SENATE BILL NO. 2318

AN ACT TO AUTHORIZE THE MEDICAL USE OF MARIHUANA BY SERIOUSLY ILL PATIENTS UNDER A PHYSICIAN'S SUPERVISION; TO DEFINE CERTAIN TERMS; TO PROVIDE AN EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES FOR THE MEDICAL USE OF MARIHUANA; TO PROVIDE LIMITATIONS ON THE MEDICAL USE OF MARIHUANA; TO PROVIDE A LEGAL DEFENSE FOR PATIENTS AND PRIMARY CAREGIVERS; TO AMEND SECTIONS 41-29-113 AND 41-29-115, MISSISSIPPI CODE OF 1972, TO TRANSFER MARIHUANA FROM SCHEDULE I TO SCHEDULE II UNDER THE CONTROLLED SUBSTANCES LAW; TO AMEND SECTION 41-29-139, MISSISSIPPI CODE OF 1972, TO EXEMPT THE MEDICAL USE OF MARIHUANA FROM CRIMINAL PENALTIES UNDER THE CONTROLLED SUBSTANCES LAW; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) The Legislature finds and declares the following:

(a) Modern medical research has discovered a beneficial use for marihuana in treating or alleviating the pain or other symptoms associated with certain debilitating medical conditions, as found by the National Academy of Sciences' Institute of Medicine in March 1999.

(b) The Legislature would prefer for the federal government to permit marihuana to be prescribed by physicians and to be dispensed at pharmacies. However, the federal government
has shown no indication that it will change federal policy with
regard to medical marihuana, as evidenced by the federal
government's reluctance to allow even FDA-approved clinical trials
to move forward.

(c) According to the United States Sentencing
Commission and the Federal Bureau of Investigation, more than
ninety-nine (99) out of every one hundred (100) marihuana arrests
are made under state law, rather than under federal law.
Consequently, changing state law will have the practical effect of
protecting from arrest the vast majority of seriously ill people
who have a medical need to use marihuana.

(d) Although federal law expressly prohibits the use of
marihuana, the laws of Alaska, California, Colorado, Hawaii,
Maine, Nevada, Oregon and Washington permit the medical use and
cultivation of marihuana. The Legislature intends to join in this
effort for the health and welfare of the citizens of Mississippi.
However, the Legislature does not intend to make marihuana legally
available for other than medical purposes.

(e) The state is not required to enforce federal law or
prosecute people for engaging in activities prohibited by federal
law. Therefore, compliance with this act does not put the state
in violation of federal law.

(f) State law should make a distinction between the
medical and nonmedical use of marihuana. Therefore, the purpose
of this act is to ensure that physicians are not penalized for
discussing marihuana as a treatment option with their patients, and that seriously ill people who engage in the medical use of marihuana upon their physicians' advice are not arrested and incarcerated for using marihuana for medical purposes.

(2) The following words and phrases shall have the meanings ascribed in this section, unless the context clearly indicates otherwise:

(a) "Adequate supply" means an amount of marihuana collectively possessed between the qualifying patient and the qualifying patient's primary caregivers that is not more than is reasonably necessary to ensure the uninterrupted availability of marihuana for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition; however, an "adequate supply" shall not exceed three (3) mature marihuana plants, four (4) immature marihuana plants and thirty (30) grams of usable marihuana per each mature plant. "Usable marihuana" means the dried leaves and flowers of marihuana, and any mixture or preparation thereof, that are appropriate for the medical use of marihuana, and does not include the seeds, stalks and roots of the plant.

(b) "Debilitating medical condition" means:

(i) Cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS) or the treatment of these conditions;
(ii) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe pain; severe nausea; seizures, including those characteristic of epilepsy; or severe and persistent muscle spasms including those characteristic of multiple sclerosis or Crohn's disease; or

(iii) Any other medical condition or its treatment approved by the department, as provided for as follows: Not later than ninety (90) days after the effective date of this act, the State Board of Health shall promulgate regulations governing the manner in which the department will consider petitions from the public to add debilitating medical conditions to those specifically included in this paragraph (b). In considering those petitions, the department shall include public notice of, and an opportunity to comment in a public hearing upon, the petitions. The department shall, after hearing, approve or deny those petitions within one hundred eighty (180) days of submission. The approval or denial of such a petition shall be considered a final agency action, subject to judicial review.

(c) "Department" means the State Department of Health.

(d) "Marihuana" has the meaning as defined in Section 41-29-105.

(e) "Medical use" means the acquisition, possession, cultivation, use, transfer or transportation of marihuana or paraphernalia relating to the administration of marihuana to
alleviate the symptoms or effects of a qualifying patient's debilitating medical condition. For the purposes of "medical use," the term "transfer" is limited to the transfer of marihuana and paraphernalia between primary caregivers and qualifying patients.

