

By: Senator(s) Dawkins

To: Drug Policy

SENATE BILL NO. 2606

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.** The Legislature finds and declares the following:

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

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

26 (c) According to the United States Sentencing
27 Commission and the Federal Bureau of Investigation, more than
28 ninety-nine (99) out of every one hundred (100) marihuana arrests
29 are made under state law, rather than under federal law.
30 Consequently, changing state law will have the practical effect of



31 protecting from arrest the vast majority of seriously ill people
32 who have a medical need to use marihuana.

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

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

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

51 **SECTION 2.** The following words and phrases shall have the
52 meanings ascribed in this section, unless the context clearly
53 indicates otherwise:

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



64 or preparation thereof, that are appropriate for the medical use
65 of marihuana, and does not include the seeds, stalks and roots of
66 the plant.

67 (b) "Debilitating medical condition" means:

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

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

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

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

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

93 (e) "Medical use" means the acquisition, possession,
94 cultivation, use, transfer or transportation of marihuana or
95 paraphernalia relating to the administration of marihuana to
96 alleviate the symptoms or effects of a qualifying patient's



97 debilitating medical condition. For the purposes of "medical
98 use," the term "transfer" is limited to the transfer of marihuana
99 and paraphernalia between primary caregivers and qualifying
100 patients.

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

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

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

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

119 **SECTION 3.** (1) A qualifying patient who has in the
120 patient's possession written certification shall not be subject to
121 arrest, prosecution or penalty in any manner for the medical use
122 of marihuana, provided the quantity of marihuana does not exceed
123 an adequate supply.

124 (2) Subsection (1) of this section shall not apply to a
125 qualifying patient under the age of eighteen (18) years, unless:

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



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

132 (i) Allow the qualifying patient's medical use of
133 marihuana;

134 (ii) Serve as the qualifying patient's primary
135 caregiver; and

136 (iii) Control the acquisition of the marihuana,
137 the dosage and the frequency of the medical use of marihuana by
138 the qualifying patient.

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

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

150 (5) Any property interest that is possessed, owned or used
151 in connection with the medical use of marihuana, or acts
152 incidental to that use, shall not be harmed, neglected, injured or
153 destroyed while in the possession of state or local law
154 enforcement officials, provided that law enforcement agencies
155 seizing live plants as evidence shall not be responsible for the
156 care and maintenance of marihuana plants. Any such property
157 interest shall not be forfeited under any provision of state or
158 local law providing for the forfeiture of property other than as a
159 sentence imposed after conviction of a criminal offense or entry
160 of a plea of guilty to a criminal offense. Marihuana,
161 paraphernalia or other property seized from a qualifying patient
162 or primary caregivers in connection with the claimed medical use



163 of marihuana shall be returned immediately upon the determination
164 by a court or prosecutor that the qualifying patient or primary
165 caregivers are entitled to the protections of this act, as may be
166 evidenced by a decision not to prosecute, the dismissal of charges
167 or an acquittal.

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

172 **SECTION 4.** (1) The authorization for the medical use of
173 marihuana in this act shall not apply to:

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

177 (b) The smoking of marihuana:

178 (i) In a school bus, public bus or other public
179 vehicle;

180 (ii) In the workplace of one's employment;

181 (iii) On any school grounds;

182 (iv) In any correctional facility; or

183 (v) At any public park, public beach, public
184 recreation center or youth center; and

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

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

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



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

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

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

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

213 **SECTION 6.** Section 41-29-113, Mississippi Code of 1972, is
214 amended as follows:

215 41-29-113. The controlled substances listed in this section
216 are included in Schedule I.

217 **SCHEDULE I**

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

- 223 (1) Acetyl-alpha-methylfentanyl;
224 (2) Acetylmethadol;
225 (3) Allylprodine;
226 (4) Alphacetylmethadol, except levo-alphacetylmethadol
227 (levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);



