

By: Senator(s) Dawkins (By Request)

To: Judiciary, Division B

SENATE BILL NO. 2627

1 AN ACT TO AMEND SECTION 41-29-105, MISSISSIPPI CODE OF 1972,  
2 TO REVISE AND EXPAND THE DEFINITION OF DRUG PARAPHERNALIA; TO  
3 AMEND SECTION 41-29-139, MISSISSIPPI CODE OF 1972, TO REVISE THE  
4 PENALTY FOR THE SALE OR OFFER TO SELL OF DRUG PARAPHERNALIA; AND  
5 FOR RELATED PURPOSES.

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

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

9 41-29-105. The following words and phrases, as used in this  
10 article, shall have the following meanings, unless the context  
11 otherwise requires:

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

16 (1) A practitioner (or, in his presence, by his  
17 authorized agent); or

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

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

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

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

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

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

37           (g) "Counterfeit substance" means a controlled  
38 substance which, or the container or labeling of which, without  
39 authorization, bears the trademark, trade name, or other  
40 identifying mark, imprint, number or device, or any likeness  
41 thereof, of a manufacturer, distributor or dispenser other than  
42 the person who in fact manufactured, distributed or dispensed the  
43 substance.

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

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

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

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

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

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

59           (n) "Drug" means (1) a substance recognized as a drug  
60 in the official United States Pharmacopoeia, official Homeopathic  
61 Pharmacopoeia of the United States, or official National

62 Formulary, or any supplement to any of them; (2) a substance  
63 intended for use in the diagnosis, cure, mitigation, treatment, or  
64 prevention of disease in man or animals; (3) a substance (other  
65 than food) intended to affect the structure or any function of the  
66 body of man or animals; and (4) a substance intended for use as a  
67 component of any article specified in this paragraph. Such word  
68 does not include devices or their components, parts, or  
69 accessories.

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

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

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

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

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

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

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

104                   (1) Opium and opiate, and any salt, compound,  
105 derivative or preparation of opium or opiate;

106                   (2) Any salt, compound, isomer, derivative or  
107 preparation thereof which is chemically equivalent or identical  
108 with any of the substances referred to in clause 1, but not  
109 including the isoquinoline alkaloids of opium;

110                   (3) Opium poppy and poppy straw; and

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

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

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

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

136           (i) Kits used, intended for use, or designed for  
137 use in planting, propagating, cultivating, growing or harvesting  
138 of any species of plant which is a controlled substance or from  
139 which a controlled substance can be derived;

140           (ii) Kits used, intended for use, or designed for  
141 use in manufacturing, compounding, converting, producing,  
142 processing or preparing controlled substances;

143           (iii) Isomerization devices used, intended for use  
144 or designed for use in increasing the potency of any species of  
145 plant which is a controlled substance;

146           (iv) Testing equipment used, intended for use, or  
147 designed for use in identifying or in analyzing the strength,  
148 effectiveness or purity of controlled substances;

149           (v) Scales and balances used, intended for use or  
150 designed for use in weighing or measuring controlled substances;

151           (vi) Diluents and adulterants, such as quinine  
152 hydrochloride, mannitol, mannite, dextrose and lactose, used,  
153 intended for use or designed for use in cutting controlled  
154 substances;

155           (vii) Separation gins and sifters used, intended  
156 for use or designed for use in removing twigs and seeds from, or  
157 in otherwise cleaning or refining, marihuana;

158 (viii) Blenders, bowls, containers, spoons and  
159 mixing devices used, intended for use or designed for use in  
160 compounding controlled substances;

161 (ix) Capsules, balloons, envelopes and other  
162 containers used, intended for use or designed for use in packaging  
163 small quantities of controlled substances;

164 (x) Containers and other objects used, intended  
165 for use or designed for use in storing or concealing controlled  
166 substances;

167 (xi) Hypodermic syringes, needles and other  
168 objects used, intended for use or designed for use in parenterally  
169 injecting controlled substances into the human body;

170 (xii) Objects used, intended for use or designed  
171 for use in ingesting, inhaling or otherwise introducing marihuana,  
172 cocaine, hashish or hashish oil into the human body, such as:

