

By: Senator(s) Dawkins

To: Public Health and Welfare

SENATE BILL NO. 2358

1 AN ACT TO AUTHORIZE THE MEDICAL USE OF MARIHUANA BY SERIOUSLY
 2 ILL PATIENTS UNDER A PHYSICIAN'S SUPERVISION; TO DEFINE CERTAIN
 3 TERMS; TO PROVIDE AN EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES
 4 FOR THE MEDICAL USE OF MARIHUANA; TO PROVIDE LIMITATIONS ON THE
 5 MEDICAL USE OF MARIHUANA; TO PROVIDE A LEGAL DEFENSE FOR PATIENTS
 6 AND PRIMARY CAREGIVERS; TO AMEND SECTIONS 41-29-113 AND 41-29-115,
 7 MISSISSIPPI CODE OF 1972, TO TRANSFER MARIHUANA FROM SCHEDULE I TO
 8 SCHEDULE II UNDER THE CONTROLLED SUBSTANCES LAW; TO AMEND SECTION
 9 41-29-139, MISSISSIPPI CODE OF 1972, TO EXEMPT THE MEDICAL USE OF
 10 MARIHUANA FROM CRIMINAL PENALTIES UNDER THE CONTROLLED SUBSTANCES
 11 LAW; AND FOR RELATED PURPOSES.

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

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

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

20 (b) The Legislature would prefer for the federal
 21 government to permit marihuana to be prescribed by physicians and
 22 to be dispensed at pharmacies. However, the federal government



23 has shown no indication that it will change federal policy with
24 regard to medical marihuana, as evidenced by the federal
25 government's reluctance to allow even FDA-approved clinical trials
26 to move forward.

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

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

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

45 (f) State law should make a distinction between the
46 medical and nonmedical use of marihuana. Therefore, the purpose
47 of this act is to ensure that physicians are not penalized for



48 discussing marihuana as a treatment option with their patients,
49 and that seriously ill people who engage in the medical use of
50 marihuana upon their physicians' advice are not arrested and
51 incarcerated for using marihuana for medical purposes.

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

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

68 (b) "Debilitating medical condition" means:

69 (i) Cancer, glaucoma, positive status for human
70 immunodeficiency virus (HIV), acquired immune deficiency syndrome
71 (AIDS) or the treatment of these conditions;



72 (ii) A chronic or debilitating disease or medical
73 condition or its treatment that produces one or more of the
74 following: cachexia or wasting syndrome; severe pain; severe
75 nausea; seizures, including those characteristic of epilepsy; or
76 severe and persistent muscle spasms including those characteristic
77 of multiple sclerosis or Crohn's disease; or

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

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

92 (d) "Marihuana" has the meaning as defined in Section
93 41-29-105.

94 (e) "Medical use" means the acquisition, possession,
95 cultivation, use, transfer or transportation of marihuana or
96 paraphernalia relating to the administration of marihuana to



97 alleviate the symptoms or effects of a qualifying patient's
98 debilitating medical condition. For the purposes of "medical
99 use," the term "transfer" is limited to the transfer of marihuana
100 and paraphernalia between primary caregivers and qualifying
101 patients.

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

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

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

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

120 (3) (a) A qualifying patient who has in the patient's
121 possession written certification shall not be subject to arrest,



122 prosecution or penalty in any manner for the medical use of
123 marihuana, provided the quantity of marihuana does not exceed an
124 adequate supply.

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

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

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

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

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

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

140 (c) When the acquisition, possession, cultivation,
141 transportation or administration of marihuana by a qualifying
142 patient is not practicable, the legal protections established by
143 this act for a qualifying patient shall extend to the qualifying
144 patient's primary caregivers, provided that the primary
145 caregivers' actions are necessary for the qualifying patient's
146 medical use of marihuana.



147 (d) A physician shall not be subject to arrest or
148 prosecution, penalized in any manner or denied any right or
149 privilege for providing written certification for the medical use
150 of marihuana to qualifying patients.

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

169 (f) No person shall be subject to arrest or prosecution
170 for "constructive possession," "conspiracy" or any other offense



171 for simply being in the presence or vicinity of the medical use of
172 marihuana as permitted under this act.

