

By: Representatives Horan, Arnold, Burch,
Hall

To: Judiciary B

HOUSE BILL NO. 1613
(As Passed the House)

1 AN ACT TO AMEND SECTION 41-29-139, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE ELEMENTS FOR THE CRIME OF AGGRAVATED DRUG
3 TRAFFICKING TO INCLUDE 200 OR MORE DOSAGE UNITS; TO RESTRICT THE
4 SALE OF ABORTION-INDUCING DRUGS; AND FOR RELATED PURPOSES.

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

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

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

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

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

17 (3) To create, sell, barter, transfer, manufacture,
18 distribute, dispense, prescribe or possess with intent to create,
19 sell, barter, transfer, manufacture, distribute, dispense or



20 prescribe an "abortion-inducing drug," which is defined as a
21 medicine, drug or any other substance prescribed or dispensed with
22 the intent of terminating the clinically diagnosable pregnancy of
23 a woman to cause the death of the unborn child. This includes the
24 use of drugs known to have abortion-inducing properties, which are
25 prescribed specifically with the intent of causing an abortion.
26 Use of those drugs to induce abortion is also known as "medical
27 abortion." This definition does not apply to drugs that may be
28 known to cause an abortion but are prescribed for other medical
29 indications, such chemotherapeutic agents and diagnostic drugs.

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

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

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

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



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

50 (2) (A) For marijuana:

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

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

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

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

66 (B) For synthetic cannabinoids:

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



70 2. If more than ten (10) grams but less than
71 twenty (20) grams, by imprisonment for not more than five (5)
72 years or a fine of not more than Five Thousand Dollars
73 (\$5,000.00), or both;

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

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

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

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

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

91 (C) If ten (10) or more grams or twenty (20) or
92 more dosage units, but less than thirty (30) grams or forty (40)
93 dosage units, by imprisonment for not more than fifteen (15) years



94 or a fine of not more than One Hundred Thousand Dollars
95 (\$100,000.00), or both;

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

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

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

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

110 (C) If ten (10) or more grams or twenty (20) or
111 more dosage units, but less than thirty (30) grams or forty (40)
112 dosage units, by imprisonment for not more than ten (10) years or
113 a fine of not more than Twenty Thousand Dollars (\$20,000.00), or
114 both;

115 (D) For thirty (30) or more grams or forty (40) or
116 more dosage units, but less than five hundred (500) grams or two
117 thousand five hundred (2,500) dosage units, by imprisonment for



118 not more than fifteen (15) years or a fine of not more than Fifty
119 Thousand Dollars (\$50,000.00), or both.

120 (5) For "abortion-inducing drugs" as defined in
121 subsection (a)(3), imprisonment in the custody of the Department
122 of Corrections for not less than one (1) year nor more than ten
123 (10) years. In addition to the criminal penalties provided for in
124 this subsection (b), the Attorney General may bring a civil action
125 in the name of the State of Mississippi to enjoin any violation of
126 subsection (a) of this section related to abortion-inducing drugs,
127 to obtain declaratory or injunctive relief, and to recover civil
128 penalties and costs. The court may make such additional orders or
129 judgments, including restitution, as may be necessary for damages
130 proximately caused by a violation of this section related to
131 abortion-inducing drugs. It is not a defense to civil liability
132 under this paragraph (5) that a defendant has been acquitted or
133 has not been prosecuted or convicted under this section or has
134 been convicted of a different offense or of a different type or
135 class of offense, for the conduct that is alleged to give rise to
136 liability under this paragraph (5). Civil actions provided under
137 this paragraph (5) are cumulative and do not preclude criminal
138 prosecution.

139 (c) **Simple possession.** Except as otherwise provided under
140 subsection (i) of this section for actions that are lawful under
141 the Mississippi Medical Cannabis Act and in compliance with rules
142 and regulations adopted thereunder, it is unlawful for any person



143 knowingly or intentionally to possess any controlled substance
144 unless the substance was obtained directly from, or pursuant to, a
145 valid prescription or order of a practitioner while acting in the
146 course of his professional practice, or except as otherwise
147 authorized by this article. The penalties for any violation of
148 this subsection (c) with respect to a controlled substance
149 classified in Schedules I, II, III, IV or V, as set out in Section
150 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including
151 marijuana or synthetic cannabinoids, shall be based on dosage unit
152 as defined herein or the weight of the controlled substance as set
153 forth herein as appropriate:

154 "Dosage unit (d.u.)" means a tablet or capsule, or in the
155 case of a liquid solution, one (1) milliliter. In the case of
156 lysergic acid diethylamide (LSD) the term, "dosage unit" means a
157 stamp, square, dot, microdot, tablet or capsule of a controlled
158 substance.