173 1. Metal, wooden, acrylic, glass, stone,  
174 plastic or ceramic pipes with or without screens, permanent  
175 screens, hashish heads or punctured metal bowls;

176 2. Water pipes;

177 3. Carburetion tubes and devices;

178 4. Smoking and carburetion masks;

179 5. Roach clips, meaning objects used to hold  
180 burning material, such as a marihuana cigarette, that has become  
181 too small or too short to be held in the hand;

182 6. Miniature cocaine spoons and cocaine  
183 vials;

184 7. Chamber pipes;

185 8. Carburetor pipes;

186 9. Electric pipes;

187 10. Air-driven pipes;

188 11. Chillums;

189 12. Bongs; \* \* \*

190 13. Ice pipes or chillers;

191 14. Wired cigarette papers; or

192 15. Cocaine freebase kits.

193 In determining whether an object is paraphernalia, a court or  
194 other authority should consider, in addition to all other  
195 logically relevant factors, the following:

196 (i) Statements by an owner or by anyone in control  
197 of the object concerning its use;

198 (ii) Prior convictions, if any, of an owner, or of  
199 anyone in control of the object, under any state or federal law  
200 relating to any controlled substance;

201 (iii) The proximity of the object, in time and  
202 space, to a direct violation of the Uniform Controlled Substances  
203 Law;

204 (iv) The proximity of the object to controlled  
205 substances;

206 (v) The existence of any residue of controlled  
207 substances on the object;

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

216 (vii) Instructions, oral or written, provided with  
217 the object concerning its use;

218 (viii) Descriptive materials accompanying the  
219 object which explain or depict its use;

220 (ix) National and local advertising concerning its  
221 use;

222 (x) The manner in which the object is displayed  
223 for sale;

224                   (xi) Whether the owner or anyone in control of the  
225 object is a legitimate supplier of like or related items to the  
226 community, such as a licensed distributor or dealer of tobacco  
227 products;

228                   (xii) Direct or circumstantial evidence of the  
229 ratio of sales of the object(s) to the total sales of the business  
230 enterprise;

231                   (xiii) The existence and scope of legitimate uses  
232 for the object in the community;

233                   (xiv) Expert testimony concerning its use.

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

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

239                   (y) "Practitioner" means:

240                   (1) A physician, dentist, veterinarian, scientific  
241 investigator, or other person licensed, registered or otherwise  
242 permitted to distribute, dispense, conduct research with respect  
243 to or to administer a controlled substance in the course of  
244 professional practice or research in this state; and

245                   (2) A pharmacy, hospital or other institution  
246 licensed, registered, or otherwise permitted to distribute,  
247 dispense, conduct research with respect to or to administer a  
248 controlled substance in the course of professional practice or  
249 research in this state.

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

252                   (aa) "Sale," "sell" or "selling" means the actual,  
253 constructive or attempted transfer or delivery of a controlled  
254 substance for remuneration, whether in money or other  
255 consideration.



256 (bb) "State," when applied to a part of the United  
257 States, includes any state, district, commonwealth, territory,  
258 insular possession thereof, and any area subject to the legal  
259 authority of the United States of America.

260 (cc) "Ultimate user" means a person who lawfully  
261 possesses a controlled substance for his own use or for the use of  
262 a member of his household or for administering to an animal owned  
263 by him or by a member of his household.

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

266 41-29-139. (a) Except as authorized by this article, it is  
267 unlawful for any person knowingly or intentionally:

268 (1) To sell, barter, transfer, manufacture, distribute,  
269 dispense or possess with intent to sell, barter, transfer,  
270 manufacture, distribute or dispense, a controlled substance; or

271 (2) To create, sell, barter, transfer, distribute,  
272 dispense or possess with intent to create, sell, barter, transfer,  
273 distribute or dispense, a counterfeit substance.

