

By: Representative Harness

To: Judiciary B

HOUSE BILL NO. 997

1 AN ACT TO AMEND SECTION 41-29-139, MISSISSIPPI CODE OF 1972,
2 TO REDUCE THE PENALTIES FOR CONVICTIONS RELATED TO MARIJUANA; AND
3 FOR RELATED PURPOSES.

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

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

7 41-29-139. (a) **Transfer and possession with intent to**
8 **transfer.** Except as authorized by this article, it is unlawful
9 for any person knowingly or intentionally:

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

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

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



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

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

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

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

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

36 (2) (A) For marijuana:

37 1. If thirty (30) grams or less, by
38 imprisonment for not more than * * * eighteen (18) months or a
39 fine of not more than * * * One Thousand Five Hundred Dollars
40 (\$1,500.00), 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 * * * two (2) years or a fine of not more than * * * Two
44 Thousand Five Hundred Dollars (\$2,500.00), or both;

45 3. If two hundred fifty (250) or more grams
46 but less than five hundred (500) grams, by imprisonment for
47 not * * * more than * * * five (5) years or a fine of not more
48 than * * * Seven Thousand Five Hundred Dollars (\$7,500.00), or
49 both;

50 4. If five hundred (500) or more grams but
51 less than one (1) kilogram, by imprisonment for not * * * more
52 than * * * ten (10) years or a fine of not more than * * * Ten
53 Thousand Dollars (\$10,000.00), or both.

54 (B) For synthetic cannabinoids:

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

58 2. If more than ten (10) grams but less than
59 twenty (20) grams, by imprisonment for not more than five (5)
60 years or a fine of not more than Five Thousand Dollars
61 (\$5,000.00), or both;

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

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



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

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

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

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

79 (C) If ten (10) or more grams or twenty (20) or
80 more dosage units, but less than thirty (30) grams or forty (40)
81 dosage units, by imprisonment for not more than fifteen (15) years
82 or a fine of not more than One Hundred Thousand Dollars
83 (\$100,000.00), or both;

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

161 1. If thirty (30) grams or less of marijuana
162 or ten (10) grams or less of synthetic cannabinoids, by a fine of
163 not less than * * * Fifty Dollars (\$50.00) nor more than * * * One
164 Hundred Twenty-five Dollars (\$125.00). The provisions of this



165 paragraph (2) (A) may be enforceable by summons if the offender
166 provides proof of identity satisfactory to the arresting officer
167 and gives written promise to appear in court satisfactory to the
168 arresting officer, as directed by the summons. A second
169 conviction under this section within two (2) years is a
170 misdemeanor punishable by a fine of * * * One Hundred Twenty-five
171 Dollars (\$125.00), not more than * * * thirty (30) days in the
172 county jail, and mandatory participation in a drug education
173 program approved by the Division of Alcohol and Drug Abuse of the
174 State Department of Mental Health, unless the court enters a
175 written finding that a drug education program is inappropriate. A
176 third or subsequent conviction under this paragraph (2) (A) within
177 two (2) years is a misdemeanor punishable by a fine of not less
178 than * * * One Hundred Twenty-five Dollars nor more than Five
179 Hundred Dollars (\$500.00) and confinement for not more than * * *
180 three (3) months in the county jail.

181 Upon a first or second conviction under this paragraph
182 (2) (A), the courts shall forward a report of the conviction to the
183 Mississippi Bureau of Narcotics which shall make and maintain a
184 private, nonpublic record for a period not to * * * one (1) year
185 from the date of conviction. The private, nonpublic record shall
186 be solely for the use of the courts in determining the penalties
187 which attach upon conviction under this paragraph (2) (A) and shall
188 not constitute a criminal record for the purpose of private or
189 administrative inquiry and the record of each conviction shall be



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

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

206 (B) Marijuana:

207 1. If more than thirty (30) grams but less
208 than two hundred fifty (250) grams, by a fine of not more
209 than * * * Five Hundred Dollars (\$500.00), or confinement in the
210 county jail for not more than * * * six (6) months, or both; or by
211 a fine of not more than * * * One Thousand Five Hundred Dollars
212 (\$1,500.00), or imprisonment in the custody of the Department of
213 Corrections for not more than * * * one (1) year, or both;



214 2. If two hundred fifty (250) or more grams
215 but less than five hundred (500) grams, by imprisonment for
216 not * * * more than * * * four (4) years or by a fine of not more
217 than * * * Twenty Thousand Dollars (\$25,000.00), or both;

218 3. If five hundred (500) or more grams but
219 less than one (1) kilogram, by imprisonment for not * * * more
220 than * * * eight (8) years or a fine of not more than * * * One
221 Hundred Twenty-five Thousand Dollars (\$125,000.00), or both;

222 4. If one (1) kilogram or more but less than
223 five (5) kilograms, by imprisonment for not * * * more than * * *
224 twelve (12) years or a fine of not more than * * * Two Hundred
225 Fifty Thousand Dollars (\$250,000.00), or both;

226 5. If five (5) kilograms or more, by
227 imprisonment for not * * * more than * * * fifteen (15) years or a
228 fine of not more than * * * Five Hundred Thousand Dollars
229 (\$500,000.00), or both.

230 (C) Synthetic cannabinoids:

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



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

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

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

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

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

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



262 (C) If one hundred fifty (150) or more grams or
263 five hundred (500) or more dosage units, but less than three
264 hundred (300) grams or one thousand (1,000) dosage units, by
265 imprisonment for not less than two (2) years nor more than eight
266 (8) years or a fine of not more than Fifty Thousand Dollars
267 (\$50,000.00), or both.

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

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



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

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

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



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

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

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

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



336 (\$1,000,000.00). The ten-year mandatory sentence shall not be
337 reduced or suspended. The person shall not be eligible for
338 probation or parole, the provisions of Sections 41-29-149,
339 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

340 (2) "Trafficking in controlled substances" as used
341 herein means:

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

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

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

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

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



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

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

382 (A) The offender was not a leader of the criminal
383 enterprise;

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



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

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

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

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

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

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