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

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

178 (ii) The smoking of marihuana:

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

181 2. In the workplace of one's employment;

182 3. On any school grounds;

183 4. In any correctional facility; or

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

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

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

191 (c) Notwithstanding any law to the contrary, fraudulent
192 representation to a law enforcement official of any fact or
193 circumstance relating to the medical use of marihuana to avoid
194 arrest or prosecution shall be a misdemeanor and subject to a fine
195 of Five Hundred Dollars (\$500.00). This penalty shall be in



196 addition to any other penalties that may apply for the nonmedical
197 use of marihuana.

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

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

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

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

216 41-29-113. The controlled substances listed in this section
217 are included in Schedule I.

218 **SCHEDULE I**

219 (a) **Opiates.** Any of the following opiates, including their
220 isomers, esters, ethers, salts and salts of isomers, esters and



221 ethers, unless specifically excepted, whenever the existence of
222 these isomers, esters, ethers and salts is possible within the
223 specific chemical designation:

- 224 (1) Acetyl-alpha-methylfentanyl;
- 225 (2) Acetylmethadol;
- 226 (3) Allylprodine;
- 227 (4) Alphacetylmethadol, except levo-alphacetylmethadol
228 (levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);
- 229 (5) Alphameprodine;
- 230 (6) Alphamethadol;
- 231 (7) Alpha-methylfentanyl;
- 232 (8) Alpha-methylthiofentanyl;
- 233 (9) Benzethidine;
- 234 (10) Betacetylmethadol;
- 235 (11) Beta-hydroxyfentanyl;
- 236 (12) Beta-hydroxy-3-methylfentanyl;
- 237 (13) Betameprodine;
- 238 (14) Betamethadol;
- 239 (15) Betaprodine;
- 240 (16) Clonitazene;
- 241 (17) Dextromoramide;
- 242 (18) Diampromide;
- 243 (19) Diethylthiambutene;
- 244 (20) Difenoxyin;
- 245 (21) Dimenoxadol;



- 246 (22) Dimepheptanol;
- 247 (23) Dimethylthiambutene;
- 248 (24) Dioxaphetyl butyrate;
- 249 (25) Dipipanone;
- 250 (26) Ethylmethylthiambutene;
- 251 (27) Etonitazene;
- 252 (28) Etoxeridine;
- 253 (29) Furethidine;
- 254 (30) Hydroxypethidine;
- 255 (31) Ketobemidone;
- 256 (32) Levomoramide;
- 257 (33) Levophenacylmorphan;
- 258 (34) 3-methylfentanyl;
- 259 (35) 3-methylthiofentanyl;
- 260 (36) Morpheridine;
- 261 (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 262 (38) Noracymethadol;
- 263 (39) Norlevorphanol;
- 264 (40) Normethadone;
- 265 (41) Norpipanone;
- 266 (42) Para-fluorofentanyl;
- 267 (43) PEPAP
- 268 (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 269 (44) Phenadoxone;
- 270 (45) Phenampromide;



- 271 (46) Phenomorphan;
- 272 (47) Phenoperidine;
- 273 (48) Piritramide;
- 274 (49) Proheptazine;
- 275 (50) Properidine;
- 276 (51) Propiram;
- 277 (52) Racemoramide;
- 278 (53) Thiofentanyl;
- 279 (54) Tilidine;
- 280 (55) Trimeperidine.

281 (b) **Opiate derivatives.** Any of the following opium
282 derivatives, their salts, isomers and salts of isomers, unless
283 specifically excepted, whenever the existence of these salts,
284 isomers and salts of isomers is possible within the specific
285 chemical designation:

- 286 (1) Acetorphine;
- 287 (2) Acetyldihydrocodeine;
- 288 (3) Benzylmorphine;
- 289 (4) Codeine methylbromide;
- 290 (5) Codeine-N-Oxide;
- 291 (6) Cyprenorphine;
- 292 (7) Desomorphine;
- 293 (8) Dihydromorphine;
- 294 (9) Drotebanol;
- 295 (10) Etorphine * * * (except hydrochloride salt);



- 296 (11) Heroin;
- 297 (12) Hydromorphinol;
- 298 (13) Methyldesorphine;
- 299 (14) Methyldihydromorphine;
- 300 (15) Monoacetylmorphine;
- 301 (16) Morphine methylbromide;
- 302 (17) Morphine methylsulfonate;
- 303 (18) Morphine-N-Oxide;
- 304 (19) Myrophine;
- 305 (20) Nicocodeine;
- 306 (21) Nicomorphine;
- 307 (22) Normorphine;
- 308 (23) Pholcodine;
- 309 (24) Thebacon.