274 (b) Except as otherwise provided in subsections (f) and (g)  
275 of this section or in Section 41-29-142, any person who violates  
276 subsection (a) of this section shall be sentenced as follows:

277 (1) In the case of controlled substances classified in  
278 Schedule I or II, as set out in Sections 41-29-113 and 41-29-115,  
279 except one (1) ounce or less of marihuana, and except a first  
280 offender as defined in Section 41-29-149(e) who violates  
281 subsection (a) of this section with respect to less than one (1)  
282 kilogram but more than one (1) ounce of marihuana, such person  
283 may, upon conviction, be imprisoned for not more than thirty (30)  
284 years and shall be fined not less than Five Thousand Dollars  
285 (\$5,000.00) nor more than One Million Dollars (\$1,000,000.00), or  
286 both;

287 (2) In the case of a first offender who violates  
288 subsection (a) of this section with an amount less than one (1)

289 kilogram but more than one (1) ounce of marihuana as classified in  
290 Schedule I, as set out in Section 41-29-113, such person is guilty  
291 of a felony and upon conviction may be imprisoned for not more  
292 than twenty (20) years or fined not more than Thirty Thousand  
293 Dollars (\$30,000.00), or both;

294 (3) In the case of one (1) ounce or less of marihuana,  
295 such person may, upon conviction, be imprisoned for not more than  
296 three (3) years or fined not more than Three Thousand Dollars  
297 (\$3,000.00), or both;

298 (4) In the case of controlled substances classified in  
299 Schedules III and IV, as set out in Sections 41-29-117 and  
300 41-29-119, such person may, upon conviction, be imprisoned for not  
301 more than twenty (20) years and shall be fined not less than One  
302 Thousand Dollars (\$1,000.00) nor more than Two Hundred Fifty  
303 Thousand Dollars (\$250,000.00), or both; and

304 (5) In the case of controlled substances classified in  
305 Schedule V, as set out in Section 41-29-121, such person may, upon  
306 conviction, be imprisoned for not more than ten (10) years and  
307 shall be fined not less than One Thousand Dollars (\$1,000.00) nor  
308 more than Fifty Thousand Dollars (\$50,000.00), or both.

309 (c) It is unlawful for any person knowingly or intentionally  
310 to possess any controlled substance unless the substance was  
311 obtained directly from, or pursuant to, a valid prescription or  
312 order of a practitioner while acting in the course of his  
313 professional practice, or except as otherwise authorized by this  
314 article. The penalties for any violation of this subsection (c)  
315 with respect to a controlled substance classified in Schedules I,  
316 II, III, IV or V, as set out in Sections 41-29-113, 41-29-115,  
317 41-29-117, 41-29-119 or 41-29-121, including marihuana, shall be  
318 based on dosage unit as defined herein or the weight of the  
319 controlled substance as set forth herein as appropriate:

320 "Dosage unit (d.u.)" means a tablet or capsule, or in the  
321 case of a liquid solution, one (1) milliliter. In the case of

322 lysergic acid diethylamide (LSD) the term, "dosage unit" means a  
323 stamp, square, dot, microdot, tablet or capsule of a controlled  
324 substance.

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

328 The weight set forth refers to the entire weight of any  
329 mixture or substance containing a detectable amount of the  
330 controlled substance.

331 If a mixture or substance contains more than one (1)  
332 controlled substance, the weight of the mixture or substance is  
333 assigned to the controlled substance that results in the greater  
334 punishment.

335 Any person who violates this subsection with respect to:

336 (1) A controlled substance classified in Schedule I or  
337 II, except marihuana, in the following amounts shall be charged  
338 and sentenced as follows:

339 (A) Less than one-tenth (0.1) gram or one (1)  
340 dosage unit or less may be charged as a misdemeanor or felony. If  
341 charged by indictment as a felony: by imprisonment not less than  
342 one (1) nor more than four (4) years and a fine not more than Ten  
343 Thousand Dollars (\$10,000.00). If charged as a misdemeanor: by  
344 imprisonment for up to one (1) year and a fine not more than One  
345 Thousand Dollars (\$1,000.00).