- 228 (5) Alphameprodine;
- 229 (6) Alphamethadol;
- 230 (7) Alpha-methylfentanyl;
- 231 (8) Alpha-methylthiofentanyl;
- 232 (9) Benzethidine;
- 233 (10) Betacetylmethadol;
- 234 (11) Beta-hydroxyfentanyl;
- 235 (12) Beta-hydroxy-3-methylfentanyl;
- 236 (13) Betameprodine;
- 237 (14) Betamethadol;
- 238 (15) Betaprodine;
- 239 (16) Clonitazene;
- 240 (17) Dextromoramide;
- 241 (18) Diampromide;
- 242 (19) Diethylthiambutene;
- 243 (20) Difenoxyin;
- 244 (21) Dimenoxadol;
- 245 (22) Dimepheptanol;
- 246 (23) Dimethylthiambutene;
- 247 (24) Dioxaphetyl butyrate;
- 248 (25) Dipipanone;
- 249 (26) Ethylmethylthiambutene;
- 250 (27) Etonitazene;
- 251 (28) Etoxeridine;
- 252 (29) Furethidine;
- 253 (30) Hydroxypethidine;
- 254 (31) Ketobemidone;
- 255 (32) Levomoramide;
- 256 (33) Levophenacylmorphan;
- 257 (34) 3-methylfentanyl;
- 258 (35) 3-methylthiofentanyl;
- 259 (36) Morpheridine;
- 260 (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);



- 261 (38) Noracymethadol;
- 262 (39) Norlevorphanol;
- 263 (40) Normethadone;
- 264 (41) Norpipanone;
- 265 (42) Para-fluorofentanyl;
- 266 (43) PEPAP
- 267 (1-(-2-phenylethyl)-4-phenyl-4-acetoxypiperidine);
- 268 (44) Phenadoxone;
- 269 (45) Phenampromide;
- 270 (46) Phenomorphan;
- 271 (47) Phenoperidine;
- 272 (48) Piritramide;
- 273 (49) Proheptazine;
- 274 (50) Properidine;
- 275 (51) Propiram;
- 276 (52) Racemoramide;
- 277 (53) Thiofentanyl;
- 278 (54) Tilidine;
- 279 (55) Trimeperidine.

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

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



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

308 (c) Any material, compound, mixture or preparation which
309 contains any quantity of the following hallucinogenic substances,
310 their salts, optical isomers and salts of isomers, unless
311 specifically excepted, whenever the existence of these salts,
312 optical isomers and salts of isomers is possible within the
313 specific chemical designation:

- 314 (1) 3,4-methylenedioxy amphetamine;
- 315 (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- 316 (3) 2,5-dimethoxy-4-ethylamphetamine (DOET);
- 317 (4) 2,5-dimethoxy-4(n) propylthiophenethylamine
318 (2C-T-7);
- 319 (5) 3,4-methylenedioxymethamphetamine (MDMA);
- 320 (6) 3,4,5-trimethoxy amphetamine;
- 321 (7) Alpha-methyltryptamine (Also known as AMT);
- 322 (8) Bufotenine;
- 323 (9) Diethyltryptamine;
- 324 (10) Dimethyltryptamine;
- 325 (11) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT);
- 326 (12) Alpha-ethyltryptamine;



- 327 (13) 4-methyl-2,5-dimethoxyamphetamine;
328 (14) Hashish;
329 (15) Ibogaine;
330 (16) Lysergic acid diethylamide (LSD);

331 * * *

- 332 (17) Mescaline;
333 (18) Peyote;
334 (19) N-ethyl-3-piperidyl benzilate;
335 (20) N-methyl-3-piperidyl benzilate;
336 (21) Phencyclidine;
337 (22) Psilocybin;
338 (23) Psilocyn;
339 (24) Tetrahydrocannabinols (meaning
340 tetrahydrocannabinols contained in a plant of the genus Cannabis
341 (cannabis plant), as well as the synthetic equivalents of the
342 substances contained in the cannabis plant, or in the resinous
343 extractives of such plant, and/or synthetic substances,
344 derivatives, and their isomers with similar chemical structure and
345 pharmacological activity to those substances contained in the
346 plant such as the following: -1 cis or trans
347 tetrahydrocannabinol, and their optical isomers; -6 cis or trans
348 tetrahydrocannabinol, and their optical isomers; -3,4 cis or trans
349 tetrahydrocannabinol, and their optical isomers.) (Since
350 nomenclature of these substances is not internationally
351 standardized, compounds of these structures, regardless of atomic
352 positions are covered.) ("Tetrahydrocannabinols" excludes
353 dronabinol and nabilone.) However, the following products are
354 exempted from control: THC-containing industrial products (e.g.,
355 (i) paper, rope and clothing made from cannabis stalks; (ii)
356 processed cannabis plant materials used for industrial purposes,
357 such as fiber retted from cannabis stalks for use in manufacturing
358 textiles or rope; (iii) animal feed mixtures that contain
359 sterilized cannabis seeds and other ingredients (not derived from



