

By: Senator(s) Boyd, McLendon, Parker

To: Drug Policy; Judiciary,
Division A

SENATE BILL NO. 2336

1 AN ACT TO AMEND SECTION 41-29-105, MISSISSIPPI CODE OF 1972,
 2 TO EXCEPT FROM THE DEFINITION OF THE TERM "PARAPHERNALIA" CERTAIN
 3 TESTING EQUIPMENT USED TO DETERMINE WHETHER A CONTROLLED SUBSTANCE
 4 CONTAINS FENTANYL OR A FENTANYL ANALOG; TO AMEND SECTION
 5 41-29-319, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS
 6 "ADMINISTER," "DISTRIBUTE," "EDUCATION EMPLOYEE," "POSSESS" AND
 7 "STORAGE"; TO AUTHORIZE A PERSON TO ADMINISTER AN OPIOID
 8 ANTAGONIST THAT WAS DISTRIBUTED BY AN EDUCATION EMPLOYEE; TO
 9 AUTHORIZE AN EDUCATION EMPLOYEE TO STORE, DISTRIBUTE AND
 10 ADMINISTER OPIOID ANTAGONISTS; TO AUTHORIZE THE DEPARTMENT OF
 11 HEALTH TO DISTRIBUTE OPIOID ANTAGONISTS TO EDUCATION EMPLOYEES
 12 UPON A REQUEST MADE IN WRITING; TO AUTHORIZE A PERSON TO STORE AN
 13 OPIOID ANTAGONIST THAT IS DISTRIBUTED BY AN EDUCATION EMPLOYEE; TO
 14 PROVIDE THAT AN EDUCATION EMPLOYEE SHALL BE IMMUNE FROM CRIMINAL
 15 AND CIVIL LIABILITY FOR ACTIONS AUTHORIZED BY THIS ACT; TO PROVIDE
 16 THAT A PERSON SHALL BE IMMUNE FROM CRIMINAL AND CIVIL LIABILITY
 17 FOR ACTIONS AUTHORIZED BY THIS ACT; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** Section 41-29-105, Mississippi Code of 1972, is
 20 amended as follows:

21 41-29-105. The following words and phrases, as used in this
 22 article, shall have the following meanings, unless the context
 23 otherwise requires:

24 (a) "Administer" means the direct application of a
 25 controlled substance, whether by injection, inhalation, ingestion



26 or any other means, to the body of a patient or research subject
27 by:

28 (i) A practitioner (or, in his presence, by his
29 authorized agent); or

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

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

39 (c) "Board" means the Mississippi State Board of
40 Medical Licensure.

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

44 (e) "Commissioner" means the Commissioner of the
45 Department of Public Safety.

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

49 (g) "Counterfeit substance" means a controlled
50 substance which, or the container or labeling of which, without



51 authorization, bears the trademark, trade name, or other
52 identifying mark, imprint, number or device, or any likeness
53 thereof, of a manufacturer, distributor or dispenser other than
54 the person who in fact manufactured, distributed or dispensed the
55 substance.

56 (h) "Deliver" or "delivery" means the actual,
57 constructive, or attempted transfer from one person to another of
58 a controlled substance, whether or not there is an agency
59 relationship.

60 (i) "Director" means the Director of the Bureau of
61 Narcotics.

62 (j) "Dispense" means to deliver a controlled substance
63 to an ultimate user or research subject by or pursuant to the
64 lawful order of a practitioner, including the prescribing,
65 administering, packaging, labeling or compounding necessary to
66 prepare the substance for that delivery.

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

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

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

71 (n) "Drug" means (i) a substance recognized as a drug
72 in the official United States Pharmacopoeia, official Homeopathic
73 Pharmacopoeia of the United States, or official National
74 Formulary, or any supplement to any of them; (ii) a substance
75 intended for use in the diagnosis, cure, mitigation, treatment, or



76 prevention of disease in man or animals; (iii) a substance (other
77 than food) intended to affect the structure or any function of the
78 body of man or animals; and (iv) a substance intended for use as a
79 component of any article specified in this paragraph. Such word
80 does not include devices or their components, parts, or
81 accessories.

