

By: Senator(s) Younger

To: Judiciary, Division B

SENATE BILL NO. 2115

1 AN ACT TO AMEND SECTION 41-29-115, MISSISSIPPI CODE OF 1972,
2 TO INCLUDE TIANEPTINE AS A SCHEDULE II CONTROLLED SUBSTANCE; TO
3 AMEND SECTION 41-29-139, MISSISSIPPI CODE OF 1972, TO EXEMPT THE
4 SIMPLE POSSESSION OF TIANEPTINE FROM PROSECUTION; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 41-29-115, Mississippi Code of 1972, is
8 amended as follows:

9 41-29-115. (a) The controlled substances listed in this
10 section, by whatever official name, common or usual name, chemical
11 name, or brand name designated, are included in Schedule II.

12 **SCHEDULE II**

13 (b) **Substances, vegetable origin or chemical synthesis.**

14 Unless specifically excepted or unless listed in other schedules,
15 any of the following substances, whether produced directly or
16 indirectly by extraction from substances of vegetable origin, or
17 independently by means of chemical synthesis, or by combination of
18 extraction and chemical synthesis:



19 (1) Opium and opiate, and any salt, compound,
20 derivative, or preparation of opium or opiate, excluding
21 apomorphine, thebaine-derived butorphanol, dextrorphan,
22 nalbuphine, naldemedine, nalmeffene, naloxegol, naloxone and
23 naltrexone, but including the following:

- 24 (i) Codeine;
- 25 (ii) Dihydroetorphine;
- 26 (iii) Ethylmorphine;
- 27 (iv) Etorphine hydrochloride;
- 28 (v) Granulated opium;
- 29 (vi) Hydrocodone, whether alone or in combination
30 with any material, compound, mixture or preparation;
- 31 (vii) Hydromorphone;
- 32 (viii) Metopon;
- 33 (ix) Morphine;
- 34 (x) Opium extracts;
- 35 (xi) Opium fluid extracts;
- 36 (xii) Oripavine;
- 37 (xiii) Oxycodone;
- 38 (xiv) Oxymorphone;
- 39 (xv) Powdered opium;
- 40 (xvi) Raw opium;
- 41 (xvii) Thebaine;
- 42 (xviii) Tincture of opium;



43 (2) Any salt, compound, isomer, derivative, or
44 preparation thereof which is chemically equivalent or identical
45 with any of the substances referred to in paragraph (1), but not
46 including the isoquinoline alkaloids of opium;

47 (3) Opium poppy and poppy straw;

48 (4) Coca leaves and any salt, compound, derivative, or
49 preparation of cocaine or coca leaves, including cocaine and
50 ecgonine and any salt, compound, derivative, isomer, or
51 preparation thereof which is chemically equivalent or identical
52 with any of these substances, but not including:

53 (i) Decocainized coca leaves or extraction of coca
54 leaves, which extractions do not contain cocaine or ecgonine; or

55 (ii) Ioflupane;

56 (5) Concentrate of poppy straw (the crude extract of
57 poppy straw in either liquid, solid or powder form which contains
58 the phenanthrene alkaloids of the opium poppy).

59 (c) **Opiates.** Any of the following opiates, including their
60 isomers, esters, ethers, salts, and salts of isomers, whenever the
61 existence of these isomers, esters, ethers and salts is possible
62 within the specified chemical designation, dextrophan and
63 levopropoxyphene excepted:

64 (1) Alfentanil;

65 (2) Alphaprodine;

66 (3) Anileridine;

67 (4) Bezitramide;



68 (5) Bulk dextropropoxyphene (nondosage forms);
69 (6) Carfentanil;
70 (7) Dihydrocodeine;
71 (8) Diphenoxylate;
72 (9) Fentanyl;
73 (10) Isomethadone;
74 (11) Levo-alpha-acetylmethadol
75 (levo-alpha-acetylmethadol, levomethadyl acetate, LAAM);
76 (12) Levomethorphan;
77 (13) Levorphanol;
78 (14) Metazocine;
79 (15) Methadone;
80 (16) Methadone-intermediate,
81 4-cyano-2-dimethylamino-4,4-diphenyl butane;
82 (17) Moramide-intermediate,
83 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;
84 (18) Oliceridine
85 (N-[(3-methoxythiophen-2-yl)methyl]({2-[(9R)-9-(pyridin-2-yl)-6-
86 oxaspiro[4.5]decan-9-yl]ethyl})amine);
87 (19) Pethidine (meperidine);
88 (20) Pethidine-Intermediate-A,
89 4-cyano-1-methyl-4-phenylpiperidine;
90 (21) Pethidine-Intermediate-B,
91 ethyl-4-phenylpiperidine-4-carboxylate;