(f) "Physician" means a person who is licensed under Section 73-25-1 et seq.

(g) "Primary caregiver" means a person who is at least eighteen (18) years old and who has agreed to undertake responsibility for managing the well-being of a person with respect to the medical use of marihuana.

(h) "Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

(i) "Written certification" means the qualifying patient's medical records or a statement signed by a physician, stating that in the physician's professional opinion, after having completed a full assessment of the qualifying patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the qualifying patient has a debilitating medical condition and the potential benefits of the medical use of marihuana would likely outweigh the health risks for the qualifying patient.

(3) (a) A qualifying patient who has in the patient's possession written certification shall not be subject to arrest,
prosecution or penalty in any manner for the medical use of
marihuana, provided the quantity of marihuana does not exceed an
adequate supply.

(b) Paragraph (a) of this subsection shall not apply to
a qualifying patient under the age of eighteen (18) years, unless:

(i) The qualifying patient's physician has
explained the potential risks and benefits of the medical use of
marihuana to the qualifying patient and to a parent, guardian or
person having legal custody of the qualifying patient; and

(ii) A parent, guardian or person having legal
custody consents in writing to:

1. Allow the qualifying patient's medical use
of marihuana;

2. Serve as the qualifying patient's primary
caregiver; and

3. Control the acquisition of the marihuana,
the dosage and the frequency of the medical use of marihuana by
the qualifying patient.

(c) When the acquisition, possession, cultivation,
transportation or administration of marihuana by a qualifying
patient is not practicable, the legal protections established by
this act for a qualifying patient shall extend to the qualifying
patient's primary caregivers, provided that the primary
caregivers' actions are necessary for the qualifying patient's
medical use of marihuana.
(d) A physician shall not be subject to arrest or prosecution, penalized in any manner or denied any right or privilege for providing written certification for the medical use of marihuana to qualifying patients.

(e) Any property interest that is possessed, owned or used in connection with the medical use of marihuana, or acts incidental to that use, shall not be harmed, neglected, injured or destroyed while in the possession of state or local law enforcement officials, provided that law enforcement agencies seizing live plants as evidence shall not be responsible for the care and maintenance of marihuana plants. Any such property interest shall not be forfeited under any provision of state or local law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense or entry of a plea of guilty to a criminal offense. Marihuana, paraphernalia or other property seized from a qualifying patient or primary caregivers in connection with the claimed medical use of marihuana shall be returned immediately upon the determination by a court or prosecutor that the qualifying patient or primary caregivers are entitled to the protections of this act, as may be evidenced by a decision not to prosecute, the dismissal of charges or an acquittal.

(f) No person shall be subject to arrest or prosecution for "constructive possession," "conspiracy" or any other offense
for simply being in the presence or vicinity of the medical use of marihuana as permitted under this act.

   (4) (a) The authorization for the medical use of marihuana in this act shall not apply to:

    (i) The medical use of marihuana that endangers the health or well-being of another person, such as driving or operating heavy machinery while under the influence of marihuana;

    (ii) The smoking of marihuana:

       1. In a school bus, public bus or other public vehicle;

       2. In the workplace of one's employment;

       3. On any school grounds;

       4. In any correctional facility; or

       5. At any public park, public beach, public recreation center or youth center; and

    (iii) The use of marihuana by a qualifying patient, primary caregiver or any other person for purposes other than medical use permitted by this act.

   (b) Insurance companies shall not be required to cover the medical use of marihuana.

   (c) Notwithstanding any law to the contrary, fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marihuana to avoid arrest or prosecution shall be a misdemeanor and subject to a fine of Five Hundred Dollars ($500.00). This penalty shall be in
addition to any other penalties that may apply for the nonmedical use of marihuana.

(5) A person and a person's primary caregivers may assert the medical use of marihuana as a defense to any prosecution involving marihuana, and that defense shall be presumed valid where the evidence shows that:

(a) The person's medical records indicate, or a physician has stated that, in the physician's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the potential benefits of the medical use of marihuana would likely outweigh the health risks for the person; and

(b) The person and the person's primary caregivers were collectively in possession of a quantity of marihuana that was not more than was reasonably necessary to ensure the uninterrupted availability of marihuana for the purpose of alleviating the symptoms or effects of the person's medical condition.

SECTION 2. Section 41-29-113, Mississippi Code of 1972, is amended as follows:

41-29-113. The controlled substances listed in this section are included in Schedule I.