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

85 (p) "Immediate precursor" means a substance * * * that
86 the board has found to be and by rule designates as being the
87 principal compound commonly used or produced primarily for use,
88 and which is an immediate chemical intermediary used or likely to
89 be used in the manufacture of a controlled substance, the control
90 of which is necessary to prevent, curtail, or limit manufacture.

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



101 (i) By a practitioner as an incident to his
102 administering or dispensing of a controlled substance in the
103 course of his professional practice; or

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

107 (r) "Marijuana" means all parts of the plant of the
108 genus Cannabis and all species thereof, whether growing or not,
109 the seeds thereof, and every compound, manufacture, salt,
110 derivative, mixture or preparation of the plant or its seeds,
111 excluding hashish.

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

114 (s) "Narcotic drug" means any of the following, whether
115 produced directly or indirectly by extraction from substances of
116 vegetable origin, or independently by means of chemical synthesis,
117 or by a combination of extraction and chemical synthesis:

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

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

124 (iii) Opium poppy and poppy straw; and



125 (iv) Cocaine, coca leaves and any salt, compound,
126 derivative or preparation of cocaine, coca leaves, and any salt,
127 compound, isomer, derivative or preparation thereof which is
128 chemically equivalent or identical with any of these substances,
129 but not including decocainized coca leaves or extractions of coca
130 leaves * * * that do not contain cocaine or ecgonine.

131 (t) "Opiate" means any substance having an
132 addiction-forming or addiction-sustaining liability similar to
133 morphine or being capable of conversion into a drug having
134 addiction-forming or addiction-sustaining liability. It does not
135 include, unless specifically designated as controlled under
136 Section 41-29-111, the dextrorotatory isomer of
137 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
138 Such word does include its racemic and levorotatory forms.

139 (u) "Opium poppy" means the plant of the species
140 Papaver somniferum L., except its seeds.

141 (v) (i) "Paraphernalia" means all equipment, products
142 and materials of any kind * * * that are used, intended for use,
143 or designed for use, in planting, propagating, cultivating,
144 growing, harvesting, manufacturing, compounding, converting,
145 producing, processing, preparing, testing, analyzing, packaging,
146 repackaging, storing, containing, concealing, injecting,
147 ingesting, inhaling or otherwise introducing into the human body a
148 controlled substance in violation of the Uniform Controlled



149 Substances Law. * * * Paraphernalia includes, but is not limited
150 to:

151 1. Kits used, intended for use, or designed
152 for use in planting, propagating, cultivating, growing or
153 harvesting of any species of plant * * * that is a controlled
154 substance or from which a controlled substance can be derived;

155 2. Kits used, intended for use, or designed
156 for use in manufacturing, compounding, converting, producing,
157 processing or preparing controlled substances;

158 3. Isomerization devices used, intended for
159 use or designed for use in increasing the potency of any species
160 of plant * * * that is a controlled substance;

161 4. Testing equipment used, intended for use,
162 or designed for use in identifying or in analyzing the strength,
163 effectiveness or purity of controlled substances, other than
164 narcotic drug-testing products that are used to determine whether
165 a controlled substance contains fentanyl or a fentanyl analog;

166 5. Scales and balances used, intended for use
167 or designed for use in weighing or measuring controlled
168 substances;

169 6. Diluents and adulterants, such as quinine
170 hydrochloride, mannitol, mannite, dextrose and lactose, used,
171 intended for use or designed for use in cutting controlled
172 substances;



173 7. Separation gins and sifters used, intended
174 for use or designed for use in removing twigs and seeds from, or
175 in otherwise cleaning or refining, marijuana;

176 8. Blenders, bowls, containers, spoons and
177 mixing devices used, intended for use or designed for use in
178 compounding controlled substances;

179 9. Capsules, balloons, envelopes and other
180 containers used, intended for use or designed for use in packaging
181 small quantities of controlled substances;

182 10. Containers and other objects used,
183 intended for use or designed for use in storing or concealing
184 controlled substances;

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

188 12. Objects used, intended for use or
189 designed for use in ingesting, inhaling or otherwise introducing
190 marijuana, cocaine, hashish or hashish oil into the human body,
191 such as:

192 a. Metal, wooden, acrylic, glass, stone,
193 plastic or ceramic pipes with or without screens, permanent
194 screens, hashish heads or punctured metal bowls;

195 b. Water pipes;

196 c. Carburetion tubes and devices;

197 d. Smoking and carburetion masks;



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

201 f. Miniature cocaine spoons and cocaine
202 vials;

203 g. Chamber pipes;

204 h. Carburetor pipes;

205 i. Electric pipes;

206 j. Air-driven pipes;

207 k. Chillums;

208 l. Bongs; and

209 m. Ice pipes or chillers.