346 (B) One-tenth (0.1) gram but less than two (2)  
347 grams or two (2) dosage units but less than ten (10) dosage units,  
348 by imprisonment for not less than two (2) years nor more than  
349 eight (8) years and a fine of not more than Fifty Thousand Dollars  
350 (\$50,000.00).

351 (C) Two (2) grams but less than ten (10) grams or  
352 ten (10) dosage units but less than twenty (20) dosage units, by  
353 imprisonment for not less than four (4) years nor more than

354 sixteen (16) years and a fine of not more than Two Hundred Fifty  
355 Thousand Dollars (\$250,000.00).

356 (D) Ten (10) grams but less than thirty (30) grams  
357 or twenty (20) dosage units but not more than forty (40) dosage  
358 units, by imprisonment for not less than six (6) years nor more  
359 than twenty-four (24) years and a fine of not more than Five  
360 Hundred Thousand Dollars (\$500,000.00).

361 (E) Thirty (30) grams or more or forty (40) dosage  
362 units or more, by imprisonment for not less than ten (10) years  
363 nor more than thirty (30) years and a fine of not more than One  
364 Million Dollars (\$1,000,000.00).

365 (2) Marihuana in the following amounts shall be charged  
366 and sentenced as follows:

367 (A) Thirty (30) grams or less by a fine of not  
368 less than One Hundred Dollars (\$100.00) nor more than Two Hundred  
369 Fifty Dollars (\$250.00). The provisions of this paragraph shall  
370 be enforceable by summons, provided the offender provides proof of  
371 identity satisfactory to the arresting officer and gives written  
372 promise to appear in court satisfactory to the arresting officer,  
373 as directed by the summons. A second conviction under this  
374 section within two (2) years shall be punished by a fine of Two  
375 Hundred Fifty Dollars (\$250.00) and not less than five (5) days  
376 nor more than sixty (60) days in the county jail and mandatory  
377 participation in a drug education program, approved by the  
378 Division of Alcohol and Drug Abuse of the State Department of  
379 Mental Health, unless the court enters a written finding that such  
380 drug education program is inappropriate. A third or subsequent  
381 conviction under this section within two (2) years is a  
382 misdemeanor punishable by a fine of not less than Two Hundred  
383 Fifty Dollars (\$250.00) nor more than Five Hundred Dollars  
384 (\$500.00) and confinement for not less than five (5) days nor more  
385 than six (6) months in the county jail. Upon a first or second  
386 conviction under this section the courts shall forward a report of

387 such conviction to the Mississippi Bureau of Narcotics which shall  
388 make and maintain a private, nonpublic record for a period not to  
389 exceed two (2) years from the date of conviction. The private,  
390 nonpublic record shall be solely for the use of the courts in  
391 determining the penalties which attach upon conviction under this  
392 section and shall not constitute a criminal record for the purpose  
393 of private or administrative inquiry and the record of each  
394 conviction shall be expunged at the end of the period of two (2)  
395 years following the date of such conviction;

396 (B) Additionally, a person who is the operator of  
397 a motor vehicle, who possesses on his person or knowingly keeps or  
398 allows to be kept in a motor vehicle within the area of the  
399 vehicle normally occupied by the driver or passengers, more than  
400 one (1) gram, but not more than thirty (30) grams, of marihuana is  
401 guilty of a misdemeanor and upon conviction may be fined not more  
402 than One Thousand Dollars (\$1,000.00) and confined for not more  
403 than ninety (90) days in the county jail. For the purposes of  
404 this subsection, such area of the vehicle shall not include the  
405 trunk of the motor vehicle or the areas not normally occupied by  
406 the driver or passengers if the vehicle is not equipped with a  
407 trunk. A utility or glove compartment shall be deemed to be  
408 within the area occupied by the driver and passengers;

409 (C) More than thirty (30) grams but less than two  
410 hundred fifty (250) grams may be fined not more than One Thousand  
411 Dollars (\$1,000.00), or confined in the county jail for not more  
412 than one (1) year, or both; or fined not more than Three Thousand  
413 Dollars (\$3,000.00), or imprisoned in the State Penitentiary for  
414 not more than three (3) years, or both;