SCHEDULE I

(a) Opiates. Any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters and
ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

1. Acetyl-alpha-methylfentanyl;
2. Acetylmethadol;
3. Allylprodine;
4. Alphacetylmethadol, except levo-alphacetylmethadol (levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);
5. Alphameprodine;
6. Alphamethadol;
7. Alpha-methylfentanyl;
8. Alpha-methylthiofentanyl;
9. Benzethidine;
10. Betacetylmethadol;
11. Beta-hydroxyfentanyl;
12. Beta-hydroxy-3-methyfentanyl;
13. Betameprodine;
14. Betamethadol;
15. Betaprodine;
16. Clonitazene;
17. Dextromoramide;
18. Diampromide;
19. Diethylthiambutene;
20. Difenoxin;
21. Dimenoxadol;
(22) Dimepheptanol;
(23) Dimethylthiambutene;
(24) Dioxaphetyl butyrate;
(25) Dipipanone;
(26) Ethylmethylthiambutene;
(27) Etonitazene;
(28) Etoxeridine;
(29) Furethidine;
(30) Hydroxypethidine;
(31) Ketobemidone;
(32) Levomoramide;
(33) Levophenacylmorphan;
(34) 3-methylfentanyl;
(35) 3-methylthiofentanyl;
(36) Morpheridine;
(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
(38) Noracymethadol;
(39) Norlevorphanol;
(40) Normethadone;
(41) Norpipanone;
(42) Para-fluorofentanyl;
(43) PEPAP
(44) Phenadoxone;
(45) Phenampromide;
(46) Phenomorphan;
(47) Phenoperidine;
(48) Piritramide;
(49) Proheptazine;
(50) Properidine;
(51) Propiram;
(52) Racemoramide;
(53) Thiofentanyl;
(54) Tilidine;
(55) Trimeperidine.

(b) Opiate derivatives. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:
(1) Acetorphine;
(2) Acetyldihydrocodeine;
(3) Benzylmorphine;
(4) Codeine methylbromide;
(5) Codeine-N-Oxide;
(6) Cyprenorphine;
(7) Desomorphine;
(8) Dihydromorphine;
(9) Drotebanol;
(10) Etorphine * * * (except hydrochloride salt);
(11) Heroin;
(12) Hydromorphinol;
(13) Methyldesorphine;
(14) Metyldihydromorphine;
(15) Monoacetylmorphine;
(16) Morphine methylbromide;
(17) Morphine methylsulfonate;
(18) Morphine-N-Oxide;
(19) Myrophine;
(20) Nicocodeine;
(21) Nicomorphine;
(22) Normorphine;
(23) Pholcodine;
(24) Thebacon.

(c) **Hallucinogenic substances.** Any material, compound, mixture or preparation which contains any quantity of the following substances, their salts, isomers (whether optical, positional, or geometric) and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Alpha-ethyltryptamine;
(2) 4-bromo-2,5-dimethoxy-amphetamine;
(3) 4-bromo-2,5-dimethoxyphenethylamine;
(4) 2,5-dimethoxyamphetamine;
(5) 2,5-dimethoxy-4-ethylamphetamine (DOET);
(6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7);
(7) 4-methoxyamphetamine;
(8) 5-methoxy-3,4-methylenedioxy-amphetamine;
(9) 4-methyl-2,5-dimethoxy-amphetamine;
(10) 3,4-methylenedioxy amphetamine;
(11) 3,4-methylenedioxymethamphetamine (MDMA);
(12) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);
(13) N-hydroxy-3,4-methylenedioxoyamphetamine (also known as N-hydroxy MDA, N-OHMDA, and N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine);
(14) 3,4,5-trimethoxy amphetamine;
(15) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);
(16) Alpha-methyltryptamine (also known as AMT);
(17) Bufotenine;
(18) Diethyltryptamine;
(19) Dimethyltryptamine;
(20) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT);
(21) Ibogaine;
(22) Lysergic acid diethylamide (LSD);
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( * * *23) Mescaline;
( * * *24) Parahexyl;
( * * *25) Peyote;
( * * *26) N-ethyl-3-piperidyl benzilate;
( * * *27) N-methyl-3-piperidyl benzilate;
( * * *28) Psilocybin;
( * * *29) Psilocyn;
* *
( * * *30) Phencyclidine;
( * * *31) Ethylamine analog of phencyclidine (PCE);
( * * *32) Pyrrolidine analog of phencyclidine (PHP, PCPy);
( * * *33) Thiophene analog of phencyclidine;
( * * *34) 1-[1-(2-thienyl)cyclohexyl] pyrrolidine (TCPy);
( * * *35) 4-methylmethcathinone (mephedrone);
( * * *36) 3,4-methylenedioxyxypyrovalerone (MDPV);
( * * *37) 2-(2,5-dimethoxy-4-ethylphenyl)ethanamine (2C-E);
( * * *38) 2-(2,5-dimethoxy-4-methylphenyl)ethanamine (2C-D);
( * * *39) 2-(4-chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);
( * * *40) 2-(4-iodo-2,5-dimethoxyphenyl)ethanamine (2C-I); or 2,5-dimethoxy-4-iodophenethylamine;
2-[4-(ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2);
2-[4-(isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4);
2-(2,5-dimethoxyphenyl)ethanamine (2C-H);
2-(2,5-dimethoxy-4-nitro-phenyl)ethanamine (2C-N);
2-(2,5-dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P);
3,4-methylenedioxy-N-methylcathinone (methylone);
2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine
(25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36);
2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine
(25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82);
2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine or
N-[(2-methoxyphenyl)methyl]ethanamine (25I-NBOMe; 2C-I-NBOMe; 25I; Cimbi-5);
7-bromo-5-(2-chlorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one (also known as Phenazepam);
7-(2-chlorophenyl)-4-ethyl-13-methyl-3-thia-1,8,
11,12-tetraazatricyclo[8.3.0.0]trideca-2(6),4,7,10,12-pentaene
(also known as Etizolam);