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

- 317 (1) Alpha-ethyltryptamine;
- 318 (2) 4-bromo-2,5-dimethoxy-amphetamine;
- 319 (3) 4-bromo-2,5-dimethoxyphenethylamine;
- 320 (4) 2,5-dimethoxyamphetamine;



- 321 (5) 2,5-dimethoxy-4-ethylamphetamine (DOET);
322 (6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine
323 (2C-T-7);
324 (7) 4-methoxyamphetamine;
325 (8) 5-methoxy-3,4-methylenedioxy-amphetamine;
326 (9) 4-methyl-2,5-dimethoxy-amphetamine;
327 (10) 3,4-methylenedioxy amphetamine;
328 (11) 3,4-methylenedioxymethamphetamine (MDMA);
329 (12) 3,4-methylenedioxy-N-ethylamphetamine (also known
330 as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl
331 MDA, MDE, MDEA);
332 (13) N-hydroxy-3,4-methylenedioxyamphetamine (also
333 known as N-hydroxy MDA, N-OHMDA, and
334 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine);
335 (14) 3,4,5-trimethoxy amphetamine;
336 (15) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);
337 (16) Alpha-methyltryptamine (also known as AMT);
338 (17) Bufotenine;
339 (18) Diethyltryptamine;
340 (19) Dimethyltryptamine;
341 (20) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT);
342 (21) Ibogaine;
343 (22) Lysergic acid diethylamide (LSD);
344 * * *
345 (* * *23) Mescaline;



- 346 (* * *24) Parahexyl;
- 347 (* * *25) Peyote;
- 348 (* * *26) N-ethyl-3-piperidyl benzilate;
- 349 (* * *27) N-methyl-3-piperidyl benzilate;
- 350 (* * *28) Psilocybin;
- 351 (* * *29) Psilocyn;
- 352 * * *
- 353 (* * *30) Phencyclidine;
- 354 (* * *31) Ethylamine analog of phencyclidine (PCE);
- 355 (* * *32) Pyrrolidine analog of phencyclidine (PHP,
356 PCPy);
- 357 (* * *33) Thiophene analog of phencyclidine;
- 358 (* * *34) 1-[1-(2-thienyl)cyclohexyl] pyrrolidine
359 (TCPy);
- 360 (* * *35) 4-methylmethcathinone (mephedrone);
- 361 (* * *36) 3,4-methylenedioxypropylamine (MDPV);
- 362 (* * *37) 2-(2,5-dimethoxy-4-ethylphenyl)ethanamine
363 (2C-E);
- 364 (* * *38) 2-(2,5-dimethoxy-4-methylphenyl)ethanamine
365 (2C-D);
- 366 (* * *39) 2-(4-chloro-2,5-dimethoxyphenyl)ethanamine
367 (2C-C);
- 368 (* * *40) 2-(4-iodo-2,5-dimethoxyphenyl)ethanamine
369 (2C-I); or 2,5-dimethoxy-4-iodophenethylamine;



370 (* * *41)
371 2-[4-(ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2);
372 (* * *42)
373 2-[4-(isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4);
374 (* * *43) 2-(2,5-dimethoxyphenyl)ethanamine (2C-H);
375 (* * *44) 2-(2,5-dimethoxy-4-nitro-phenyl)ethanamine
376 (2C-N);
377 (* * *45)
378 2-(2,5-dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P);
379 (* * *46)
380 3,4-methylenedioxy-N-methylcathinone (methydone);
381 (* * *47)
382 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine
383 (25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36);
384 (* * *48)
385 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine
386 (25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82);
387 (* * *49)
388 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine or
389 N-[(2-methoxyphenyl)methyl]ethanamine (25I-NBOMe; 2C-I-NBOMe; 25I;
390 Cimbi-5);
391 (* * *50) 7-bromo-5-(2-chlorophenyl)-1,3-dihydro-2H-1,
392 4-benzodiazepin-2-one (also known as Phenazepam);
393 (* * *51)
394 7-(2-chlorophenyl)-4-ethyl-13-methyl-3-thia-1,8,