360 the cannabis plant) in a formula designed, marketed and
361 distributed for nonhuman consumption; and (iv) personal care
362 products that contain oil from sterilized cannabis seeds, such as
363 shampoos, soaps, and body lotions (provided that such products do
364 not cause THC to enter the human body);

- 365 (25) 2,5-dimethoxyamphetamine;
- 366 (26) 4-bromo-2,5-dimethoxyamphetamine;
- 367 (27) 4-bromo-2,5-dimethoxyphenylethylamine;
- 368 (28) 4-methoxyamphetamine;
- 369 (29) Ethylamine analog of phencyclidine (PCE);
- 370 (30) Pyrrolidine analog of phencyclidine (PHP, PCPy);
- 371 (31) Thiophene analog of phencyclidine;
- 372 (32) Parahexyl;
- 373 (33) 1-[1-(2-thienyl)cyclohexyl] pyrrolidine (TCPy);
- 374 (34) 3,4-methylenedioxy-N-ethylamphetamine (also known
375 as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenylethylamine,
376 N-ethyl MDA, MDE, MDEA);
- 377 (35) N-hydroxy-3,4-methylenedioxyamphetamine (also
378 known as N-hydroxy MDA, N-OHMDA, and
379 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenylethylamine);
- 380 (36) Salvia divinorum.

381 (d) Depressants. Unless specifically excepted or unless
382 listed in another schedule, any material, compound, mixture, or
383 preparation which contains any quantity of the following
384 substances having a depressant effect on the central nervous
385 system, including their salts, isomers, and salts of isomers,
386 whenever the existence of such salts, isomers, and salts of
387 isomers is possible within the specific chemical designation:

- 388 (1) Gamma-hydroxybutyric acid (other names include:
389 GHB, gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic
390 acid; sodium oxybate; sodium oxybutyrate);
- 391 (2) Mecloqualone;
- 392 (3) Methaqualone.



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

397 (1) Aminorex;

398 (2) N-benzylpiperazine (also known as BZP;
399 1-benzylpiperazine);

400 (3) Cathinone;

401 (4) Fenethylamine;

402 (5) N-ethyl-amphetamine;

403 (6) 4-methylaminorex (also known as
404 2-amino-4-methyl-5-phenyl-2-oxazoline);

405 (7) Methcathinone;

406 (8) Any material, compound, mixture or preparation
407 which contains any quantity of N,N-dimethylamphetamine. (Other
408 names include: N,N,-alpha-trimethyl-benzeneethanamine, and
409 N,N-alpha-trimethylphenethylamine).

410 **SECTION 7.** Section 41-29-115, Mississippi Code of 1972, is
411 amended as follows:

412 41-29-115. (A) The controlled substances listed in this
413 section are included in Schedule II.

414 **SCHEDULE II**

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

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

425 (i) Codeine;



- 426 (ii) Dihydroetorphine;
427 (iii) Ethylmorphine;
428 (iv) Etorphine hydrochloride;
429 (v) Granulated opium;
430 (vi) Hydrocodone;
431 (vii) Hydromorphone;
432 (viii) Metopon;
433 (ix) Morphine;
434 (x) Opium extracts;
435 (xi) Opium fluid extracts;
436 (xii) Oripavine;
437 (xiii) Oxycodone;
438 (xiv) Oxymorphone;
439 (xv) Powdered opium;
440 (xvi) Raw opium;
441 (xvii) Thebaine;
442 (xviii) Tincture of opium.

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

447 (3) Opium poppy and poppy straw;

448 (4) Coca leaves and any salt, compound,
449 derivative, or preparation of cocaine or coca leaves, including
450 cocaine and ecgonine and any salt, compound, derivative, isomer,
451 or preparation thereof which is chemically equivalent or identical
452 with any of these substances, but not including decocainized coca
453 leaves or extractions which do not contain cocaine or ecgonine;

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

457 (6) Marihuana.



