

By: Representative Holloway (76th)

To: Judiciary B

HOUSE BILL NO. 1703

1 AN ACT TO AMEND SECTION 41-29-139, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT A FIRST OFFENSE SIMPLE POSSESSION OF THIRTY GRAMS  
3 OR LESS OF MARIJUANA OR TEN GRAMS OR LESS OF SYNTHETIC  
4 CANNABINOIDS SHALL BE A CIVIL OFFENSE AND NOT A CRIMINAL OFFENSE;  
5 AND FOR RELATED PURPOSES.

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

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

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

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

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

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



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

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

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

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

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

38 (2) (A) For marijuana:

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

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



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

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

50 4. If five hundred (500) or more grams but  
51 less than one (1) kilogram, by imprisonment for not less than five  
52 (5) years nor more than twenty (20) years or a fine of not more  
53 than Twenty Thousand Dollars (\$20,000.00), 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 civil  
163 fine of not less than One Hundred Dollars (\$100.00) nor more than  
164 Two Hundred Fifty Dollars (\$250.00). The offense shall be a civil



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

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





190 not constitute a criminal record for the purpose of private or  
191 administrative inquiry and the record of each conviction shall be  
192 expunged at the end of the period of two (2) years following the  
193 date of such conviction;

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

208                   (B) Marijuana:

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



214 custody of the Department of Corrections for not more than three  
215 (3) years, or both;

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

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

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

228                   5. If five (5) kilograms or more, by  
229 imprisonment for not less than ten (10) years nor more than thirty  
230 (30) years or a fine of not more than One Million Dollars  
231 (\$1,000,000.00), or both.

232                   (C) Synthetic cannabinoids:

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



238 the Department of Corrections for not more than three (3) years,  
239 or both;

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

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

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

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

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

259                   (B) If fifty (50) or more grams or one hundred  
260 (100) or more dosage units, but less than one hundred fifty (150)  
261 grams or five hundred (500) dosage units, by imprisonment for not



262 less than one (1) year nor more than four (4) years or a fine of  
263 not more than Ten Thousand Dollars (\$10,000.00), or both.

264 (C) If one hundred fifty (150) or more grams or  
265 five hundred (500) or more dosage units, but less than three  
266 hundred (300) grams or one thousand (1,000) dosage units, by  
267 imprisonment for not less than two (2) years nor more than eight  
268 (8) years or a fine of not more than Fifty Thousand Dollars  
269 (\$50,000.00), or both.

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

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



287 Controlled Substances Law. Any person who violates this  
288 subsection (d) (1) is guilty of a misdemeanor and, upon conviction,  
289 may be confined in the county jail for not more than six (6)  
290 months, or fined not more than Five Hundred Dollars (\$500.00), or  
291 both; however, no person shall be charged with a violation of this  
292 subsection when such person is also charged with the possession of  
293 thirty (30) grams or less of marijuana under subsection (c) (2) (A)  
294 of this section.

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

308 (3) Any person eighteen (18) years of age or over who  
309 violates subsection (d) (2) of this section by delivering or  
310 selling paraphernalia to a person under eighteen (18) years of age  
311 who is at least three (3) years his junior is guilty of a



312 misdemeanor and, upon conviction, may be confined in the county  
313 jail for not more than one (1) year, or fined not more than One  
314 Thousand Dollars (\$1,000.00), or both.

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

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

333 (f) **Trafficking.** (1) Any person trafficking in controlled  
334 substances shall be guilty of a felony and, upon conviction, shall  
335 be imprisoned for a term of not less than ten (10) years nor more  
336 than forty (40) years and shall be fined not less than Five



337 Thousand Dollars (\$5,000.00) nor more than One Million Dollars  
338 (\$1,000,000.00). The ten-year mandatory sentence shall not be  
339 reduced or suspended. The person shall not be eligible for  
340 probation or parole, the provisions of Sections 41-29-149,  
341 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

342 (2) "Trafficking in controlled substances" as used  
343 herein means:

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

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

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

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



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

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

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





384 (A) The offender was not a leader of the criminal  
385 enterprise;

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

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

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

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

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

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

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