395 11,12-tetraazatricyclo[8.3.0.0]trideca-2(6),4,7,10,12-pentaene
396 (also known as Etizolam);

397 (* * *52) *Salvia divinorum*;

398 (* * *53) Synthetic cannabinoids. Unless specifically
399 excepted or unless listed in another schedule, any material,
400 compound, mixture, or preparation which contains any quantity of a
401 synthetic cannabinoid found in any of the following chemical
402 groups, whether or not substituted to any extent, or any of those
403 groups which contain any synthetic cannabinoid salts, isomers, or
404 salts of isomers, whenever the existence of such salts, isomers,
405 or salts of isomers is possible within the specific chemical
406 designation, including all synthetic cannabinoid chemical
407 analogues in such groups:

408 (A) (6aR,10aR)-9-(hydroxymethyl)-6,
409 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]
410 chromen-1-ol (also known as HU-210 or
411 1,1-dimethylheptyl-11-hydroxy-delta8-tetrahydrocannabinol);

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

417 (C) Naphthoylpyrroles, being any compound
418 structurally derived from 3-(1-naphthoyl)pyrrole, whether or not



419 substituted in the pyrrole ring to any extent, or in the naphthyl
420 ring to any extent;

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

425 (E) Phenylacetylindeles, being any compound
426 structurally derived from 3-phenylacetylindele, whether or not
427 substituted in the indole ring to any extent or in the phenyl ring
428 to any extent;

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

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

435 (H) Adamantoylindeles, whether or not substituted
436 in the indole ring to any extent or in the adamantoyl ring system
437 to any extent;

438 (I) Tetrahydro derivatives of cannabinol and
439 3-alkyl homologues of cannabiniol or of its tetrahydro
440 derivatives, except where contained in cannabis or cannabis resin;

441 (J) 3-Cyclopropylmethanone indole or
442 3-Cyclobutylmethanone indole or 3-Cyclopentylmethanone indole by
443 substitution at the nitrogen atom of the indole ring, whether or



444 not further substituted in the indole ring to any extent, whether
445 or not substituted on the cyclopropyl, cyclobutyl or cyclopentyl
446 rings to any extent;

447 (K) Quinoliny ester indoles, being any compound
448 structurally derived from 1H-indole-3carboxylic acid-8-quinoliny
449 ester, whether or not substituted in the indole ring to any extent
450 or the quinolone ring to any extent;

451 (L) 3-carboxamide-1H-indazoles, whether or not
452 substituted in the indazole ring to any extent and substituted to
453 any degree on the carboxamide nitrogen and
454 3-carboxamide-1H-indoles, whether or not substituted in the indole
455 ring to any extent and substituted to any degree on the
456 carboxamide nitrogen;

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

461 (d) **Depressants.** Unless specifically excepted or unless
462 listed in another schedule, any material, compound, mixture, or
463 preparation which contains any quantity of the following
464 substances having a depressant effect on the central nervous
465 system, including their salts, isomers, and salts of isomers,
466 whenever the existence of such salts, isomers, and salts of
467 isomers is possible within the specific chemical designation:



468 (1) Gamma-hydroxybutyric acid (other names include:
469 GHB, gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic
470 acid; sodium oxybate; sodium oxybutyrate);

471 (2) Mecloqualone;

472 (3) Methaqualone.

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

478 (1) Aminorex;

479 (2) N-benzylpiperazine (also known as BZP;
480 1-benzylpiperazine);

481 (3) Cathinone;

482 (4) Fenethylamine;

483 (5) Methcathinone;

484 (6) 4-methylaminorex (also known as
485 2-amino-4-methyl-5-phenyl-2-oxazoline);

486 (7) N-ethylamphetamine;

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

491 (9) Unless listed in another schedule, any compound
492 other than bupropion that is structurally derived from



493 2-Amino-1-phenyl-1-propanone by modification in any of the
494 following ways:

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

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

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

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

506 41-29-115. (A) The controlled substances listed in this
507 section are included in Schedule II.