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

213 1. Statements by an owner or by anyone in
214 control of the object concerning its use;

215 2. Prior convictions, if any, of an owner, or
216 of anyone in control of the object, under any state or federal law
217 relating to any controlled substance;

218 3. The proximity of the object, in time and
219 space, to a direct violation of the Uniform Controlled Substances
220 Law;

221 4. The proximity of the object to controlled
222 substances;



223 5. The existence of any residue of controlled
224 substances on the object;

225 6. Direct or circumstantial evidence of the
226 intent of an owner, or of anyone in control of the object, to
227 deliver it to persons whom he knows, or should reasonably know,
228 intend to use the object to facilitate a violation of the Uniform
229 Controlled Substances Law; the innocence of an owner, or of anyone
230 in control of the object, as to a direct violation of the Uniform
231 Controlled Substances Law shall not prevent a finding that the
232 object is intended for use, or designed for use as paraphernalia;

233 7. Instructions, oral or written, provided
234 with the object concerning its use;

235 8. Descriptive materials accompanying the
236 object * * * that explain or depict its use;

237 9. National and local advertising concerning
238 its use;

239 10. The manner in which the object is
240 displayed for sale;

241 11. Whether the owner or anyone in control of
242 the object is a legitimate supplier of like or related items to
243 the community, such as a licensed distributor or dealer of tobacco
244 products;

245 12. Direct or circumstantial evidence of the
246 ratio of sales of the object(s) to the total sales of the business
247 enterprise;



248 13. The existence and scope of legitimate
249 uses for the object in the community;

250 14. Expert testimony concerning its use.

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

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

256 (y) "Practitioner" means:

257 (i) A physician, dentist, veterinarian, scientific
258 investigator, optometrist certified to prescribe and use
259 therapeutic pharmaceutical agents under Sections 73-19-153 through
260 73-19-165, or other person licensed, registered or otherwise
261 permitted to distribute, dispense, conduct research with respect
262 to or to administer a controlled substance in the course of
263 professional practice or research in this state; and

264 (ii) A pharmacy, hospital or other institution
265 licensed, registered, or otherwise permitted to distribute,
266 dispense, conduct research with respect to or to administer a
267 controlled substance in the course of professional practice or
268 research in this state.

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

271 (aa) "Sale," "sell" or "selling" means the actual,
272 constructive or attempted transfer or delivery of a controlled



273 substance for remuneration, whether in money or other
274 consideration.

275 (bb) "State," when applied to a part of the United
276 States, includes any state, district, commonwealth, territory,
277 insular possession thereof, and any area subject to the legal
278 authority of the United States of America.

279 (cc) "Ultimate user" means a person who lawfully
280 possesses a controlled substance for his own use or for the use of
281 a member of his household or for administering to an animal owned
282 by him or by a member of his household.

283 **SECTION 2.** Section 41-29-319, Mississippi Code of 1972, is
284 amended as follows:

285 41-29-319. (1) This section shall be known as the
286 "Emergency Response and Overdose Prevention Act."

287 (2) As used in this section, the following terms shall be
288 defined as provided in this subsection:

289 (a) "Administer" means the direct application of a drug
290 to the body of an individual by injection, inhalation, ingestion
291 or any other means.

292 (b) "Distribute" means to deliver an opioid antagonist
293 drug or opioid antagonist device by means other than by
294 administering.

295 (c) "Education employee" means an employee of any
296 school district, public charter school, private school, public or
297 private university, community college or junior college.



298 (d) "Possess" means to have physical control or custody
299 of an opioid antagonist.

300 (* * *e) "Practitioner" means a physician licensed to
301 practice medicine in this state or any licensed health care
302 provider who is authorized to prescribe an opioid antagonist.

303 (* * *f) "Opioid antagonist" means any drug that binds
304 to opioid receptors and blocks or inhibits the effects of opioids
305 acting on those receptors and that is approved by the federal Food
306 and Drug Administration for the treatment of an opioid-related
307 overdose.