( * * *52) Salvia divinorum;
( * * *53) Synthetic cannabinoids. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of a synthetic cannabinoid found in any of the following chemical groups, whether or not substituted to any extent, or any of those groups which contain any synthetic cannabinoid salts, isomers, or salts of isomers, whenever the existence of such salts, isomers, or salts of isomers is possible within the specific chemical designation, including all synthetic cannabinoid chemical analogues in such groups:

(A) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (also known as HU-210 or 1,1-dimethylheptyl-11-hydroxy-delta8-tetrahydrocannabinol);

(B) Naphthoylindoles and naphthylmethylindoles, being any compound structurally derived from 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane, whether or not substituted in the indole ring to any extent, or in the naphthyl ring to any extent;

(C) Naphthoylpyrroles, being any compound structurally derived from 3-(1-naphthoyl)pyrrole, whether or not
substituted in the pyrrole ring to any extent, or in the naphthyl ring to any extent;

(D) Naphthylmethylindenes, being any compound structurally derived from 1-(1-naphthylmethyl)indene, whether or not substituted in the indene ring to any extent or in the naphthyl ring to any extent;

(E) Phenylacetylpinolines, being any compound structurally derived from 3-phenylacetylpinoline, whether or not substituted in the indole ring to any extent or in the phenyl ring to any extent;

(F) Cyclohexylphenols, being any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol, whether or not substituted in the cyclohexyl ring to any extent or in the phenolic ring to any extent;

(G) Benzoylpinolines, whether or not substituted in the indole ring to any extent or in the phenyl ring to any extent;

(H) Adamantoylpinolines, whether or not substituted in the indole ring to any extent or in the adamantoyl ring system to any extent;

(I) Tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabidiol or of its tetrahydro derivatives, except where contained in cannabis or cannabis resin;

(J) 3-Cyclopropylmethanone indole or 3-Cyclobutylmethanone indole or 3-Cyclopentylmethanone indole by substitution at the nitrogen atom of the indole ring, whether or
not further substituted in the indole ring to any extent, whether
or not substituted on the cyclopropyl, cyclobutyl or cyclopentyl
rings to any extent;

(K) Quinolinyl ester indoles, being any compound
structurally derived from 1H-indole-3-carboxylic acid-8-quinolinyl
ester, whether or not substituted in the indole ring to any extent
or the quinolone ring to any extent;

(L) 3-carboxamide-1H-indazoles, whether or not
substituted in the indazole ring to any extent and substituted to
any degree on the carboxamide nitrogen and
3-carboxamide-1H-indoles, whether or not substituted in the indole
ring to any extent and substituted to any degree on the
carboxamide nitrogen;

(M) Cycloalkanemethanone Indoles, whether or not
substituted at the nitrogen atom on the indole ring, whether or
not further substituted in the indole ring to any extent, whether
or not substituted on the cycloalkane ring to any extent.

(d) **Depressants.** Unless specifically excepted or unless
listed in another schedule, any material, compound, mixture, or
preparation which contains any quantity of the following
substances having a depressant effect on the central nervous
system, including their salts, isomers, and salts of isomers,
whenever the existence of such salts, isomers, and salts of
isomers is possible within the specific chemical designation:
(1) Gamma-hydroxybutyric acid (other names include: GHB, gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

(2) Mecloqualone;

(3) Methaqualone.