508 **SCHEDULE II**

509 (a) **Substances, vegetable origin or chemical synthesis.**

510 Any of the following substances, except those narcotic drugs
511 listed in other schedules, whether produced directly or indirectly
512 by extraction from substances of vegetable origin, or
513 independently by means of chemical synthesis, or by combination of
514 extraction and chemical synthesis:

515 (1) Opium and opiate, and any salt, compound,
516 derivative, or preparation of opium or opiate, excluding naloxone
517 hydrochloride, apomorphine, thebaine-derived butorphanol,



518 dextrorphan, nalbuphine, nalmeffene and naltrexone, but including
519 the following:

- 520 (i) Codeine;
- 521 (ii) Dihydroetorphine;
- 522 (iii) Ethylmorphine;
- 523 (iv) Etorphine hydrochloride;
- 524 (v) Granulated opium;
- 525 (vi) Hydrocodone;
- 526 (vii) Hydromorphone;
- 527 (viii) Metopon;
- 528 (ix) Morphine;
- 529 (x) Opium extracts;
- 530 (xi) Opium fluid extracts;
- 531 (xii) Oripavine;
- 532 (xiii) Oxycodone;
- 533 (xiv) Oxymorphone;
- 534 (xv) Powdered opium;
- 535 (xvi) Raw opium;
- 536 (xvii) Thebaine;
- 537 (xviii) Tincture of opium.

538 (2) Any salt, compound, isomer, derivative, or
539 preparation thereof which is chemically equivalent or identical
540 with any of the substances referred to in paragraph (1), but not
541 including the isoquinoline alkaloids of opium;

542 (3) Opium poppy and poppy straw;



543 (4) Coca leaves and any salt, compound,
544 derivative, or preparation of cocaine or coca leaves, including
545 cocaine and ecgonine and any salt, compound, derivative, isomer,
546 or preparation thereof which is chemically equivalent or identical
547 with any of these substances, but not including decocainized coca
548 leaves or extractions which do not contain cocaine or ecgonine;

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

552 (6) (i) Marihuana;

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

561 (A) 1 cis or trans tetrahydrocannabinol;

562 (B) 6 cis or trans tetrahydrocannabinol;

563 (C) 3,4 cis or trans tetrahydrocannabinol.

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

567 ("Tetrahydrocannabinols" excludes dronabinol and nabilone.)



568 However, the following products are exempted from control:

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

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

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

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

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

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

592 (1) Alfentanil;



593 (2) Alphaprodine;
594 (3) Anileridine;
595 (4) Bezitramide;
596 (5) Bulk dextropropoxyphene (nondosage forms);
597 (6) Carfentanil;
598 (7) Dihydrocodeine;
599 (8) Diphenoxylate;
600 (9) Fentanyl;
601 (10) Isomethadone;
602 (11) Levo-alpha-acetylmethadol
603 (levo-alpha-acetylmethadol, levomethadyl acetate, LAAM);
604 (12) Levomethorphan;
605 (13) Levorphanol;
606 (14) Metazocine;
607 (15) Methadone;
608 (16) Methadone-intermediate,
609 4-cyano-2-dimethylamino-4,4-diphenyl butane;
610 (17) Moramide-intermediate,
611 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;
612 (18) Pethidine (meperidine);
613 (19) Pethidine-Intermediate-A,
614 4-cyano-1-methyl-4-phenylpiperidine;
615 (20) Pethidine-Intermediate-B,
616 ethyl-4-phenylpiperidine-4-carboxylate;



617 (21) Pethidine-Intermediate-C,
618 1-methyl-4-phenylpiperidine-4-carboxylic acid;

619 (22) Phenazocine;

620 (23) Piminodine;

621 (24) Racemethorphan;

622 (25) Racemorphan;

623 (26) Remifentanil;

624 (27) Sufentanil;

625 (28) Tapentadol.