458 (b) Any of the following opiates, including their
459 isomers, esters, ethers, salts, and salts of isomers, whenever the
460 existence of these isomers, esters, ethers and salts is possible
461 within the specified chemical designation, dextrophan and
462 levopropoxyphene excepted:

- 463 (1) Alfentanil;
- 464 (2) Alphaprodine;
- 465 (3) Anileridine;
- 466 (4) Bezitramide;
- 467 (5) Bulk dextropropoxyphene (nondosage forms);
- 468 (6) Carfentanil;
- 469 (7) Dihydrocodeine;
- 470 (8) Diphenoxylate;
- 471 (9) Fentanyl;
- 472 (10) Isomethadone;
- 473 (11) Levo-alpha-acetylmethadol
474 (levo-alpha-acetylmethadol, levomethadyl acetate, LAAM);
- 475 (12) Levomethorphan;
- 476 (13) Levorphanol;
- 477 (14) Metazocine;
- 478 (15) Methadone;
- 479 (16) Methadone-intermediate,
480 4-cyano-2-dimethylamino-4,4-diphenyl butane;
- 481 (17) Moramide-intermediate,
482 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;
- 483 (18) Pethidine (meperidine);
- 484 (19) Pethidine-Intermediate-A,
485 4-cyano-1-methyl-4-phenylpiperidine;
- 486 (20) Pethidine-Intermediate-B,
487 ethyl-4-phenylpiperidine-4-carboxylate;
- 488 (21) Pethidine-Intermediate-C,
489 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 490 (22) Phenazocine;



491 (23) Piminodine;

492 (24) Racemethorphan;

493 (25) Racemorphan;

494 (26) Remifentanil;

495 (27) Sufentanil.

496 (c) Any material, compound, mixture, or preparation

497 which contains any quantity of the following substances:

498 (1) Amphetamine, its salts, optical isomers, and

499 salts of its optical isomers;

500 (2) Phenmetrazine and its salts;

501 (3) Any substance which contains any quantity of

502 methamphetamine, including its salts, isomers, and salts of

503 isomers;

504 (4) Methylphenidate and its salts;

505 (5) Lisdexamfetamine, its salts, isomers and salts

506 of isomers.

507 (d) Unless listed in another schedule, any material,

508 compound, mixture, or preparation which contains any quantity of

509 the following substances:

510 (1) Amobarbital;

511 (2) Secobarbital;

512 (3) Pentobarbital;

513 (4) Amphetamine and methamphetamine immediate

514 precursor: Phenylacetone (phenyl-2-propanone; P2P; benzyl methyl

515 ketone; and methyl benzyl ketone);

516 (5) Phencyclidine immediate precursors:

517 (i) 1-phenylcyclohexylamine;

518 (ii) 1-piperidinocyclohexanecarbonitrile

519 (PCC);

520 (6) Pentazocine and its salts in injectable dosage

521 form;



522 (7) Nabilone, other names include:
523 (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-
524 hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo(b,d)pyran-9-one;

525 (8) Glutethimide.

526 (B) Any material, compound, mixture or preparation which
527 contains any quantity of a Schedule II controlled substance and is
528 listed as an exempt substance in 21 CFR, Section 1308.24 or
529 1308.32, shall be exempted from the provisions of the Uniform
530 Controlled Substances Law.

531 **SECTION 8.** Section 41-29-139, Mississippi Code of 1972, is
532 amended as follows:

533 41-29-139. (a) Except as authorized by this article, it is
534 unlawful for any person knowingly or intentionally:

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

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

541 (b) Except as otherwise provided in subsections (f) and (g)
542 of this section or in Section 41-29-142, any person who violates
543 subsection (a) of this section shall be sentenced as follows:

544 (1) In the case of controlled substances classified in
545 Schedule I or II, as set out in Sections 41-29-113 and 41-29-115,
546 except thirty (30) grams or less of marihuana, and except a first
547 offender as defined in Section 41-29-149(e) who violates
548 subsection (a) of this section with respect to less than one (1)
549 kilogram but more than thirty (30) grams of marihuana, such person
550 may, upon conviction, be imprisoned for not more than thirty (30)
551 years and shall be fined not less than Five Thousand Dollars
552 (\$5,000.00) nor more than One Million Dollars (\$1,000,000.00), or
553 both;