(e) Stimulants. Any material, compound, mixture or preparation which contains any quantity of the following central nervous system stimulants including optical salts, isomers and salts of isomers unless specifically excepted or unless listed in another schedule:

(1) Aminorex;

(2) N-benzylpiperazine (also known as BZP; 1-benzylpiperazine);

(3) Cathinone;

(4) Fenethylline;

(5) Methcathinone;

(6) 4-methylaminorex (also known as 2-amino-4-methyl-5-phenyl-2-oxazoline);

(7) N-ethylamphetamine;

(8) Any material, compound, mixture or preparation which contains any quantity of N,N-dimethylamphetamine. (Other names include: N,N,-alpha-trimethyl-benzeneethanamine, and N,N-alphatrimethylphenethylamine);

(9) Unless listed in another schedule, any compound other than bupropion that is structurally derived from...
2-Amino-1-phenyl-1-propanone by modification in any of the following ways:

   (i)  By substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents;

   (ii) By substitution at the 3-position with an alkyl substituent;

   (iii) By substitution at the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom in a cyclic structure.

**SECTION 3.** Section 41-29-115, Mississippi Code of 1972, is amended as follows:

41-29-115. (A) The controlled substances listed in this section are included in Schedule II.

**SCHEDULE II**

(a) **Substances, vegetable origin or chemical synthesis.** Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

    (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding naloxone hydrochloride, apomorphine, thebaine-derived butorphanol,
dextrorphan, nalbuphine, nalmefene and naltrexone, but including
the following:

(i) Codeine;
(ii) Dihydroetorphine;
(iii) Ethylmorphine;
(iv) Etorphine hydrochloride;
(v) Granulated opium;
(vi) Hydrocodone;
(vii) Hydromorphone;
(viii) Metopon;
(ix) Morphine;
(x) Opium extracts;
(xi) Opium fluid extracts;
(xii) Oripavine;
(xiii) Oxycodone;
(xiv) Oxymorphone;
(xv) Powdered opium;
(xvi) Raw opium;
(xvii) Thebaine;
(xviii) Tincture of opium.

(2) Any salt, compound, isomer, derivative, or
preparation thereof which is chemically equivalent or identical
with any of the substances referred to in paragraph (1), but not
including the isoquinoline alkaloids of opium;
(3) Opium poppy and poppy straw;
(4) Coca leaves and any salt, compound, derivative, or preparation of cocaine or coca leaves, including cocaine and ecgonine and any salt, compound, derivative, isomer, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy) * * *

(6) (i) Marihuana;

(ii) Tetrahydrocannabinols, meaning tetrahydrocannabinols contained in a plant of the genus Cannabis (cannabis plant), as well as the synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant such as the following:

(A) 1 cis or trans tetrahydrocannabinol;
(B) 6 cis or trans tetrahydrocannabinol;
(C) 3,4 cis or trans tetrahydrocannabinol.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of atomic positions are covered.)

("Tetrahydrocannabinols" excludes dronabinol and nabilone.)
However, the following products are exempted from control:

   (i) THC-containing industrial products made from cannabis stalks (e.g., paper, rope and clothing);

   (ii) Processed cannabis plant materials used for industrial purposes, such as fiber retted from cannabis stalks for use in manufacturing textiles or rope;

   (iii) Animal feed mixtures that contain sterilized cannabis seeds and other ingredients (not derived from the cannabis plant) in a formula designed, marketed and distributed for nonhuman consumption;

   (iv) Personal care products that contain oil from sterilized cannabis seeds, such as shampoos, soaps, and body lotions (if the products do not cause THC to enter the human body); and

   (v) Processed cannabis plant extract, oil or resin that contains more than fifteen percent (15%) cannabidiol (CBD) or a dilution of the resin that contains at least fifty (50) milligrams of cannabidiol per milliliter, but not more than one-half of one percent (.5%) of tetrahydrocannabinol.

   (b) Opiates. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specified chemical designation, dextrorphan and levopropoxyphene excepted:

   (1) Alfentanil;
(2) Alphaprodine;
(3) Anileridine;
(4) Bezitramide;
(5) Bulk dextropropoxyphene (nondosage forms);
(6) Carfentanil;
(7) Dihydrocodeine;
(8) Diphenoxylate;
(9) Fentanyl;
(10) Isomethadone;
(11) Levo-alphacetylmethadol (levo-alpha-acetylmethadol, levomethadyl acetate, LAAM);
(12) Levomethorphan;
(13) Levorphanol;
(14) Metazocine;
(15) Methadone;
(16) Methadone-intermediate,
(17) Moramide-intermediate,
(18) Pethidine (meperidine);
(19) Pethidine-Intermediate-A,
(20) Pethidine-Intermediate-B,
(17) Ethyl-4-phenylpiperidine-4-carboxylate;
(21) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

(22) Phenazocine;
(23) Piminodine;
(24) Racemethorphan;
(25) Racemorphan;
(26) Remifentanil;
(27) Sufentanil;
(28) Tapentadol.

