MISSISSIPPI LEGISLATURE  
REGULAR SESSION 2011

By: Senator(s) Dawkins  
To: Drug Policy

SENATE BILL NO. 2672

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) Subsection (3)(a) of this section 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-methyhfentanyl;
(2) Acetylmethadol;
(3) Allylprodine;
(4) Alphacetylmethadol, except levo-alphacetylmethadol (levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);
(5) Alphameprodine;
(6) Alphamethadol;
(7) Alpha-methyfentanyl;
(8) Alpha-methylthiofentanyl;
(9) Benzethidine;
(10) Betacetylmethadol;
(11) Beta-hydroxyfentanyl;
(12) Beta-hydroxy-3-methylfentanyl;
(13) Betameprodine;
(14) Betamethadol;
(15) Betaprodine;
(16) Clonitazene;
(17) Dextromoramide;
(18) Diampnromide;
(19) Diethylthiambutene;
(20) Difenoxin;
(21) Dimenoxadol;
(22) Dimephtanol;
(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
(1-(-2-phenylethyl)-4-phenyl-4-acetoxy piperidine);
(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) Methyldihydromorphine;
(15) Monoacetylmorphone;
(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) 3,4-methylenedioxy amphetamine;
(2) 5-methoxy-3,4-methylenedioxy amphetamine;
(3) 2,5-dimethoxy-4-ethylamphetamine (DOET);
(4) 2,5-dimethoxy-4(n) propylthiophenethylamine (2C-T-7);
(5) 3,4-methylenedioxymethamphetamine (MDMA);
(6) 3,4,5-trimethoxy amphetamine;
(7) Alpha-methyltryptamine (Also known as AMT);
(8) Bufotenine;
(9)  Diethyltryptamine;
(10) Dimethyltryptamine;
(11) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT);
(12) Alpha-ethyltryptamine;
(13) 4-methyl-2,5-dimethoxyamphetamine;
(14) Hashish;
(15) Ibogaine;
(16) Lysergic acid diethylamide (LSD);

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(17)  Mescaline;
(18)  Peyote;
(19)  N-ethyl-3-piperidyl benzilate;
(20)  N-methyl-3-piperidyl benzilate;
(21) Phencyclidine;
(22) Psilocybin;
(23) Psilocyn;
(24) 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:

THC-containing industrial products (e.g., (i) paper, rope and
clothing made from cannabis stalks; (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; and (iv) personal care products that contain oil from sterilized cannabis seeds, such as shampoos, soaps, and body lotions (provided that such products do not cause THC to enter the human body);

(25) 2,5-dimethoxyamphetamine;
(26) 4-bromo-2,5-dimethoxyamphetamine;
(27) 4-bromo-2,5-dimethoxyphenylethylamine;
(28) 4-methoxyamphetamine;
(29) Ethylamine analog of phencyclidine (PCE);
(30) Pyrrolidine analog of phencyclidine (PHP, PCPy);
(31) Thiophene analog of phencyclidine;
(32) Parahexyl;
(33) 1-[1-(2-thienyl)cyclohexyl] pyrrolidine (TCPy);
(34) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenylethylamine, N-ethyl MDA, MDE, MDEA);
(35) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy MDA, N-OHMDA, and N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenylethylamine);
(36) Salvia divinorum;
(37) Synthetic cannabinoids:
   (A) 1-pentyl-3-[(1-naphthoyl)indole (also known as JWH-018);
   (B) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-[(2-methyloctan-2-yl)6a,7,10a-tetrahydrobenzo[c] chromen-1-ol (also known as HU-210 or 1,1-dimethylheptyl-11-hydroxy-delta8-tetrahydrocannabinol);
(C) 2-(3-hydroxy)cyclohexyl)-5-(2-methyloctan-2-yl)phenol (also known as CP-47,497), and the dimethylhexyl, dimethyloctyl and dimethylnonyl homologues of CP-47,497;

(D) 1-butyl-3-(1-naphthoyl)indole (also known as JWH-073);

(E) 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl)indole (also known as JWH-200);

(F) 1-pentyl-3-(2-methoxyphenylacetyl)indole (also known as JWH-250);

(G) 1-hexyl-3-(1-naphthoyl)indole (also known as JWH-019);

(H) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (also known as JWH-398);

(I) All retailers in possession of synthetic cannabinoids shall have until October 1, 2010, to dispose of such synthetic cannabinoids by returning such synthetic cannabinoids to the distributor or otherwise legally disposing the synthetic cannabinoids. The exceptions provided in Section 41-29-139 that apply to marihuana shall apply to synthetic cannabinoids.

(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) N-ethyl-amphetamine;

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

(7) Methcathinone;

(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).

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) 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;
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(ii) 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) Marihuana.

(b) 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-alpha-acetylmethadol (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,
(21) Pethidine-Intermediate-C,
(22) Phenazocine;
(23) Piminodine;
(24) Racemethorphan;
(25) Racemorphan;
(26) Remifentanil;
(27) Sufentanil.