308 (* * *g) "Opioid-related overdose" means an acute
309 condition, including, but not limited to, extreme physical
310 illness, decreased level of consciousness, respiratory depression,
311 coma, mania or death, resulting from the consumption or use of an
312 opioid or another substance with which an opioid was combined or
313 that a layperson would reasonably believe to be resulting from the
314 consumption or use of an opioid or another substance with which an
315 opioid was combined for which medical assistance is required.

316 (* * *h) "Emergency medical technician" means an
317 individual who possesses a valid emergency medical technician's
318 certificate issued under Section 41-59-33.

319 (i) "Storage" means possession of an opioid antagonist
320 with the intent to distribute or administer the opioid antagonist.

321 (3) (a) A practitioner acting in good faith and in
322 compliance with the standard of care applicable to that



323 practitioner may directly or by standing order prescribe an opioid
324 antagonist to a person at risk of experiencing an opioid-related
325 overdose or to a registered pain management clinic, family member,
326 friend or other person in a position to assist such person at risk
327 of experiencing an opioid-related overdose.

328 (b) A practitioner acting in good faith and in
329 compliance with the standard of care applicable to that
330 practitioner may issue a standing order to one or more individual
331 pharmacies that authorizes the pharmacy to dispense an opioid
332 antagonist to a person at risk of experiencing an opioid-related
333 overdose or to a family member, friend or other person in a
334 position to assist such person at risk of experiencing an
335 opioid-related overdose, without the person to whom the opioid
336 antagonist is dispensed needing to have an individual
337 prescription.

338 (4) A pharmacist acting in good faith and in compliance with
339 the standard of care applicable to pharmacists may dispense opioid
340 antagonists under a prescription or a standing order issued in
341 accordance with subsection (3) of this section. However, before a
342 pharmacist may dispense an opioid antagonist under the authority
343 of subsection (3) (b) of this section, the pharmacist must complete
344 a training program approved by the State Board of Pharmacy on
345 opioid antagonists.

346 (5) (a) A person acting in good faith and with reasonable
347 care to another person whom he or she believes to be experiencing



348 an opioid-related overdose may administer an opioid antagonist
349 that was prescribed or authorized by a standing order in
350 accordance with subsection (3) of this section.

351 (b) A person acting in good faith and with reasonable
352 care to another person whom he or she believes to be experiencing
353 an opioid-related overdose may administer an opioid antagonist
354 that was distributed by an education employee.

355 (6) Emergency medical technicians, firefighters and law
356 enforcement officers acting in good faith shall be authorized and
357 permitted to administer an opioid antagonist as clinically
358 indicated. Failure of an emergency medical technician,
359 firefighter or law enforcement officer to act shall not expose
360 such person to any criminal or civil liability.

361 (7) (a) An education employee may store or distribute an
362 opioid antagonist.

363 (b) An education employee may administer an opioid
364 antagonist to another person if the education employee:

365 (i) In good faith, believes the other person is
366 experiencing a drug overdose; and

367 (ii) Acts with reasonable care in administering
368 the opioid antagonist to the other person.

369 (c) The Department of Health may distribute an opioid
370 antagonist to any education employee upon a request made in
371 writing by the education employee.



372 (d) A person may store an opioid antagonist that is
373 distributed by an education employee.

374 (* * *8) The following individuals are immune from any
375 civil or criminal liability or professional licensing sanctions
376 for the following actions authorized by this section:

377 (a) Any practitioner who prescribes or issues a
378 standing order for an opioid antagonist in accordance with
379 subsection (3) of this section;

380 (b) Any practitioner or pharmacist acting in good faith
381 and in compliance with the standard of care applicable to that
382 practitioner or pharmacist who dispenses an opioid antagonist
383 under a prescription or standing order issued in accordance with
384 subsection (3) of this section;

385 (c) (i) Any person other than a practitioner who
386 administers an opioid antagonist in accordance with subsection (5)
387 of this section; and

388 (ii) Any person other than a practitioner who
389 stores an opioid antagonist distributed by an education employee;

390 (d) Any emergency medical technician, firefighters and
391 law enforcement officers who administers an opioid antagonist in
392 accordance with subsection (6) of this section.

393 (e) Any education employee who stores, distributes or
394 administers an opioid antagonist under subsection (7) of this
395 section.



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