- 92 (22) Pethidine-Intermediate-C,
93 1-methyl-4-phenylpiperidine-4-carboxylic acid;
94 (23) Phenazocine;
95 (24) Piminodine;
96 (25) Racemethorphan;
97 (26) Racemorphan;
98 (27) Remifentanil;
99 (28) Sufentanil;
100 (29) Tapentadol;
101 (30) Thiafentanil, methyl
102 4-(2-methoxy-N-phenylacetamido)-1-(2-(thiophen-2-yl)ethyl)
103 piperidine-4-carboxylate).
- 104 (d) **Stimulants.** Any material, compound, mixture, or
105 preparation which contains any quantity of the following
106 substances:
- 107 (1) Amphetamine, its salts, optical isomers, and salts
108 of its optical isomers;
109 (2) Phenmetrazine and its salts;
110 (3) Any substance which contains any quantity of
111 methamphetamine, including its salts, isomers, and salts of
112 isomers;
113 (4) Methylphenidate and its salts;
114 (5) Lisdexamfetamine, its salts, isomers and salts of
115 isomers.



116 (e) **Depressants.** Unless specifically exempted or unless
117 listed in another schedule, any material, compound, mixture, or
118 preparation which contains any quantity of the following
119 substances:

- 120 (1) Amobarbital;
- 121 (2) Secobarbital;
- 122 (3) Pentobarbital;
- 123 (4) Glutethimide.

124 (f) **Hallucinogenic substances.**

- 125 (1) Dronabinol oral solution
126 [(-)-delta-9-trans-tetrahydrocannabinol (delta-9-THC)];
- 127 (2) Nabilone [other names include:
128 (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-
129 hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo(b,d)pyran-9-one].

130 (g) **Immediate precursors.** Unless specifically excepted or
131 unless listed in another schedule, any material, compound,
132 mixture, or preparation which contains any quantity of the
133 following substances:

- 134 (1) Amphetamine and methamphetamine immediate
135 precursor: Phenylacetone (other names include:
136 phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl
137 ketone);
- 138 (2) Phencyclidine immediate precursors:
 - 139 (i) 1-phenylcyclohexylamine;
 - 140 (ii) 1-piperidinocyclohexanecarbonitrile (PCC);



141 (3) Fentanyl immediate precursor:

142 4-anilino-N-phenethyl-4-piperidine (ANPP).

143 (h) Tianeptine and its salts, isomers and salts of isomers.

144 (* * *i) Any material, compound, mixture or preparation
145 which contains any quantity of a Schedule II controlled substance
146 and is listed as an exempt substance in 21 CFR, Section 1308.24 or
147 1308.32, shall be exempted from the provisions of the Uniform
148 Controlled Substances Law.

149 **SECTION 2.** Section 41-29-139, Mississippi Code of 1972, is
150 amended as follows:

151 41-29-139. (a) **Transfer and possession with intent to**
152 **transfer.** Except as authorized by this article, it is unlawful
153 for any person knowingly or intentionally:

154 (1) To sell, barter, transfer, manufacture, distribute,
155 dispense or possess with intent to sell, barter, transfer,
156 manufacture, distribute or dispense, a controlled substance; or

157 (2) To create, sell, barter, transfer, distribute,
158 dispense or possess with intent to create, sell, barter, transfer,
159 distribute or dispense, a counterfeit substance.

