

By: Representative Burch

To: Judiciary B

HOUSE BILL NO. 1072

1 AN ACT TO AMEND SECTION 41-29-139, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT ANY PERSON TRAFFICKING IN SCHEDULE I OR II
3 CONTROLLED SUBSTANCES OF EIGHTY OR MORE DOSAGE UNITS IS GUILTY OF
4 AGGRAVATED TRAFFICKING; AND FOR RELATED PURPOSES.

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

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

8 41-29-139. (a) **Transfer and possession with intent to**
9 **transfer.** Except as authorized by this article, it is unlawful
10 for any person knowingly or intentionally:

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

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

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



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

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

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

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

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

37 (2) (A) For marijuana:

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

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



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

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

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

53 (B) For synthetic cannabinoids:

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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



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

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



188 expunged at the end of the period of two (2) years following the
189 date of such conviction;

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

204 (B) Marijuana:

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



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

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

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

224 5. If five (5) kilograms or more, by
225 imprisonment for not less than ten (10) years nor more than thirty
226 (30) years or a fine of not more than One Million Dollars
227 (\$1,000,000.00), or both.

228 (C) Synthetic cannabinoids:

229 1. If more than ten (10) grams but less than
230 twenty (20) grams, by a fine of not more than One Thousand Dollars
231 (\$1,000.00), or confinement in the county jail for not more than
232 one (1) year, or both; or by a fine of not more than Three
233 Thousand Dollars (\$3,000.00), or imprisonment in the custody of
234 the Department of Corrections for not more than three (3) years,
235 or both;



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

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

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

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

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

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



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

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

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



285 may be confined in the county jail for not more than six (6)
286 months, or fined not more than Five Hundred Dollars (\$500.00), or
287 both; however, no person shall be charged with a violation of this
288 subsection when such person is also charged with the possession of
289 thirty (30) grams or less of marijuana under subsection (c) (2) (A)
290 of this section.

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

304 (3) Any person eighteen (18) years of age or over who
305 violates subsection (d) (2) of this section by delivering or
306 selling paraphernalia to a person under eighteen (18) years of age
307 who is at least three (3) years his junior is guilty of a
308 misdemeanor and, upon conviction, may be confined in the county



309 jail for not more than one (1) year, or fined not more than One
310 Thousand Dollars (\$1,000.00), or both.

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

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

329 (f) **Trafficking.** (1) Any person trafficking in controlled
330 substances shall be guilty of a felony and, upon conviction, shall
331 be imprisoned for a term of not less than ten (10) years nor more
332 than forty (40) years and shall be fined not less than Five
333 Thousand Dollars (\$5,000.00) nor more than One Million Dollars



334 (\$1,000,000.00). The ten-year mandatory sentence shall not be
335 reduced or suspended. The person shall not be eligible for
336 probation or parole, the provisions of Sections 41-29-149,
337 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

338 (2) "Trafficking in controlled substances" as used
339 herein means:

340 (A) A violation of subsection (a) of this section
341 involving thirty (30) or more grams or forty (40) or more dosage
342 units of a Schedule I or II controlled substance except marijuana
343 and synthetic cannabinoids;

344 (B) A violation of subsection (a) of this section
345 involving five hundred (500) or more grams or two thousand five
346 hundred (2,500) or more dosage units of a Schedule III, IV or V
347 controlled substance;

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

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

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



359 (g) **Aggravated trafficking.** Any person trafficking in
360 Schedule I or II controlled substances, except marijuana and
361 synthetic cannabinoids, of two hundred (200) grams or more or
362 eighty (80) or more dosage units shall be guilty of aggravated
363 trafficking and, upon conviction, shall be sentenced to a term of
364 not less than twenty-five (25) years nor more than life in prison
365 and shall be fined not less than Five Thousand Dollars (\$5,000.00)
366 nor more than One Million Dollars (\$1,000,000.00). The
367 twenty-five-year sentence shall be a mandatory sentence and shall
368 not be reduced or suspended. The person shall not be eligible for
369 probation or parole, the provisions of Sections 41-29-149,
370 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

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

380 (A) The offender was not a leader of the criminal
381 enterprise;

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



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

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

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

396 (2) If the court reduces the prescribed sentence
397 pursuant to this subsection, it must specify on the record the
398 circumstances warranting the departure.

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

402 **SECTION 2.** This act shall take effect and be in force from
403 and after July 1, 2024.