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

162 The weight set forth refers to the entire weight of any
163 mixture or substance containing a detectable amount of the
164 controlled substance.

165 If a mixture or substance contains more than one (1)
166 controlled substance, the weight of the mixture or substance is



167 assigned to the controlled substance that results in the greater
168 punishment.

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

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

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

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

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

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

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



192 1. If thirty (30) grams or less of marijuana
193 or ten (10) grams or less of synthetic cannabinoids, by a fine of
194 not less than One Hundred Dollars (\$100.00) nor more than Two
195 Hundred Fifty Dollars (\$250.00). The provisions of this paragraph
196 (2) (A) may be enforceable by summons if the offender provides
197 proof of identity satisfactory to the arresting officer and gives
198 written promise to appear in court satisfactory to the arresting
199 officer, as directed by the summons. A second conviction under
200 this section within two (2) years is a misdemeanor punishable by a
201 fine of Two Hundred Fifty Dollars (\$250.00), not more than sixty
202 (60) days in the county jail, and mandatory participation in a
203 drug education program approved by the Division of Alcohol and
204 Drug Abuse of the State Department of Mental Health, unless the
205 court enters a written finding that a drug education program is
206 inappropriate. A third or subsequent conviction under this
207 paragraph (2) (A) within two (2) years is a misdemeanor punishable
208 by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor
209 more than One Thousand Dollars (\$1,000.00) and confinement for not
210 more than six (6) months in the county jail.

211 Upon a first or second conviction under this paragraph
212 (2) (A), the courts shall forward a report of the conviction to the
213 Mississippi Bureau of Narcotics which shall make and maintain a
214 private, nonpublic record for a period not to exceed two (2) years
215 from the date of conviction. The private, nonpublic record shall
216 be solely for the use of the courts in determining the penalties



217 which attach upon conviction under this paragraph (2)(A) and shall
218 not constitute a criminal record for the purpose of private or
219 administrative inquiry and the record of each conviction shall be
220 expunged at the end of the period of two (2) years following the
221 date of such conviction;

222 2. Additionally, a person who is the operator
223 of a motor vehicle, who possesses on his person or knowingly keeps
224 or allows to be kept in a motor vehicle within the area of the
225 vehicle normally occupied by the driver or passengers, more than
226 one (1) gram, but not more than thirty (30) grams of marijuana or
227 not more than ten (10) grams of synthetic cannabinoids is guilty
228 of a misdemeanor and, upon conviction, may be fined not more than
229 One Thousand Dollars (\$1,000.00) or confined for not more than
230 ninety (90) days in the county jail, or both. For the purposes of
231 this subsection, such area of the vehicle shall not include the
232 trunk of the motor vehicle or the areas not normally occupied by
233 the driver or passengers if the vehicle is not equipped with a
234 trunk. A utility or glove compartment shall be deemed to be
235 within the area occupied by the driver and passengers.

236 (B) Marijuana:

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



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

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

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

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

256 5. If five (5) kilograms or more, by
257 imprisonment for not less than ten (10) years nor more than thirty
258 (30) years or a fine of not more than One Million Dollars
259 (\$1,000,000.00), or both.

260 (C) Synthetic cannabinoids:

261 1. If more than ten (10) grams but less than
262 twenty (20) grams, by a fine of not more than One Thousand Dollars
263 (\$1,000.00), or confinement in the county jail for not more than
264 one (1) year, or both; or by a fine of not more than Three
265 Thousand Dollars (\$3,000.00), or imprisonment in the custody of



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

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

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

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

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

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

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



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

292 (C) If one hundred fifty (150) or more grams or
293 five hundred (500) or more dosage units, but less than three
294 hundred (300) grams or one thousand (1,000) dosage units, by
295 imprisonment for not less than two (2) years nor more than eight
296 (8) years or a fine of not more than Fifty Thousand Dollars
297 (\$50,000.00), or both.