160 (b) **Punishment for transfer and possession with intent to**
161 **transfer.** Except as otherwise provided in Section 41-29-142, any
162 person who violates subsection (a) of this section shall be, if
163 convicted, sentenced as follows:



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

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

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

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

180 (2) (A) For marijuana:

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

184 2. If more than thirty (30) grams but less
185 than two hundred fifty (250) grams, by imprisonment for not more
186 than five (5) years or a fine of not more than Five Thousand
187 Dollars (\$5,000.00), or both;



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

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

196 (B) For synthetic cannabinoids:

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

200 2. If more than ten (10) grams but less than
201 twenty (20) grams, by imprisonment for not more than five (5)
202 years or a fine of not more than Five Thousand Dollars
203 (\$5,000.00), or both;

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

208 4. If forty (40) or more grams but less than
209 two hundred (200) grams, by imprisonment for not less than five
210 (5) years nor more than twenty (20) years or a fine of not more
211 than Twenty Thousand Dollars (\$20,000.00), or both.



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

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

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

221 (C) If ten (10) or more grams or twenty (20) or
222 more dosage units, but less than thirty (30) grams or forty (40)
223 dosage units, by imprisonment for not more than fifteen (15) years
224 or a fine of not more than One Hundred Thousand Dollars
225 (\$100,000.00), or both;

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

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

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



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

240 (C) If ten (10) or more grams or twenty (20) or
241 more dosage units, but less than thirty (30) grams or forty (40)
242 dosage units, by imprisonment for not more than ten (10) years or
243 a fine of not more than Twenty Thousand Dollars (\$20,000.00), or
244 both;

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

250 (c) **Simple possession.** Except for the substance described
251 in Section 41-29-115(h) and as otherwise provided under subsection
252 (i) of this section for actions that are lawful under the
253 Mississippi Medical Cannabis Act and in compliance with rules and
254 regulations adopted thereunder, it is unlawful for any person
255 knowingly or intentionally to possess any controlled substance
256 unless the substance was obtained directly from, or pursuant to, a
257 valid prescription or order of a practitioner while acting in the
258 course of his professional practice, or except as otherwise
259 authorized by this article. The penalties for any violation of
260 this subsection (c) with respect to a controlled substance



261 classified in Schedules I, II, III, IV or V, as set out in Section
262 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including
263 marijuana or synthetic cannabinoids, shall be based on dosage unit
264 as defined herein or the weight of the controlled substance as set
265 forth herein as appropriate:

266 "Dosage unit (d.u.)" means a tablet or capsule, or in the
267 case of a liquid solution, one (1) milliliter. In the case of
268 lysergic acid diethylamide (LSD) the term, "dosage unit" means a
269 stamp, square, dot, microdot, tablet or capsule of a controlled
270 substance.

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

274 The weight set forth refers to the entire weight of any
275 mixture or substance containing a detectable amount of the
276 controlled substance.

277 If a mixture or substance contains more than one (1)
278 controlled substance, the weight of the mixture or substance is
279 assigned to the controlled substance that results in the greater
280 punishment.

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

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



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

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

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

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

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

304 1. If thirty (30) grams or less of marijuana
305 or ten (10) grams or less of synthetic cannabinoids, by a fine of
306 not less than One Hundred Dollars (\$100.00) nor more than Two
307 Hundred Fifty Dollars (\$250.00). The provisions of this paragraph
308 (2) (A) may be enforceable by summons if the offender provides
309 proof of identity satisfactory to the arresting officer and gives



310 written promise to appear in court satisfactory to the arresting
311 officer, as directed by the summons. A second conviction under
312 this section within two (2) years is a misdemeanor punishable by a
313 fine of Two Hundred Fifty Dollars (\$250.00), not more than sixty
314 (60) days in the county jail, and mandatory participation in a
315 drug education program approved by the Division of Alcohol and
316 Drug Abuse of the State Department of Mental Health, unless the
317 court enters a written finding that a drug education program is
318 inappropriate. A third or subsequent conviction under this
319 paragraph (2) (A) within two (2) years is a misdemeanor punishable
320 by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor
321 more than One Thousand Dollars (\$1,000.00) and confinement for not
322 more than six (6) months in the county jail.