(c) 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) 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) Amphetamine and methamphetamine immediate precursor: Phenyacetone (phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone);
(5) Phencyclidine immediate precursors:
   (i) 1-phenylcyclohexylamine;
   (ii) 1-piperidinocyclohexanecarbonitrile (PCC);
(6) Pentazocine and its salts in injectable dosage form;
(7) 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;
(8) Glutethimide.
(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 subsections (f) and (g) of this section or in Section 41-29-142, any person who violates subsection (a) of this section shall be 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, 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, such person may, upon conviction, be imprisoned for not more than thirty (30) years and shall be fined not less than Five Thousand Dollars ($5,000.00) nor more than One Million Dollars ($1,000,000.00), or both;

(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 as classified in Schedule I, as set out in Section 41-29-113, such person is guilty of a felony and upon conviction may be imprisoned...
for not more than twenty (20) 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, 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, be imprisoned for not more than twenty (20) years and shall be fined not less than One Thousand Dollars ($1,000.00) nor more than Two Hundred Fifty Thousand Dollars ($250,000.00), or both; and

(5) In the case of controlled substances classified in Schedule V, as set out in Section 41-29-121, such person may, upon conviction, be imprisoned for not more than ten (10) years and shall be fined not less than One Thousand Dollars ($1,000.00) nor more than Fifty Thousand Dollars ($50,000.00), or both.

(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, 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, in the following amounts shall be charged
and sentenced as follows:

(A) Less than one-tenth (0.1) gram or one (1)
dosage unit or less may be charged as a misdemeanor or felony. If
charged by indictment as a felony: by imprisonment not less than
one (1) nor more than four (4) years and a fine of not more than
Ten Thousand Dollars ($10,000.00). If charged as a misdemeanor:
by imprisonment for up to one (1) year and a fine of not more than
One Thousand Dollars ($1,000.00).

(B) One-tenth (0.1) gram but less than two (2)
grams or two (2) dosage units but less than ten (10) dosage units,
by imprisonment for not less than two (2) years nor more than
eight (8) years and a fine of not more than Fifty Thousand Dollars
($50,000.00).

(C) Two (2) grams but less than ten (10) grams or
ten (10) dosage units but less than twenty (20) dosage units, by
imprisonment for not less than four (4) years nor more than
sixteen (16) years and a fine of not more than Two Hundred Fifty
Thousand Dollars ($250,000.00).

(D) Ten (10) grams but less than thirty (30) grams
or twenty (20) dosage units but not more than forty (40) dosage
units, by imprisonment for not less than six (6) years nor more than twenty-four (24) years and a fine of not more than Five Hundred Thousand Dollars ($500,000.00).

(E) Thirty (30) grams or more or forty (40) dosage units or more, by imprisonment for not less than ten (10) years nor more than thirty (30) years and a fine of not more than One Million Dollars ($1,000,000.00).

(2) Marihuana 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 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 and by a fine of not more than Fifty Thousand Dollars ($50,000.00);

(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 and a fine of less than Two Hundred Fifty Thousand Dollars ($250,000.00);
(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 and a fine of not more than Five Hundred Thousand Dollars ($500,000.00);

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

(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 and a fine of not more than One Thousand Dollars ($1,000.00).

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

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

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

(E) Five hundred (500) grams or more or two thousand five hundred (2,500) dosage units or more, by imprisonment for not less than six (6) years nor more than
twenty-four (24) years and a fine of not more than Five Hundred Thousand Dollars ($500,000.00).

(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 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) Except as otherwise authorized in this article, any person twenty-one (21) years of age or older who knowingly sells, barters, transfers, manufactures, distributes or dispenses during any twelve (12) consecutive month period: (i) ten (10) pounds or more of marihuana; (ii) two (2) ounces or more of heroin; (iii) two (2) or more ounces of cocaine or of any mixture containing cocaine as described in Section 41-29-105(s), Mississippi Code of 1972; (iv) two (2) or more ounces of methamphetamine; or (v) one hundred (100) or more dosage units of morphine, Demerol, Dilaudid, oxycodone hydrochloride or a derivative thereof, or 3,4-methylenedioxymethamphetamine (MDMA) shall be guilty of a felony and, upon conviction thereof, shall be sentenced to life
imprisonment and such sentence shall not be reduced or suspended nor shall such person 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. 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) (1) Any person trafficking in controlled substances shall be guilty of a felony and upon conviction shall be imprisoned for a term of thirty (30) years and such sentence shall not be reduced or suspended nor shall such person 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 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 to engage in three (3) or more component offenses within any twelve (12) consecutive month period where at least two (2) of the component offenses occurred in different counties. A component offense is any act which would constitute a violation of subsection (a) of this section. Prior convictions shall not be used as component offenses to establish the charge of trafficking in controlled substances.

(3) The charge of trafficking in controlled substances shall be set forth in one (1) count of an indictment with each of the component offenses alleged therein and it may be charged and tried in any county where a component offense occurred. An indictment for trafficking in controlled substances may also be
returned by the State Grand Jury of Mississippi provided at least
two (2) of the component offenses occurred in different circuit
court districts.

(h) The medical use of marihuana as authorized by Section 1
of this act shall not be 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. This act shall take effect and be in force from
and after July 1, 2011.