554 (2) In the case of a first offender who violates
555 subsection (a) of this section with an amount less than one (1)
556 kilogram but more than thirty (30) grams of marihuana as
557 classified in Schedule I, as set out in Section 41-29-113, such
558 person is guilty of a felony and upon conviction may be imprisoned
559 for not more than twenty (20) years or fined not more than Thirty
560 Thousand Dollars (\$30,000.00), or both;

561 (3) In the case of thirty (30) grams or less of
562 marihuana, such person may, upon conviction, be imprisoned for not
563 more than three (3) years or fined not more than Three Thousand
564 Dollars (\$3,000.00), or both;

565 (4) In the case of controlled substances classified in
566 Schedules III and IV, as set out in Sections 41-29-117 and
567 41-29-119, such person may, upon conviction, be imprisoned for not
568 more than twenty (20) years and shall be fined not less than One
569 Thousand Dollars (\$1,000.00) nor more than Two Hundred Fifty
570 Thousand Dollars (\$250,000.00), or both; and

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

576 (c) It is unlawful for any person knowingly or intentionally
577 to possess any controlled substance unless the substance was
578 obtained directly from, or pursuant to, a valid prescription or
579 order of a practitioner while acting in the course of his
580 professional practice, or except as otherwise authorized by this
581 article. The penalties for any violation of this subsection (c)
582 with respect to a controlled substance classified in Schedules I,
583 II, III, IV or V, as set out in Section 41-29-113, 41-29-115,
584 41-29-117, 41-29-119 or 41-29-121, including marihuana, shall be
585 based on dosage unit as defined herein or the weight of the
586 controlled substance as set forth herein as appropriate:



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

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

595 The weight set forth refers to the entire weight of any
596 mixture or substance containing a detectable amount of the
597 controlled substance.

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

602 Any person who violates this subsection with respect to:

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

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

613 (B) One-tenth (0.1) gram but less than two (2)
614 grams or two (2) dosage units but less than ten (10) dosage units,
615 by imprisonment for not less than two (2) years nor more than
616 eight (8) years and a fine of not more than Fifty Thousand Dollars
617 (\$50,000.00).

618 (C) Two (2) grams but less than ten (10) grams or
619 ten (10) dosage units but less than twenty (20) dosage units, by



620 imprisonment for not less than four (4) years nor more than
621 sixteen (16) years and a fine of not more than Two Hundred Fifty
622 Thousand Dollars (\$250,000.00).

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

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

632 (2) Marihuana in the following amounts shall be charged
633 and sentenced as follows:

634 (A) Thirty (30) grams or less by a fine of not
635 less than One Hundred Dollars (\$100.00) nor more than Two Hundred
636 Fifty Dollars (\$250.00). The provisions of this paragraph shall
637 be enforceable by summons, provided the offender provides proof of
638 identity satisfactory to the arresting officer and gives written
639 promise to appear in court satisfactory to the arresting officer,
640 as directed by the summons. A second conviction under this
641 section within two (2) years shall be punished by a fine of Two
642 Hundred Fifty Dollars (\$250.00) and not less than five (5) days
643 nor more than sixty (60) days in the county jail and mandatory
644 participation in a drug education program, approved by the
645 Division of Alcohol and Drug Abuse of the State Department of
646 Mental Health, unless the court enters a written finding that such
647 drug education program is inappropriate. A third or subsequent
648 conviction under this section within two (2) years is a
649 misdemeanor punishable by a fine of not less than Two Hundred
650 Fifty Dollars (\$250.00) nor more than Five Hundred Dollars
651 (\$500.00) and confinement for not less than five (5) days nor more
652 than six (6) months in the county jail. Upon a first or second



653 conviction under this section, the courts shall forward a report
654 of such conviction to the Mississippi Bureau of Narcotics which
655 shall make and maintain a private, nonpublic record for a period
656 not to exceed two (2) years from the date of conviction. The
657 private, nonpublic record shall be solely for the use of the
658 courts in determining the penalties which attach upon conviction
659 under this section and shall not constitute a criminal record for
660 the purpose of private or administrative inquiry and the record of
661 each conviction shall be expunged at the end of the period of two
662 (2) years following the date of such conviction;

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

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

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



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

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

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

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

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

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

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

714 (D) Three hundred (300) grams but less than five
715 hundred (500) grams or one thousand (1,000) dosage units but less
716 than two thousand five hundred (2,500) dosage units, by
717 imprisonment for not less than four (4) years nor more than



718 sixteen (16) years and a fine of not more than Two Hundred Fifty
719 Thousand Dollars (\$250,000.00).