415 (D) Two hundred fifty (250) grams but less than  
416 five hundred (500) grams, by imprisonment for not less than two  
417 (2) years nor more than eight (8) years and by a fine of not more  
418 than Fifty Thousand Dollars (\$50,000.00);

419                   (E) Five hundred (500) grams but less than one (1)  
420 kilogram, by imprisonment for not less than four (4) years nor  
421 more than sixteen (16) years and a fine of less than Two Hundred  
422 Fifty Thousand Dollars (\$250,000.00);

423                   (F) One (1) kilogram but less than five (5)  
424 kilograms, by imprisonment for not less than six (6) years nor  
425 more than twenty-four (24) years and a fine of not more than Five  
426 Hundred Thousand Dollars (\$500,000.00);

427                   (G) Five (5) kilograms or more, by imprisonment  
428 for not less than ten (10) years nor more than thirty (30) years  
429 and a fine of not more than One Million Dollars (\$1,000,000.00).

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

433                   (A) Less than fifty (50) grams or less than one  
434 hundred (100) dosage units is a misdemeanor and punishable by not  
435 more than one (1) year and a fine of not more than One Thousand  
436 Dollars (\$1,000.00).

437                   (B) Fifty (50) grams but less than one hundred  
438 fifty (150) grams or one hundred (100) dosage units but less than  
439 five hundred (500) dosage units, by imprisonment for not less than  
440 one (1) year nor more than four (4) years and a fine of not more  
441 than Ten Thousand Dollars (\$10,000.00).

442                   (C) One hundred fifty (150) grams but less than  
443 three hundred (300) grams or five hundred (500) dosage units but  
444 less than one thousand (1,000) dosage units, by imprisonment for  
445 not less than two (2) years nor more than eight (8) years and a  
446 fine of not more than Fifty Thousand Dollars (\$50,000.00).

447                   (D) Three hundred (300) grams but less than five  
448 hundred (500) grams or one thousand (1,000) dosage units but less  
449 than two thousand five hundred (2,500) dosage units, by  
450 imprisonment for not less than four (4) years nor more than

451 sixteen (16) years and a fine of not more than Two Hundred Fifty  
452 Thousand Dollars (\$250,000.00).

453 (E) Five hundred (500) grams or more or two  
454 thousand five hundred (2,500) dosage units or more, by  
455 imprisonment for not less than six (6) years nor more than  
456 twenty-four (24) years and a fine of not more than Five Hundred  
457 Thousand Dollars (\$500,000.00).

458 (d) (1) It is unlawful for a person who is not authorized  
459 by the State Board of Medical Licensure, State Board of Pharmacy,  
460 or other lawful authority to use, or to possess with intent to  
461 use, paraphernalia to plant, propagate, cultivate, grow, harvest,  
462 manufacture, compound, convert, produce, process, prepare, test,  
463 analyze, pack, repack, store, contain, conceal, inject, ingest,  
464 inhale or otherwise introduce into the human body a controlled  
465 substance in violation of the Uniform Controlled Substances Law.  
466 Any person who violates this subsection is guilty of a misdemeanor  
467 and upon conviction may be confined in the county jail for not  
468 more than six (6) months, or fined not more than Five Hundred  
469 Dollars (\$500.00), or both; however, no person shall be charged  
470 with a violation of this subsection when such person is also  
471 charged with the possession of one (1) ounce or less of marihuana  
472 under subsection (c)(2)(A) of this section.

473 (2) It is unlawful for any person to deliver, sell,  
474 offer for sale, possess with intent to deliver or sell, or  
475 manufacture with intent to deliver or sell, use the mails or any  
476 other facility of interstate commerce to transport, or to import  
477 or export, paraphernalia, knowing, or under circumstances where  
478 one reasonably should know, that it will be used to plant,  
479 propagate, cultivate, grow, harvest, manufacture, compound,  
480 convert, produce, process, prepare, test, analyze, pack, repack,  
481 store, contain, conceal, inject, ingest, inhale, or otherwise  
482 introduce into the human body a controlled substance in violation  
483 of the Uniform Controlled Substances Law. Any person who violates

484 this subsection is guilty of a felony and upon conviction may be  
485 confined in the custody of the Department of Corrections for not  
486 more than three (3) years, or fined not more than Five Thousand  
487 Dollars (\$5,000.00), or both.

