

By: Senator(s) Blackmon

To: Judiciary, Division B

SENATE BILL NO. 2199

1 AN ACT TO AMEND SECTION 41-29-139, MISSISSIPPI CODE OF 1972,
 2 TO REDUCE THE PUNISHMENT FOR SIMPLE POSSESSION OF 30 GRAMS OR LESS
 3 OF MARIJUANA TO A CIVIL PENALTY; TO DIRECT THE FUNDS RECEIVED FROM
 4 THE IMPOSITION OF THE CIVIL PENALTY TO BE DEPOSITED TO THE GENERAL
 5 FUND OF THE MUNICIPALITY OR COUNTY IN WHICH THE SUMMONS FOR THE
 6 CIVIL PENALTY WAS ISSUED; TO DELETE THE SENTENCING AUTHORITY OF
 7 THE COURT TO IMPRISON A DEFENDANT IN THE COUNTY JAIL FOR A SECOND
 8 CONVICTION OF A CERTAIN AMOUNT OF MARIJUANA OR SYNTHETIC
 9 CANNABINOIDS; AND FOR RELATED PURPOSES.

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

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

13 41-29-139. (a) **Transfer and possession with intent to**
 14 **transfer.** Except as authorized by this article, it is unlawful
 15 for any person knowingly or intentionally:

16 (1) To sell, barter, transfer, manufacture, distribute,
 17 dispense or possess with intent to sell, barter, transfer,
 18 manufacture, distribute or dispense, a controlled substance; or

19 (2) To create, sell, barter, transfer, distribute,
 20 dispense or possess with intent to create, sell, barter, transfer,
 21 distribute or dispense, a counterfeit substance.



22 (b) **Punishment for transfer and possession with intent to**
23 **transfer.** Except as otherwise provided in Section 41-29-142, any
24 person who violates subsection (a) of this section shall be, if
25 convicted, sentenced as follows:

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

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

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

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

42 (2) (A) For marijuana:

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



46 2. If more than thirty (30) grams but less
47 than two hundred fifty (250) grams, by imprisonment for not more
48 than five (5) years or a fine of not more than Five Thousand
49 Dollars (\$5,000.00), or both;

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

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

58 (B) For synthetic cannabinoids:

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

62 2. If more than ten (10) grams but less than
63 twenty (20) grams, by imprisonment for not more than five (5)
64 years or a fine of not more than Five Thousand Dollars
65 (\$5,000.00), or both;

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



70 4. If forty (40) or more grams but less than
71 two hundred (200) grams, by imprisonment for not less than five
72 (5) years nor more than twenty (20) years or a fine of not more
73 than Twenty Thousand Dollars (\$20,000.00), or both.

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

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

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

83 (C) If ten (10) or more grams or twenty (20) or
84 more dosage units, but less than thirty (30) grams or forty (40)
85 dosage units, by imprisonment for not more than fifteen (15) years
86 or a fine of not more than One Hundred Thousand Dollars
87 (\$100,000.00), or both;

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

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



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

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

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

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

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



120 authorized by this article. The penalties for any violation of
121 this subsection (c) with respect to a controlled substance
122 classified in Schedules I, II, III, IV or V, as set out in Section
123 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including
124 marijuana or synthetic cannabinoids, shall be based on dosage unit
125 as defined herein or the weight of the controlled substance as set
126 forth herein as appropriate:

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

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

135 The weight set forth refers to the entire weight of any
136 mixture or substance containing a detectable amount of the
137 controlled substance.

138 If a mixture or substance contains more than one (1)
139 controlled substance, the weight of the mixture or substance is
140 assigned to the controlled substance that results in the greater
141 punishment.

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



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

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

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

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

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

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

165 1. (I) If thirty (30) grams or less of
166 marijuana * * * by a civil penalty not to exceed One Hundred
167 Dollars (\$100.00), to be deposited to the general fund of the



168 municipality or county in which the summons for the civil penalty
169 was issued.

