

By: Senator(s) McLendon

To: Public Health and Welfare

SENATE BILL NO. 2885

1 AN ACT TO ESTABLISH A SCREENING AND APPROVAL PROGRAM FOR THE
 2 OVER-THE-COUNTER AVAILABILITY AND RETAIL SALE OF PRODUCTS THAT
 3 CONTAIN ANY SUBSTANCE WITH THE POTENTIAL TO BE RECREATIONALLY USED
 4 OR ABUSED; TO DEFINE CERTAIN TERMS RELATING TO THE ACT; TO REQUIRE
 5 THE STATE DEPARTMENT OF HEALTH TO ADMINISTER THE PROGRAM; TO
 6 REQUIRE THE STATE HEALTH OFFICER TO APPROVE OR DENY THE
 7 OVER-THE-COUNTER AVAILABILITY AND RETAIL SALE OF PRODUCTS THAT
 8 CONTAIN ANY SUBSTANCE WITH THE POTENTIAL TO BE RECREATIONALLY USED
 9 OR ABUSED; TO PROVIDE THAT A PROCESS TO APPEAL SUCH DETERMINATION
 10 SHALL BE AVAILABLE TO THE MANUFACTURER OR DISTRIBUTOR OF SUCH
 11 PRODUCT THAT WAS DENIED BY THE STATE HEALTH OFFICER; TO PROVIDE
 12 THAT THE DEPARTMENT SHALL ESTABLISH RULES AND REGULATIONS AS
 13 NECESSARY TO IMPLEMENT AND ADMINISTER THE PROGRAM; TO PROVIDE AN
 14 EXCEPTION FOR CERTAIN ORDINANCES AND REGULATIONS OF MUNICIPALITIES
 15 AND COUNTIES; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** (1) For purposes of this act, "department" means
 18 the State Department of Health.

19 (2) "Substance with the potential to be recreationally used
 20 or abused" means a substance that is:

21 (i) Used without direction or supervision by a
 22 physician;

23 (ii) Used, without direction or supervision by a
 24 physician, for enjoyment, relaxation, perceived health benefits,



25 social reasons or for some other illegitimate purpose as
26 determined by the State Board of Health; and/or

27 (iii) Unpredictable and variable in its effects on the
28 user, with a potential to cause harm to the user, and which may
29 lead to psychological and physical dependence, health and social
30 problems, or any other harmful effects as determined by the State
31 Board of Health.

32 (3) There is created within the State Department of Health a
33 screening and approval program for the over-the-counter
34 availability and retail sale of products that contain any
35 substance with the potential to be recreationally used or abused.
36 The purpose of the program is to reduce the retail sale and
37 availability of products that contain certain over-the-counter
38 substances, including, but not limited to, bath salts, kratom and
39 tianeptine.

40 (4) Such screening and approval program shall be
41 administered by the department. Except as otherwise provided in
42 this act, the State Health Officer, or his or her designee, shall
43 approve or deny the over-the-counter availability and retail sale
44 of products that contain any substance with the potential to be
45 recreationally used or abused. Such approval or denial may be
46 based on anecdotal, scientific, or any other relevant and
47 available evidence to assist the State Health Officer, or his or
48 her designee, in making a determination.



49 (5) A process to appeal such determination shall be
50 available to the manufacturer or distributor of such product that
51 was denied by the State Health Officer. Such manufacturer or
52 distributor shall appeal directly to the State Board of Health,
53 within thirty (30) days of such denial, and upon receipt of the
54 appeal and any supporting documents from the manufacturer or
55 distributor of such substance, the State Health Officer, or his or
56 her designee, shall review all information provided to determine
57 the merit of the appeal. If the State Health Officer, or his or
58 her designee, determines that the appeal lacks merit, the appeal
59 shall be denied.

60 (6) The department shall establish rules and regulations as
61 necessary to implement and administer the program.

62 (7) Nothing in this act shall supersede, restrict, or
63 otherwise effect, any ordinance or regulation that a municipality
64 or county has enacted before the effective date of this act, or
65 any ordinance or regulation that is enacted after the effective
66 date of this act, to limit or prohibit the availability,
67 distribution, sale or use of products that contain substances with
68 the potential to be recreationally used or abused.

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

