place in any
316 newspaper, magazine, handbill, or other publication any
317 advertisement, knowing, or under circumstances where one
318 reasonably should know, that the purpose of the advertisement, in
319 whole or in part, is to promote the sale of objects designed or
320 intended for use as paraphernalia. Any person who violates this
321 subsection is guilty of a misdemeanor and, upon conviction, may be
322 confined in the county jail for not more than six (6) months, or
323 fined not more than Five Hundred Dollars (\$500.00), or both.

324 (e) It shall be unlawful for any physician practicing
325 medicine in this state to prescribe, dispense or administer any
326 amphetamine or amphetamine-like anorectics and/or central nervous
327 system stimulants classified in Schedule II, pursuant to Section
328 41-29-115, for the exclusive treatment of obesity, weight control
329 or weight loss. Any person who violates this subsection, upon
330 conviction, is guilty of a misdemeanor and may be confined for a
331 period not to exceed six (6) months, or fined not more than One
332 Thousand Dollars (\$1,000.00), or both.

333 (f) **Trafficking.** (1) Any person trafficking in controlled
334 substances shall be guilty of a felony and, upon conviction, shall
335 be imprisoned for a term of not less than ten (10) years nor more
336 than forty (40) years and shall be fined not less than Five



337 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
338 (\$1,000,000.00). The ten-year mandatory sentence shall not be
339 reduced or suspended. The person shall not be eligible for
340 probation or parole, the provisions of Sections 41-29-149,
341 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

342 (2) "Trafficking in controlled substances" as used
343 herein means:

344 (A) A violation of subsection (a) of this section
345 involving thirty (30) or more grams or forty (40) or more dosage
346 units of a Schedule I or II controlled substance except marijuana
347 and synthetic cannabinoids;

348 (B) A violation of subsection (a) of this section
349 involving five hundred (500) or more grams or two thousand five
350 hundred (2,500) or more dosage units of a Schedule III, IV or V
351 controlled substance;

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

356 (D) A violation of subsection (c) of this section
357 involving five hundred (500) or more grams or two thousand five
358 hundred (2,500) or more dosage units of a Schedule III, IV or V
359 controlled substance; or



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

363 (g) **Aggravated trafficking.** Any person trafficking in
364 Schedule I or II controlled substances, except marijuana and
365 synthetic cannabinoids, of two hundred (200) grams or more shall
366 be guilty of aggravated trafficking and, upon conviction, shall be
367 sentenced to a term of not less than twenty-five (25) years nor
368 more than life in prison and shall be fined not less than Five
369 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
370 (\$1,000,000.00). The twenty-five-year sentence shall be a
371 mandatory sentence and shall not be reduced or suspended. The
372 person shall not be eligible for probation or parole, the
373 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to
374 the contrary notwithstanding.

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



384 (A) The offender was not a leader of the criminal
385 enterprise;

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

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

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

393 The court may also consider whether information and
394 assistance were furnished to a law enforcement agency, or its
395 designee, which, in the opinion of the trial judge, objectively
396 should or would have aided in the arrest or prosecution of others
397 who violate this subsection. The accused shall have adequate
398 opportunity to develop and make a record of all information and
399 assistance so furnished.

400 (2) If the court reduces the prescribed sentence
401 pursuant to this subsection, it must specify on the record the
402 circumstances warranting the departure.

403 (i) This section does not apply to any of the actions that
404 are lawful under the Mississippi Medical Cannabis Act and in
405 compliance with rules and regulations adopted thereunder.

406 **SECTION 2.** This act shall take effect and be in force from
407 and after July 1, 2023.