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

629 (1) Amphetamine, its salts, optical isomers, and
630 salts of its optical isomers;

631 (2) Phenmetrazine and its salts;

632 (3) Any substance which contains any quantity of
633 methamphetamine, including its salts, isomers, and salts of
634 isomers;

635 (4) Methylphenidate and its salts;

636 (5) Lisdexamfetamine, its salts, isomers and salts
637 of isomers.

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

641 (1) Amobarbital;



642 (2) Secobarbital;

643 (3) Pentobarbital;

644 (4) Glutethimide.

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

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

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

656 (2) Phencyclidine immediate precursors:
657 (i) 1-phenylcyclohexylamine;
658 (ii) 1-piperidinocyclohexanecarbonitrile
659 (PCC);

660 (3) Fentanyl immediate precursor:
661 4-anilino-N-phenethyl-4-piperidine (ANPP);

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

664 (B) Any material, compound, mixture or preparation which
665 contains any quantity of a Schedule II controlled substance and is
666 listed as an exempt substance in 21 CFR, Section 1308.24 or



667 1308.32, shall be exempted from the provisions of the Uniform
668 Controlled Substances Law.

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

671 41-29-139. (a) Except as authorized by this article, it is
672 unlawful for any person knowingly or intentionally:

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

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

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

682 (1) In the case of controlled substances classified in
683 Schedule I or II, as set out in Sections 41-29-113 and 41-29-115,
684 except thirty (30) grams or less of * * * marihuana or synthetic
685 cannabinoids, and except a first offender as defined in Section
686 41-29-149(e) who violates subsection (a) of this section with
687 respect to less than one (1) kilogram but more than thirty (30)
688 grams of * * * marihuana or synthetic cannabinoids, such person
689 may, upon conviction for an amount of the controlled substance of:



690 (A) Less than two (2) grams or ten (10) dosage
691 units, be imprisoned for not more than eight (8) years or fined
692 not more than Fifty Thousand Dollars (\$50,000.00), or both.

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

698 (C) Ten (10) grams or twenty (20) dosage units or
699 more, but less than thirty (30) grams or forty (40) dosage units,
700 be imprisoned for not less five (5) years nor more than thirty
701 (30) years or fined not more than Five Hundred Thousand Dollars
702 (\$500,000.00).

703 (2) In the case of a first offender who violates
704 subsection (a) of this section with an amount less than one (1)
705 kilogram but more than thirty (30) grams of * * * marihuana or
706 synthetic cannabinoids as classified in Schedule I or II, as set
707 out in Sections 41-29-113 and 41-29-115, such person is guilty of
708 a felony and, upon conviction, may be imprisoned for not more than
709 five (5) years or fined not more than Thirty Thousand Dollars
710 (\$30,000.00), or both;

711 (3) In the case of thirty (30) grams or less of * * *
712 marihuana or synthetic cannabinoids, such person may, upon
713 conviction, be imprisoned for not more than three (3) years or
714 fined not more than Three Thousand Dollars (\$3,000.00), or both;



715 (4) In the case of controlled substances classified in
716 Schedules III and IV, as set out in Sections 41-29-117 and
717 41-29-119, such person may, upon conviction for an amount of the
718 controlled substance of:

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

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

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

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

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

736 (B) Two (2) grams or ten (10) dosage units or more
737 but less than ten (10) grams or twenty (20) dosage units, be
738 imprisoned for not more than five (5) years or fined not more than
739 Ten Thousand Dollars (\$10,000.00), or both;



740 (C) Ten (10) grams or twenty (20) dosage units or
741 more but less than thirty (30) grams or forty (40) dosage units,
742 be imprisoned for not more than ten (10) years or fined not more
743 than Twenty Thousand Dollars (\$20,000.00).

744 (c) It is unlawful for any person knowingly or intentionally
745 to possess any controlled substance unless the substance was
746 obtained directly from, or pursuant to, a valid prescription or
747 order of a practitioner while acting in the course of his
748 professional practice, or except as otherwise authorized by this
749 article. The penalties for any violation of this subsection (c)
750 with respect to a controlled substance classified in Schedules I,
751 II, III, IV or V, as set out in Section 41-29-113, 41-29-115,
752 41-29-117, 41-29-119 or 41-29-121, including * * * marihuana or
753 synthetic cannabinoids, shall be based on dosage unit as defined
754 herein or the weight of the controlled substance as set forth
755 herein as appropriate:

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

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



764 The weight set forth refers to the entire weight of any
765 mixture or substance containing a detectable amount of the
766 controlled substance.