323 Upon a first or second conviction under this paragraph
324 (2) (A), the courts shall forward a report of the conviction to the
325 Mississippi Bureau of Narcotics which shall make and maintain a
326 private, nonpublic record for a period not to exceed two (2) years
327 from the date of conviction. The private, nonpublic record shall
328 be solely for the use of the courts in determining the penalties
329 which attach upon conviction under this paragraph (2) (A) and shall
330 not constitute a criminal record for the purpose of private or
331 administrative inquiry and the record of each conviction shall be
332 expunged at the end of the period of two (2) years following the
333 date of such conviction;



334 2. Additionally, a person who is the operator
335 of a motor vehicle, who possesses on his person or knowingly keeps
336 or allows to be kept in a motor vehicle within the area of the
337 vehicle normally occupied by the driver or passengers, more than
338 one (1) gram, but not more than thirty (30) grams of marijuana or
339 not more than ten (10) grams of synthetic cannabinoids is guilty
340 of a misdemeanor and, upon conviction, may be fined not more than
341 One Thousand Dollars (\$1,000.00) or confined for not more than
342 ninety (90) days in the county jail, or both. For the purposes of
343 this subsection, such area of the vehicle shall not include the
344 trunk of the motor vehicle or the areas not normally occupied by
345 the driver or passengers if the vehicle is not equipped with a
346 trunk. A utility or glove compartment shall be deemed to be
347 within the area occupied by the driver and passengers.

348 (B) Marijuana:

349 1. If more than thirty (30) grams but less
350 than two hundred fifty (250) grams, by a fine of not more than One
351 Thousand Dollars (\$1,000.00), or confinement in the county jail
352 for not more than one (1) year, or both; or by a fine of not more
353 than Three Thousand Dollars (\$3,000.00), or imprisonment in the
354 custody of the Department of Corrections for not more than three
355 (3) years, or both;

356 2. If two hundred fifty (250) or more grams
357 but less than five hundred (500) grams, by imprisonment for not



358 less than two (2) years nor more than eight (8) years or by a fine
359 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

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

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

368 5. If five (5) kilograms or more, by
369 imprisonment for not less than ten (10) years nor more than thirty
370 (30) years or a fine of not more than One Million Dollars
371 (\$1,000,000.00), or both.

372 (C) Synthetic cannabinoids:

373 1. If more than ten (10) grams but less than
374 twenty (20) grams, by a fine of not more than One Thousand Dollars
375 (\$1,000.00), or confinement in the county jail for not more than
376 one (1) year, or both; or by a fine of not more than Three
377 Thousand Dollars (\$3,000.00), or imprisonment in the custody of
378 the Department of Corrections for not more than three (3) years,
379 or both;

380 2. If twenty (20) or more grams but less than
381 forty (40) grams, by imprisonment for not less than two (2) years



382 nor more than eight (8) years or by a fine of not more than Fifty
383 Thousand Dollars (\$50,000.00), or both;

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

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

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

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

399 (B) If fifty (50) or more grams or one hundred
400 (100) or more dosage units, but less than one hundred fifty (150)
401 grams or five hundred (500) dosage units, by imprisonment for not
402 less than one (1) year nor more than four (4) years or a fine of
403 not more than Ten Thousand Dollars (\$10,000.00), or both.

404 (C) If one hundred fifty (150) or more grams or
405 five hundred (500) or more dosage units, but less than three
406 hundred (300) grams or one thousand (1,000) dosage units, by



407 imprisonment for not less than two (2) years nor more than eight
408 (8) years or a fine of not more than Fifty Thousand Dollars
409 (\$50,000.00), or both.

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

416 (d) **Paraphernalia.** (1) Except for the substance described
417 in Section 41-29-115(h) and as otherwise provided under subsection
418 (i) of this section for actions that are lawful under the
419 Mississippi Medical Cannabis Act and in compliance with rules and
420 regulations adopted thereunder, it is unlawful for a person who is
421 not authorized by the State Board of Medical Licensure, State
422 Board of Pharmacy, or other lawful authority to use, or to possess
423 with intent to use, paraphernalia to plant, propagate, cultivate,
424 grow, harvest, manufacture, compound, convert, produce, process,
425 prepare, test, analyze, pack, repack, store, contain, conceal,
426 inject, ingest, inhale or otherwise introduce into the human body
427 a controlled substance in violation of the Uniform Controlled
428 Substances Law. Any person who violates this subsection (d)(1) is
429 guilty of a misdemeanor and, upon conviction, may be confined in
430 the county jail for not more than six (6) months, or fined not
431 more than Five Hundred Dollars (\$500.00), or both; however, no



432 person shall be charged with a violation of this subsection when
433 such person is also charged with the possession of thirty (30)
434 grams or less of marijuana under subsection (c)(2)(A) of this
435 section.