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

304 (d) **Paraphernalia.** (1) Except as otherwise provided under
305 subsection (i) of this section for actions that are lawful under
306 the Mississippi Medical Cannabis Act and in compliance with rules
307 and regulations adopted thereunder, it is unlawful for a person
308 who is not authorized by the State Board of Medical Licensure,
309 State Board of Pharmacy, or other lawful authority to use, or to
310 possess with intent to use, paraphernalia to plant, propagate,
311 cultivate, grow, harvest, manufacture, compound, convert, produce,
312 process, prepare, test, analyze, pack, repack, store, contain,
313 conceal, inject, ingest, inhale or otherwise introduce into the
314 human body a controlled substance in violation of the Uniform



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

323 (2) It is unlawful for any person to deliver, sell,
324 possess with intent to deliver or sell, or manufacture with intent
325 to deliver or sell, paraphernalia, knowing, or under circumstances
326 where one reasonably should know, that it will be used to plant,
327 propagate, cultivate, grow, harvest, manufacture, compound,
328 convert, produce, process, prepare, test, analyze, pack, repack,
329 store, contain, conceal, inject, ingest, inhale, or otherwise
330 introduce into the human body a controlled substance in violation
331 of the Uniform Controlled Substances Law. Except as provided in
332 subsection (d) (3), a person who violates this subsection (d) (2) is
333 guilty of a misdemeanor and, upon conviction, may be confined in
334 the county jail for not more than six (6) months, or fined not
335 more than Five Hundred Dollars (\$500.00), or both.

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



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

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

352 (e) It shall be unlawful for any physician practicing
353 medicine in this state to prescribe, dispense or administer any
354 amphetamine or amphetamine-like anorectics and/or central nervous
355 system stimulants classified in Schedule II, pursuant to Section
356 41-29-115, for the exclusive treatment of obesity, weight control
357 or weight loss. Any person who violates this subsection, upon
358 conviction, is guilty of a misdemeanor and may be confined for a
359 period not to exceed six (6) months, or fined not more than One
360 Thousand Dollars (\$1,000.00), or both.

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



365 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
366 (\$1,000,000.00). The ten-year mandatory sentence shall not be
367 reduced or suspended. The person shall not be eligible for
368 probation or parole, the provisions of Sections 41-29-149,
369 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

370 (2) "Trafficking in controlled substances" as used
371 herein means:

372 (A) A violation of subsection (a) of this section
373 involving thirty (30) or more grams or forty (40) or more dosage
374 units of a Schedule I or II controlled substance except marijuana
375 and synthetic cannabinoids;

376 (B) A violation of subsection (a) of this section
377 involving five hundred (500) or more grams or two thousand five
378 hundred (2,500) or more dosage units of a Schedule III, IV or V
379 controlled substance;

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

384 (D) A violation of subsection (c) of this section
385 involving five hundred (500) or more grams or two thousand five
386 hundred (2,500) or more dosage units of a Schedule III, IV or V
387 controlled substance; or



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

391 (g) **Aggravated trafficking.** Any person trafficking in
392 Schedule I or II controlled substances, except marijuana and
393 synthetic cannabinoids, of two hundred (200) grams or more or two
394 hundred (200) dosage units or more, shall be guilty of aggravated
395 trafficking and, upon conviction, shall be sentenced to a term of
396 not less than twenty-five (25) years nor more than life in prison
397 and shall be fined not less than Five Thousand Dollars (\$5,000.00)
398 nor more than One Million Dollars (\$1,000,000.00). The
399 twenty-five-year sentence shall be a mandatory sentence and shall
400 not be reduced or suspended. The person shall not be eligible for
401 probation or parole, the provisions of Sections 41-29-149,
402 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

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



412 (A) The offender was not a leader of the criminal
413 enterprise;

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

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

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

421 The court may also consider whether information and
422 assistance were furnished to a law enforcement agency, or its
423 designee, which, in the opinion of the trial judge, objectively
424 should or would have aided in the arrest or prosecution of others
425 who violate this subsection. The accused shall have adequate
426 opportunity to develop and make a record of all information and
427 assistance so furnished.

428 (2) If the court reduces the prescribed sentence
429 pursuant to this subsection, it must specify on the record the
430 circumstances warranting the departure.

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

434 **SECTION 2.** This act shall take effect and be in force from
435 and after July 1, 2026.

