

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 1090

BY: Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

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

10 41-29-105. The following words and phrases, as used in this
11 article, shall have the following meanings, unless the context
12 otherwise requires:

13 (a) "Administer" means the direct application of a
14 controlled substance, whether by injection, inhalation, ingestion
15 or any other means, to the body of a patient or research subject
16 by:



17 (i) A practitioner (or, in his presence, by his
18 authorized agent); or

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

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

28 (c) "Board" means the Mississippi State Board of
29 Medical Licensure.

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

33 (e) "Commissioner" means the Commissioner of the
34 Department of Public Safety.

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

38 (g) "Counterfeit substance" means a controlled
39 substance which, or the container or labeling of which, without
40 authorization, bears the trademark, trade name, or other
41 identifying mark, imprint, number or device, or any likeness



42 thereof, of a manufacturer, distributor or dispenser other than
43 the person who in fact manufactured, distributed or dispensed the
44 substance.

45 (h) "Deliver" or "delivery" means the actual,
46 constructive, or attempted transfer from one person to another of
47 a controlled substance, whether or not there is an agency
48 relationship.

49 (i) "Director" means the Director of the Bureau of
50 Narcotics.

51 (j) "Dispense" means to deliver a controlled substance
52 to an ultimate user or research subject by or pursuant to the
53 lawful order of a practitioner, including the prescribing,
54 administering, packaging, labeling or compounding necessary to
55 prepare the substance for that delivery.

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

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

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

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



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

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

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

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



90 (i) By a practitioner as an incident to his
91 administering or dispensing of a controlled substance in the
92 course of his professional practice; or

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

96 (r) "Marijuana" means all parts of the plant of the
97 genus Cannabis and all species thereof, whether growing or not,
98 the seeds thereof, and every compound, manufacture, salt,
99 derivative, mixture or preparation of the plant or its seeds,
100 excluding hashish.

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

103 (s) "Narcotic drug" means any of the following, whether
104 produced directly or indirectly by extraction from substances of
105 vegetable origin, or independently by means of chemical synthesis,
106 or by a combination of extraction and chemical synthesis:

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

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

113 (iii) Opium poppy and poppy straw; and



114 (iv) Cocaine, coca leaves and any salt, compound,
115 derivative or preparation of cocaine, coca leaves, and any salt,
116 compound, isomer, derivative or preparation thereof which is
117 chemically equivalent or identical with any of these substances,
118 but not including decocainized coca leaves or extractions of coca
119 leaves which do not contain cocaine or ecgonine.

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

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

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



139 1. Kits used, intended for use, or designed
140 for use in planting, propagating, cultivating, growing or
141 harvesting of any species of plant which is a controlled substance
142 or from which a controlled substance can be derived;

143 2. Kits used, intended for use, or designed
144 for use in manufacturing, compounding, converting, producing,
145 processing or preparing controlled substances;

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

149 4. Testing equipment used, intended for use,
150 or designed for use in identifying or in analyzing the strength,
151 effectiveness or purity of controlled substances;

152 5. Scales and balances used, intended for use
153 or designed for use in weighing or measuring controlled
154 substances;

155 6. Diluents and adulterants, such as quinine
156 hydrochloride, mannitol, mannite, dextrose and lactose, used,
157 intended for use or designed for use in cutting controlled
158 substances;

159 7. Separation gins and sifters used, intended
160 for use or designed for use in removing twigs and seeds from, or
161 in otherwise cleaning or refining, marijuana;



162 8. Blenders, bowls, containers, spoons and
163 mixing devices used, intended for use or designed for use in
164 compounding controlled substances;

165 9. Capsules, balloons, envelopes and other
166 containers used, intended for use or designed for use in packaging
167 small quantities of controlled substances;

168 10. Containers and other objects used,
169 intended for use or designed for use in storing or concealing
170 controlled substances;

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

174 12. Objects used, intended for use or
175 designed for use in ingesting, inhaling or otherwise introducing
176 marijuana, cocaine, hashish or hashish oil into the human body,
177 such as:

178 a. Metal, wooden, acrylic, glass, stone,
179 plastic or ceramic pipes with or without screens, permanent
180 screens, hashish heads or punctured metal bowls;

181 b. Water pipes;

182 c. Carburetion tubes and devices;

183 d. Smoking and carburetion masks;

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



- 187 f. Miniature cocaine spoons and cocaine
188 vials;
- 189 g. Chamber pipes;
- 190 h. Carburetor pipes;
- 191 i. Electric pipes;
- 192 j. Air-driven pipes;
- 193 k. Chillums;
- 194 l. Bongs; and
- 195 m. Ice pipes or chillers.

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

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



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

219 7. Instructions, oral or written, provided
220 with the object concerning its use;

221 8. Descriptive materials accompanying the
222 object which explain or depict its use;

223 9. National and local advertising concerning
224 its use;

225 10. The manner in which the object is
226 displayed for sale;

227 11. Whether the owner or anyone in control of
228 the object is a legitimate supplier of like or related items to
229 the community, such as a licensed distributor or dealer of tobacco
230 products;

231 12. Direct or circumstantial evidence of the
232 ratio of sales of the object(s) to the total sales of the business
233 enterprise;

234 13. The existence and scope of legitimate
235 uses for the object in the community;



236 14. Expert testimony concerning its use.

237 (iii) "Paraphernalia" does not include any
238 materials used or intended for use in testing for the presence of
239 fentanyl or a fentanyl analog in a substance, or any materials
240 used or intended for use in testing for the presence of other
241 emerging or existing drug threats of concern to public health as
242 identified by the State Department of Health and approved by the
243 State Board of Health.

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

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

249 (y) "Practitioner" means:

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

257 (ii) A pharmacy, hospital or other institution
258 licensed, registered, or otherwise permitted to distribute,
259 dispense, conduct research with respect to or to administer a



260 controlled substance in the course of professional practice or
261 research in this state.

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

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

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

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

276 **SECTION 2.** This act shall take effect and be in force from
277 and after July 1, 2024, and shall stand repealed on June 30, 2024.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 41-29-105, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DEFINITION OF THE TERM "PARAPHERNALIA" UNDER THE
3 UNIFORM CONTROLLED SUBSTANCES LAW TO EXCLUDE ANY MATERIALS USED OR
4 INTENDED FOR USE IN TESTING FOR THE PRESENCE OF OTHER EMERGING OR
5 EXISTING DRUG THREATS OF CONCERN TO PUBLIC HEALTH AS IDENTIFIED BY
6 THE STATE DEPARTMENT OF HEALTH; AND FOR RELATED PURPOSES.