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

771 Any person who violates this subsection with respect to:

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

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

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

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

787 (D) Ten (10) grams or twenty (20) dosage units or
788 more but less than thirty (30) grams or forty (40) dosage units,



789 may be imprisoned for not less than three (3) years nor more than
790 twenty (20) years and fined not more than Five Hundred Thousand
791 Dollars (\$500,000.00), or both.

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

794 (A) Thirty (30) grams or less by a fine of not
795 less than One Hundred Dollars (\$100.00) nor more than Two Hundred
796 Fifty Dollars (\$250.00). The provisions of this paragraph shall
797 be enforceable by summons, provided the offender provides proof of
798 identity satisfactory to the arresting officer and gives written
799 promise to appear in court satisfactory to the arresting officer,
800 as directed by the summons. A second conviction under this
801 section within two (2) years shall be punished by a fine of Two
802 Hundred Fifty Dollars (\$250.00) and not less than five (5) days
803 nor more than sixty (60) days in the county jail and mandatory
804 participation in a drug education program, approved by the
805 Division of Alcohol and Drug Abuse of the State Department of
806 Mental Health, unless the court enters a written finding that such
807 drug education program is inappropriate. A third or subsequent
808 conviction under this section within two (2) years is a
809 misdemeanor punishable by a fine of not less than Two Hundred
810 Fifty Dollars (\$250.00) nor more than Five Hundred Dollars
811 (\$500.00) and confinement for not less than five (5) days nor more
812 than six (6) months in the county jail. Upon a first or second
813 conviction under this section, the courts shall forward a report



814 of such conviction to the Mississippi Bureau of Narcotics which
815 shall make and maintain a private, nonpublic record for a period
816 not to exceed two (2) years from the date of conviction. The
817 private, nonpublic record shall be solely for the use of the
818 courts in determining the penalties which attach upon conviction
819 under this section and shall not constitute a criminal record for
820 the purpose of private or administrative inquiry and the record of
821 each conviction shall be expunged at the end of the period of two
822 (2) years following the date of such conviction;

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

837 (C) More than thirty (30) grams but less than two
838 hundred fifty (250) grams may be fined not more than One Thousand



839 Dollars (\$1,000.00), or confined in the county jail for not more
840 than one (1) year, or both; or fined not more than Three Thousand
841 Dollars (\$3,000.00), or imprisoned in the State Penitentiary for
842 not more than three (3) years, or both;

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

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

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

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

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

862 (A) Less than fifty (50) grams or less than one
863 hundred (100) dosage units is a misdemeanor and punishable by not



864 more than one (1) year or a fine of not more than One Thousand
865 Dollars (\$1,000.00), or both.

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

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

876 (D) Three hundred (300) grams or one thousand
877 (1,000) dosage units or more but less than five hundred (500)
878 grams or two thousand five hundred (2,500) dosage units, by
879 imprisonment for not less than four (4) years nor more than
880 sixteen (16) years or a fine of not more than Two Hundred Fifty
881 Thousand Dollars (\$250,000.00), or both.

882 (d) (1) It is unlawful for a person who is not authorized
883 by the State Board of Medical Licensure, State Board of Pharmacy,
884 or other lawful authority to use, or to possess with intent to
885 use, paraphernalia to plant, propagate, cultivate, grow, harvest,
886 manufacture, compound, convert, produce, process, prepare, test,
887 analyze, pack, repack, store, contain, conceal, inject, ingest,
888 inhale or otherwise introduce into the human body a controlled



889 substance in violation of the Uniform Controlled Substances Law.
890 Any person who violates this subsection is guilty of a misdemeanor
891 and, upon conviction, may be confined in the county jail for not
892 more than six (6) months, or fined not more than Five Hundred
893 Dollars (\$500.00), or both; however, no person shall be charged
894 with a violation of this subsection when such person is also
895 charged with the possession of one (1) ounce or less of * * *
896 marihuana or synthetic cannabinoids under subsection (c) (2) (A) of
897 this section.