488 \* \* \*

489 (3) It is unlawful for any person to place in any  
490 newspaper, magazine, handbill, or other publication any  
491 advertisement, knowing, or under circumstances where one  
492 reasonably should know, that the purpose of the advertisement, in  
493 whole or in part, is to promote the sale of objects designed or  
494 intended for use as paraphernalia. Any person who violates this  
495 subsection is guilty of a misdemeanor and upon conviction may be  
496 confined in the county jail for not more than six (6) months, or  
497 fined not more than Five Hundred Dollars (\$500.00), or both.

498 (e) It shall be unlawful for any physician practicing  
499 medicine in this state to prescribe, dispense or administer any  
500 amphetamine or amphetamine-like anorectics and/or central nervous  
501 system stimulants classified in Schedule II, pursuant to Section  
502 41-29-115, for the exclusive treatment of obesity, weight control  
503 or weight loss. Any person who violates this subsection, upon  
504 conviction, is guilty of a misdemeanor and may be confined for a  
505 period not to exceed six (6) months, or fined not more than One  
506 Thousand Dollars (\$1,000.00), or both.

507 (f) Except as otherwise authorized in this article, any  
508 person twenty-one (21) years of age or older who knowingly sells,  
509 barter, transfers, manufactures, distributes or dispenses during  
510 any twelve (12) consecutive month period: (i) ten (10) pounds or  
511 more of marihuana; (ii) two (2) ounces or more of heroin; (iii)  
512 two (2) or more ounces of cocaine or of any mixture containing  
513 cocaine as described in Section 41-29-105(s), Mississippi Code of  
514 1972; or (iv) one hundred (100) or more dosage units of morphine,  
515 Demerol or Dilaudid, shall be guilty of a felony and, upon  
516 conviction thereof, shall be sentenced to life imprisonment and



517 such sentence shall not be reduced or suspended nor shall such  
518 person be eligible for probation or parole, the provisions of  
519 Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, Mississippi Code  
520 of 1972, to the contrary notwithstanding. The provisions of this  
521 subsection shall not apply to any person who furnishes information  
522 and assistance to the bureau or its designee which, in the opinion  
523 of the trial judge objectively should or would have aided in the  
524 arrest or prosecution of others who violate this subsection. The  
525 accused shall have adequate opportunity to develop and make a  
526 record of all information and assistance so furnished.

527 (g) (1) Any person trafficking in controlled substances  
528 shall be guilty of a felony and upon conviction shall be  
529 imprisoned for a term of thirty (30) years and such sentence shall  
530 not be reduced or suspended nor shall such person be eligible for  
531 probation or parole, the provisions of Sections 41-29-149,  
532 47-5-139, 47-7-3 and 47-7-33, Mississippi Code of 1972, to the  
533 contrary notwithstanding and shall be fined not less than Five  
534 Thousand Dollars (\$5,000.00) nor more than One Million Dollars  
535 (\$1,000,000.00).

536 (2) "Trafficking in controlled substances" as used  
537 herein means to engage in three (3) or more component offenses  
538 within any twelve (12) consecutive month period where at least two  
539 (2) of the component offenses occurred in different counties. A  
540 component offense is any act which would constitute a violation of  
541 subsection (a) of this section. Prior convictions shall not be  
542 used as component offenses to establish the charge of trafficking  
543 in controlled substances.

544 (3) The charge of trafficking in controlled substances  
545 shall be set forth in one (1) count of an indictment with each of  
546 the component offenses alleged therein and it may be charged and  
547 tried in any county where a component offense occurred. An  
548 indictment for trafficking in controlled substances may also be  
549 returned by the State Grand Jury of Mississippi provided at least

550 two (2) of the component offenses occurred in different circuit  
551 court districts.

552           **SECTION 3.** This act shall take effect and be in force from  
553 and after July 1, 2004.