(c) **Stimulants.** Any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
(2) Phenmetrazine and its salts;
(3) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;
(4) Methylphenidate and its salts;
(5) Lisdexamfetamine, its salts, isomers and salts of isomers.

(d) **Depressants.** Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Amobarbital;
(2) Secobarbital;
(3) Pentobarbital;
(4) Glutethimide.

(e) **Hallucinogenic substances.** Nabilone [other names include: (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo(b,d)pyran-9-one].

(f) **Immediate precursors.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Amphetamine and methamphetamine immediate precursor: Phenylacetone (other names include: phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone);

(2) Phencyclidine immediate precursors:

   (i) 1-phenylcyclohexylamine;
   (ii) 1-piperidinocyclohexanecarbonitrile (PCC);

(3) Fentanyl immediate precursor: 4-anilino-N-phenethyl-4-piperidine (ANPP);

(g) **Other substances.** Pentazocine and its salts in injectable dosage form.

(B) Any material, compound, mixture or preparation which contains any quantity of a Schedule II controlled substance and is listed as an exempt substance in 21 CFR, Section 1308.24 or
1308.32, shall be exempted from the provisions of the Uniform Controlled Substances Law.

**SECTION 4.** Section 41-29-139, Mississippi Code of 1972, is amended as follows:

41-29-139. (a) Except as authorized by this article, it is unlawful for any person knowingly or intentionally:

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

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

(b) Except as otherwise provided in Section 41-29-142, any person who violates subsection (a) of this section in the following amounts shall be, if convicted, sentenced as follows:

(1) In the case of controlled substances classified in Schedule I or II, as set out in Sections 41-29-113 and 41-29-115, except thirty (30) grams or less of * marihuana or synthetic cannabinoids, and except a first offender as defined in Section 41-29-149(e) who violates subsection (a) of this section with respect to less than one (1) kilogram but more than thirty (30) grams of * marihuana or synthetic cannabinoids, such person may, upon conviction for an amount of the controlled substance of:
(A) Less than two (2) grams or ten (10) dosage units, be imprisoned for not more than eight (8) years or fined not more than Fifty Thousand Dollars ($50,000.00), or both.

(B) Two (2) grams or ten (10) dosage units or more, but less than ten (10) grams or twenty (20) dosage units, be imprisoned for not less than three (3) years nor more than twenty (20) years or fined not more than Two Hundred Fifty Thousand Dollars ($250,000.00), or both.

(C) Ten (10) grams or twenty (20) dosage units or more, but less than thirty (30) grams or forty (40) dosage units, be imprisoned for not less five (5) years nor more than thirty (30) years or fined not more than Five Hundred Thousand Dollars ($500,000.00).

(2) In the case of a first offender who violates subsection (a) of this section with an amount less than one (1) kilogram but more than thirty (30) grams of ** marihuana or synthetic cannabinoids as classified in Schedule I or II, as set out in Sections 41-29-113 and 41-29-115, such person is guilty of a felony and, upon conviction, may be imprisoned for not more than five (5) years or fined not more than Thirty Thousand Dollars ($30,000.00), or both;

(3) In the case of thirty (30) grams or less of ** marihuana or synthetic cannabinoids, such person may, upon conviction, be imprisoned for not more than three (3) years or fined not more than Three Thousand Dollars ($3,000.00), or both;
(4) In the case of controlled substances classified in Schedules III and IV, as set out in Sections 41-29-117 and 41-29-119, such person may, upon conviction for an amount of the controlled substance of:

   (A) Less than two (2) grams or ten (10) dosage units, be imprisoned for not more than eight (8) years or fined not more than Five Thousand Dollars ($5,000.00), or both;

   (B) Two (2) grams or ten (10) dosage units or more but less than ten (10) grams or twenty (20) dosage units, be imprisoned for not more than eight (8) years or fined not more than Fifty Thousand Dollars ($50,000.00), or both;

   (C) Ten (10) grams or twenty (20) dosage units or more but less than thirty (30) grams or forty (40) dosage units, be imprisoned for not more than fifteen (15) years or fined not more than One Hundred Thousand Dollars ($100,000.00).

(5) In the case of controlled substances classified in Schedule V, as set out in Section 41-29-121, such person may, upon conviction for an amount of the controlled substance of:

   (A) Less than two (2) grams or ten (10) dosage units, be imprisoned for not more than one (1) year or fined not more than Five Thousand Dollars ($5,000.00), or both;

   (B) Two (2) grams or ten (10) dosage units or more but less than ten (10) grams or twenty (20) dosage units, be imprisoned for not more than five (5) years or fined not more than Ten Thousand Dollars ($10,000.00), or both;
(C) Ten (10) grams or twenty (20) dosage units or more but less than thirty (30) grams or forty (40) dosage units, be imprisoned for not more than ten (10) years or fined not more than Twenty Thousand Dollars ($20,000.00).