436 (2) It is unlawful for any person to deliver, sell,
437 possess with intent to deliver or sell, or manufacture with intent
438 to deliver or sell, paraphernalia, knowing, or under circumstances
439 where one reasonably should know, that it will be used to plant,
440 propagate, cultivate, grow, harvest, manufacture, compound,
441 convert, produce, process, prepare, test, analyze, pack, repack,
442 store, contain, conceal, inject, ingest, inhale, or otherwise
443 introduce into the human body a controlled substance in violation
444 of the Uniform Controlled Substances Law. Except as provided in
445 subsection (d)(3), a person who violates this subsection (d)(2) is
446 guilty of a misdemeanor and, upon conviction, may be confined in
447 the county jail for not more than six (6) months, or fined not
448 more than Five Hundred Dollars (\$500.00), or both.

449 (3) Any person eighteen (18) years of age or over who
450 violates subsection (d)(2) of this section by delivering or
451 selling paraphernalia to a person under eighteen (18) years of age
452 who is at least three (3) years his junior is guilty of a
453 misdemeanor and, upon conviction, may be confined in the county
454 jail for not more than one (1) year, or fined not more than One
455 Thousand Dollars (\$1,000.00), or both.



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

465 (e) It shall be unlawful for any physician practicing
466 medicine in this state to prescribe, dispense or administer any
467 amphetamine or amphetamine-like anorectics and/or central nervous
468 system stimulants classified in Schedule II, pursuant to Section
469 41-29-115, for the exclusive treatment of obesity, weight control
470 or weight loss. Any person who violates this subsection, upon
471 conviction, is guilty of a misdemeanor and may be confined for a
472 period not to exceed six (6) months, or fined not more than One
473 Thousand Dollars (\$1,000.00), or both.

474 (f) **Trafficking.** (1) Any person trafficking in controlled
475 substances shall be guilty of a felony and, upon conviction, shall
476 be imprisoned for a term of not less than ten (10) years nor more
477 than forty (40) years and shall be fined not less than Five
478 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
479 (\$1,000,000.00). The ten-year mandatory sentence shall not be
480 reduced or suspended. The person shall not be eligible for



481 probation or parole, the provisions of Sections 41-29-149,
482 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

483 (2) "Trafficking in controlled substances" as used
484 herein means:

485 (A) A violation of subsection (a) of this section
486 involving thirty (30) or more grams or forty (40) or more dosage
487 units of a Schedule I or II controlled substance except marijuana
488 and synthetic cannabinoids;

489 (B) A violation of subsection (a) of this section
490 involving five hundred (500) or more grams or two thousand five
491 hundred (2,500) or more dosage units of a Schedule III, IV or V
492 controlled substance;

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

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

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

504 (g) **Aggravated trafficking.** Any person trafficking in
505 Schedule I or II controlled substances, except marijuana and



506 synthetic cannabinoids, of two hundred (200) grams or more shall
507 be guilty of aggravated trafficking and, upon conviction, shall be
508 sentenced to a term of not less than twenty-five (25) years nor
509 more than life in prison and shall be fined not less than Five
510 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
511 (\$1,000,000.00). The twenty-five-year sentence shall be a
512 mandatory sentence and shall not be reduced or suspended. The
513 person shall not be eligible for probation or parole, the
514 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to
515 the contrary notwithstanding.

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

525 (A) The offender was not a leader of the criminal
526 enterprise;

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



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

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

534 The court may also consider whether information and
535 assistance were furnished to a law enforcement agency, or its
536 designee, which, in the opinion of the trial judge, objectively
537 should or would have aided in the arrest or prosecution of others
538 who violate this subsection. The accused shall have adequate
539 opportunity to develop and make a record of all information and
540 assistance so furnished.

541 (2) If the court reduces the prescribed sentence
542 pursuant to this subsection, it must specify on the record the
543 circumstances warranting the departure.

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

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