170 (II) If ten (10) grams or less of
171 synthetic cannabinoids, by a fine of not less than One Hundred
172 Dollars (\$100.00) nor more than Two Hundred Fifty Dollars
173 (\$250.00). The provisions of this paragraph (2) (A) may be
174 enforceable by summons if the offender provides proof of identity
175 satisfactory to the arresting officer and gives written promise to
176 appear in court satisfactory to the arresting officer, as directed
177 by the summons. A second conviction under this section within two
178 (2) years is a misdemeanor punishable by a fine of Two Hundred
179 Fifty Dollars (\$250.00) * * * and mandatory participation in a
180 drug education program approved by the Division of Alcohol and
181 Drug Abuse of the State Department of Mental Health, unless the
182 court enters a written finding that a drug education program is
183 inappropriate. A third or subsequent conviction under this
184 paragraph (2) (A) within two (2) years is a misdemeanor punishable
185 by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor
186 more than One Thousand Dollars (\$1,000.00) and confinement for not
187 more than six (6) months in the county jail.

188 Upon a first or second conviction under this paragraph
189 (2) (A), the courts shall forward a report of the conviction to the
190 Mississippi Bureau of Narcotics which shall make and maintain a
191 private, nonpublic record for a period not to exceed two (2) years
192 from the date of conviction. The private, nonpublic record shall



193 be solely for the use of the courts in determining the penalties
194 which attach upon conviction under this paragraph (2)(A) and shall
195 not constitute a criminal record for the purpose of private or
196 administrative inquiry and the record of each conviction shall be
197 expunged at the end of the period of two (2) years following the
198 date of such conviction;

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

213 (B) Marijuana:

214 1. If more than thirty (30) grams but less
215 than two hundred fifty (250) grams, by a fine of not more than One
216 Thousand Dollars (\$1,000.00), or confinement in the county jail
217 for not more than one (1) year, or both; or by a fine of not more



218 than Three Thousand Dollars (\$3,000.00), or imprisonment in the
219 custody of the Department of Corrections for not more than three
220 (3) years, or both;

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

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

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

233 5. If five (5) kilograms or more, by
234 imprisonment for not less than ten (10) years nor more than thirty
235 (30) years or a fine of not more than One Million Dollars
236 (\$1,000,000.00), or both.

237 (C) Synthetic cannabinoids:

238 1. If more than ten (10) grams but less than
239 twenty (20) grams, by a fine of not more than One Thousand Dollars
240 (\$1,000.00), or confinement in the county jail for not more than
241 one (1) year, or both; or by a fine of not more than Three
242 Thousand Dollars (\$3,000.00), or imprisonment in the custody of



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

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

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

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

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

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

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



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

269 (C) If one hundred fifty (150) or more grams or
270 five hundred (500) or more dosage units, but less than three
271 hundred (300) grams or one thousand (1,000) dosage units, by
272 imprisonment for not less than two (2) years nor more than eight
273 (8) years or a fine of not more than Fifty Thousand Dollars
274 (\$50,000.00), or both.

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

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



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

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

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



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

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

329 (e) It shall be unlawful for any physician practicing
330 medicine in this state to prescribe, dispense or administer any
331 amphetamine or amphetamine-like anorectics and/or central nervous
332 system stimulants classified in Schedule II, pursuant to Section
333 41-29-115, for the exclusive treatment of obesity, weight control
334 or weight loss. Any person who violates this subsection, upon
335 conviction, is guilty of a misdemeanor and may be confined for a
336 period not to exceed six (6) months, or fined not more than One
337 Thousand Dollars (\$1,000.00), or both.

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



342 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
343 (\$1,000,000.00). The ten-year mandatory sentence shall not be
344 reduced or suspended. The person shall not be eligible for
345 probation or parole, the provisions of Sections 41-29-149,
346 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

347 (2) "Trafficking in controlled substances" as used
348 herein means:

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

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

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

361 (D) A violation of subsection (c) of this section
362 involving five hundred (500) or more grams or two thousand five
363 hundred (2,500) or more dosage units of a Schedule III, IV or V
364 controlled substance; or



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

368 (g) **Aggravated trafficking.** Any person trafficking in
369 Schedule I or II controlled substances, except marijuana and
370 synthetic cannabinoids, of two hundred (200) grams or more shall
371 be guilty of aggravated trafficking and, upon conviction, shall be
372 sentenced to a term of not less than twenty-five (25) years nor
373 more than life in prison and shall be fined not less than Five
374 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
375 (\$1,000,000.00). The twenty-five-year sentence shall be a
376 mandatory sentence and shall not be reduced or suspended. The
377 person shall not be eligible for probation or parole, the
378 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to
379 the contrary notwithstanding.

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



389 (A) The offender was not a leader of the criminal
390 enterprise;

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

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

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

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

405 (2) If the court reduces the prescribed sentence
406 pursuant to this subsection, it must specify on the record the
407 circumstances warranting the departure.

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

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