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

911 (3) Any person eighteen (18) years of age or over who
912 violates subsection (d) (2) of this section by delivering or
913 selling paraphernalia to a person under eighteen (18) years of age



914 who is at least three (3) years his junior is guilty of a
915 misdemeanor and, upon conviction, may be confined in the county
916 jail for not more than one (1) year, or fined not more than One
917 Thousand Dollars (\$1,000.00), or both.

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

927 (e) It shall be unlawful for any physician practicing
928 medicine in this state to prescribe, dispense or administer any
929 amphetamine or amphetamine-like anorectics and/or central nervous
930 system stimulants classified in Schedule II, pursuant to Section
931 41-29-115, for the exclusive treatment of obesity, weight control
932 or weight loss. Any person who violates this subsection, upon
933 conviction, is guilty of a misdemeanor and may be confined for a
934 period not to exceed six (6) months, or fined not more than One
935 Thousand Dollars (\$1,000.00), or both.

936 (f) (1) Any person trafficking in controlled substances
937 shall be guilty of a felony and, upon conviction, shall be
938 imprisoned for a term of not less than ten (10) years nor more



939 than forty (40) years. The ten-year mandatory sentence shall not
940 be reduced or suspended. The person shall not be eligible for
941 probation or parole, the provisions of Sections 41-29-149,
942 47-5-139, 47-7-3 and 47-7-33, Mississippi Code of 1972, to the
943 contrary notwithstanding during the sentence and shall be fined
944 not less than Five Thousand Dollars (\$5,000.00) nor more than One
945 Million Dollars (\$1,000,000.00).

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

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

951 (B) A violation of subsection (c) of this section
952 involving five hundred (500) grams or two thousand five hundred
953 (2,500) dosage units of a Schedule III, IV or V substance;

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

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

960 (3) The provisions of this subsection shall not apply
961 to any person who furnishes information and assistance to the
962 bureau, or its designee, which, in the opinion of the trial judge
963 objectively should or would have aided in the arrest or



964 prosecution of others who violate this subsection. The accused
965 shall have adequate opportunity to develop and make a record of
966 all information and assistance so furnished.

967 (g) Any person trafficking in Schedule I or II substances,
968 except * * * marihuana, of two hundred (200) grams or more shall
969 be guilty of aggravated trafficking and, upon conviction, shall be
970 sentenced to a term of not less than twenty-five (25) years nor
971 more than life in prison. The twenty-five-year sentence shall be
972 a mandatory sentence and shall not be reduced or suspended. The
973 person shall not be eligible for probation or parole, the
974 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33,
975 Mississippi Code of 1972, to the contrary notwithstanding during
976 the sentence and shall be fined not less than Five Thousand
977 Dollars (\$5,000.00) nor more than One Million Dollars
978 (\$1,000,000.00).

979 (h) (1) Notwithstanding any provision of this section, a
980 person who has been convicted of an offense under this section
981 that requires the judge to impose a prison sentence which cannot
982 be suspended or reduced and is ineligible for probation or parole
983 may, at the discretion of the court, receive a sentence of
984 imprisonment that is no less than twenty-five percent (25%) of the
985 sentence prescribed by the applicable statute. In considering
986 whether to apply the departure from the sentence prescribed, the
987 court shall conclude that:



988 (A) The offender was not a leader of the criminal
989 enterprise;

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

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

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

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

1000 (i) The medical use of marihuana as authorized by Section 1
1001 of this act shall not constitute a violation of this section.

1002 **SECTION 5.** If any provision of this act or the application
1003 thereof to any person or circumstance is held invalid, the
1004 invalidity does not affect other provisions or applications of the
1005 act which can be given effect without the invalid provision or
1006 application, and to this end the provisions of this act are
1007 severable.

1008 **SECTION 6.** Section 1 of this act shall be codified within
1009 Title 41, Chapter 29, Mississippi Code of 1972.

1010 **SECTION 7.** This act shall take effect and be in force from
1011 and after July 1, 2016.