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

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

740 (2) It is unlawful for any person to deliver, sell,
741 possess with intent to deliver or sell, or manufacture with intent
742 to deliver or sell, paraphernalia, knowing, or under circumstances
743 where one reasonably should know, that it will be used to plant,
744 propagate, cultivate, grow, harvest, manufacture, compound,
745 convert, produce, process, prepare, test, analyze, pack, repack,
746 store, contain, conceal, inject, ingest, inhale, or otherwise
747 introduce into the human body a controlled substance in violation
748 of the Uniform Controlled Substances Law. Any person who violates
749 this subsection is guilty of a misdemeanor and upon conviction may



750 be confined in the county jail for not more than six (6) months,
751 or fined not more than Five Hundred Dollars (\$500.00), or both.

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

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

768 (e) It shall be unlawful for any physician practicing
769 medicine in this state to prescribe, dispense or administer any
770 amphetamine or amphetamine-like anorectics and/or central nervous
771 system stimulants classified in Schedule II, pursuant to Section
772 41-29-115, for the exclusive treatment of obesity, weight control
773 or weight loss. Any person who violates this subsection, upon
774 conviction, is guilty of a misdemeanor and may be confined for a
775 period not to exceed six (6) months, or fined not more than One
776 Thousand Dollars (\$1,000.00), or both.

777 (f) Except as otherwise authorized in this article, any
778 person twenty-one (21) years of age or older who knowingly sells,
779 barter, transfers, manufactures, distributes or dispenses during
780 any twelve (12) consecutive month period: (i) ten (10) pounds or
781 more of marihuana; (ii) two (2) ounces or more of heroin; (iii)
782 two (2) or more ounces of cocaine or of any mixture containing



783 cocaine as described in Section 41-29-105(s), Mississippi Code of
784 1972; (iv) two (2) or more ounces of methamphetamine; or (v) one
785 hundred (100) or more dosage units of morphine, Demerol, Dilaudid,
786 oxycodone hydrochloride or a derivative thereof, or
787 3,4-methylenedioxymethamphetamine (MDMA) shall be guilty of a
788 felony and, upon conviction thereof, shall be sentenced to life
789 imprisonment and such sentence shall not be reduced or suspended
790 nor shall such person be eligible for probation or parole, the
791 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33,
792 Mississippi Code of 1972, to the contrary notwithstanding. The
793 provisions of this subsection shall not apply to any person who
794 furnishes information and assistance to the bureau or its designee
795 which, in the opinion of the trial judge objectively should or
796 would have aided in the arrest or prosecution of others who
797 violate this subsection. The accused shall have adequate
798 opportunity to develop and make a record of all information and
799 assistance so furnished.

800 (g) (1) Any person trafficking in controlled substances
801 shall be guilty of a felony and upon conviction shall be
802 imprisoned for a term of thirty (30) years and such sentence shall
803 not be reduced or suspended nor shall such person be eligible for
804 probation or parole, the provisions of Sections 41-29-149,
805 47-5-139, 47-7-3 and 47-7-33, Mississippi Code of 1972, to the
806 contrary notwithstanding and shall be fined not less than Five
807 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
808 (\$1,000,000.00).

809 (2) "Trafficking in controlled substances" as used
810 herein means to engage in three (3) or more component offenses
811 within any twelve (12) consecutive month period where at least two
812 (2) of the component offenses occurred in different counties. A
813 component offense is any act which would constitute a violation of
814 subsection (a) of this section. Prior convictions shall not be



815 used as component offenses to establish the charge of trafficking
816 in controlled substances.

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

825 (h) The medical use of marihuana as authorized by Sections 1
826 through 5 of this act shall not be a violation of this section.

827 **SECTION 9.** If any provision of this act or the application
828 thereof to any person or circumstance is held invalid, the
829 invalidity does not affect other provisions or applications of the
830 act which can be given effect without the invalid provision or
831 application, and to this end the provisions of this act are
832 severable.

833 **SECTION 10.** This act shall take effect and be in force from
834 and after July 1, 2010.