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

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

For any controlled substance that does not fall within the definition of the term "dosage unit," the penalties shall be based upon the weight of the controlled substance.
The weight set forth refers to the entire weight of any mixture or substance containing a detectable amount of the controlled substance.

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

Any person who violates this subsection with respect to:

(1) A controlled substance classified in Schedule I or II, except * * * marihuana or synthetic cannabinoids, in the following amounts shall be charged and sentenced as follows:

(A) Less than one-tenth (0.1) gram or two (2) dosage units shall be charged as a misdemeanor and, upon conviction, may be imprisoned for up to one (1) year or fined not more than One Thousand Dollars ($1,000.00), or both.

(B) One-tenth (0.1) gram or two (2) dosage units or more but less than two (2) grams or ten (10) dosage units, may be imprisoned for not more than three (3) years or a fine of not more than Fifty Thousand Dollars ($50,000.00), or both.

(C) Two (2) grams or ten (10) dosage units or more but less than ten (10) grams or twenty (20) dosage units, may be imprisoned for not more than eight (8) years and fined not more than Two Hundred Fifty Thousand Dollars ($250,000.00), or both.

(D) Ten (10) grams or twenty (20) dosage units or more but less than thirty (30) grams or forty (40) dosage units,
may be imprisoned for not less than three (3) years nor more than
twenty (20) years and fined not more than Five Hundred Thousand
Dollars ($500,000.00), or both.

(2) * * *Marihuana or synthetic cannabinoids in the
following amounts shall be charged and sentenced as follows:

(A) Thirty (30) grams or less by a fine of not
less than One Hundred Dollars ($100.00) nor more than Two Hundred
Fifty Dollars ($250.00). The provisions of this paragraph shall
be enforceable by summons, provided the offender provides proof of
identity satisfactory to the arresting officer and gives written
promise to appear in court satisfactory to the arresting officer,
as directed by the summons. A second conviction under this
section within two (2) years shall be punished by a fine of Two
Hundred Fifty Dollars ($250.00) and not less than five (5) days
nor more than sixty (60) days in the county jail and mandatory
participation in a drug education program, approved by the
Division of Alcohol and Drug Abuse of the State Department of
Mental Health, unless the court enters a written finding that such
drug education program is inappropriate. A third or subsequent
conviction under this section within two (2) years is a
misdemeanor punishable by a fine of not less than Two Hundred
Fifty Dollars ($250.00) nor more than Five Hundred Dollars
($500.00) and confinement for not less than five (5) days nor more
than six (6) months in the county jail. Upon a first or second
conviction under this section, the courts shall forward a report
of such conviction to the Mississippi Bureau of Narcotics which
shall make and maintain a private, nonpublic record for a period
not to exceed two (2) years from the date of conviction. The
private, nonpublic record shall be solely for the use of the
courts in determining the penalties which attach upon conviction
under this section and shall not constitute a criminal record for
the purpose of private or administrative inquiry and the record of
each conviction shall be expunged at the end of the period of two
(2) years following the date of such conviction;

(B) Additionally, a person who is the operator of a motor vehicle, who possesses on his person or knowingly keeps or
allows to be kept in a motor vehicle within the area of the
vehicle normally occupied by the driver or passengers, more than
one (1) gram, but not more than thirty (30) grams, of * * *
marihuana or synthetic cannabinoids is guilty of a misdemeanor
and, upon conviction, may be fined not more than One Thousand
Dollars ($1,000.00) and confined for not more than ninety (90)
days in the county jail. For the purposes of this subsection,
such area of the vehicle shall not include the trunk of the motor
vehicle or the areas not normally occupied by the driver or
passengers if the vehicle is not equipped with a trunk. A utility
or glove compartment shall be deemed to be within the area
occupied by the driver and passengers;

(C) More than thirty (30) grams but less than two
hundred fifty (250) grams may be fined not more than One Thousand
Dollars ($1,000.00), or confined in the county jail for not more than one (1) year, or both; or fined not more than Three Thousand Dollars ($3,000.00), or imprisoned in the State Penitentiary for not more than three (3) years, or both;

(D) Two hundred fifty (250) grams but less than five hundred (500) grams, by imprisonment for not less than two (2) years nor more than eight (8) years or by a fine of not more than Fifty Thousand Dollars ($50,000.00), or both;

(E) Five hundred (500) grams but less than one (1) kilogram, by imprisonment for not less than four (4) years nor more than sixteen (16) years or a fine of less than Two Hundred Fifty Thousand Dollars ($250,000.00), or both;

(F) One (1) kilogram but less than five (5) kilograms, by imprisonment for not less than six (6) years nor more than twenty-four (24) years or a fine of not more than Five Hundred Thousand Dollars ($500,000.00), or both;

(G) Five (5) kilograms or more, by imprisonment for not less than ten (10) years nor more than thirty (30) years or a fine of not more than One Million Dollars ($1,000,000.00), or both.

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

(A) Less than fifty (50) grams or less than one hundred (100) dosage units is a misdemeanor and punishable by not
more than one (1) year or a fine of not more than One Thousand Dollars ($1,000.00), or both.

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

(C) One hundred fifty (150) grams or Five Hundred (500) dosage units or more but less than three hundred (300) grams or one thousand (1,000) dosage units, by imprisonment for not less than two (2) years nor more than eight (8) years or a fine of not more than Fifty Thousand Dollars ($50,000.00), or both.

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

(d) (1) It is unlawful for a person who is not authorized by the State Board of Medical Licensure, State Board of Pharmacy, or other lawful authority to use, or to possess with intent to use, paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled
substance in violation of the Uniform Controlled Substances Law. Any person who violates this subsection is guilty of a misdemeanor and, upon conviction, may be confined in the county jail for not more than six (6) months, or fined not more than Five Hundred Dollars ($500.00), or both; however, no person shall be charged with a violation of this subsection when such person is also charged with the possession of one (1) ounce or less of marihuana or synthetic cannabinoids under subsection (c)(2)(A) of this section.

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

(3) Any person eighteen (18) years of age or over who violates subsection (d)(2) of this section by delivering or selling paraphernalia to a person under eighteen (18) years of age
who is at least three (3) years his junior is guilty of a misdemeanor and, upon conviction, may be confined in the county jail for not more than one (1) year, or fined not more than One Thousand Dollars ($1,000.00), or both.

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

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

(f) (1) Any person trafficking in controlled substances shall be guilty of a felony and, upon conviction, shall be imprisoned for a term of not less than ten (10) years nor more
than forty (40) years. The ten-year mandatory sentence shall not be reduced or suspended. The person shall not be eligible for probation or parole, the provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, Mississippi Code of 1972, to the contrary notwithstanding during the sentence and shall be fined not less than Five Thousand Dollars ($5,000.00) nor more than One Million Dollars ($1,000,000.00).

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

(A) A violation of subsection (a) of this section involving thirty (30) grams or forty (40) dosage units or more of a Schedule I or II substance except * * * marihuana;

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

(C) A violation of subsection (c) of this section involving thirty (30) grams or forty (40) dosage units or more of a Schedule I or II substance except * * * marihuana; or

(D) A violation of subsection (a) of this section involving one (1) kilogram or more of * * * marihuana or synthetic cannabinoids.

(3) The provisions of this subsection shall not apply to any person who furnishes information and assistance to the bureau, or its designee, which, in the opinion of the trial judge objectively should or would have aided in the arrest or
prosecution of others who violate this subsection. The accused shall have adequate opportunity to develop and make a record of all information and assistance so furnished.

(g) Any person trafficking in Schedule I or II substances, except **marihuana**, of two hundred (200) grams or more shall be guilty of aggravated trafficking and, upon conviction, shall be sentenced to a term of not less than twenty-five (25) years nor more than life in prison. The twenty-five-year sentence shall be a mandatory sentence and shall not be reduced or suspended. The person shall not be eligible for probation or parole, the provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, Mississippi Code of 1972, to the contrary notwithstanding during the sentence and shall be fined not less than Five Thousand Dollars ($5,000.00) nor more than One Million Dollars ($1,000,000.00).

(h) (1) Notwithstanding any provision of this section, a person who has been convicted of an offense under this section that requires the judge to impose a prison sentence which cannot be suspended or reduced and is ineligible for probation or parole may, at the discretion of the court, receive a sentence of imprisonment that is no less than twenty-five percent (25%) of the sentence prescribed by the applicable statute. In considering whether to apply the departure from the sentence prescribed, the court shall conclude that:
(A) The offender was not a leader of the criminal enterprise;
(B) The offender did not use violence or a weapon during the crime;
(C) The offense did not result in a death or serious bodily injury of a person not a party to the criminal enterprise; and
(D) The interests of justice are not served by the imposition of the prescribed mandatory sentence.

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

(i) The medical use of marihuana as authorized by Section 1 of this act shall not constitute a violation of this section.

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 6. Section 1 of this act shall be codified within Title 41, Chapter 29, Mississippi Code of 1972.

SECTION 7. This act shall take effect and be in force from and after July 1, 2015.