

By: Representatives Wilson, Chism

To: Judiciary B

HOUSE BILL NO. 1244

1 AN ACT TO CREATE NEW SECTION 97-32-52, MISSISSIPPI CODE OF  
 2 1972, TO PROVIDE THAT IT SHALL BE UNLAWFUL FOR A PERSON TO SELL OR  
 3 FURNISH ALTERNATIVE NICOTINE PRODUCTS TO OTHER PERSONS WHILE ON  
 4 CERTAIN EDUCATIONAL PROPERTY; TO AMEND SECTION 97-32-51,  
 5 MISSISSIPPI CODE OF 1972, TO INCLUDE VAPING DEVICES, COMPONENTS  
 6 AND LIQUIDS IN THE DEFINITION OF ALTERNATIVE NICOTINE PRODUCTS; TO  
 7 BRING FORWARD SECTION 37-11-18, MISSISSIPPI CODE OF 1972, WHICH  
 8 REQUIRES THE EXPULSION OF ANY STUDENT WHO POSSESSES A CONTROLLED  
 9 SUBSTANCE WHILE ON EDUCATIONAL PROPERTY, FOR PURPOSES OF  
 10 AMENDMENT; TO BRING FORWARD SECTION 97-32-9, MISSISSIPPI CODE OF  
 11 1972, WHICH REGULATES JUVENILE PURCHASES OF TOBACCO; AND FOR  
 12 RELATED PURPOSES.

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

14 **SECTION 1.** The following shall be codified as Section  
 15 97-32-52, Mississippi Code of 1972:

16 97-32-52. (1) It shall be unlawful for any person who is on  
 17 educational property as defined by Section 97-37-17 except on  
 18 property located on community and junior college campuses or  
 19 institutions of higher learning to sell or furnish an alternative  
 20 nicotine product as defined by Section 97-32-51, or any cartridge,  
 21 component or liquid thereof to any individual under eighteen (18)  
 22 years of age who is on such educational property. Each violation



23 of the provisions of this section shall be treated as a separate  
24 offense.

25 (2) Upon conviction for violation of the provisions in  
26 subsection (1), the offender shall be punished as follows:

27 (a) For a first offense, a fine of Fifty Dollars  
28 (\$50.00) and no more than ten (10) hours of community service;

29 (b) For a second offense, a fine of One Hundred Dollars  
30 (\$100.00) and no more than thirty (30) hours of community service;

31 (c) For a third offense or subsequent offense, a fine  
32 of Two Hundred Fifty Dollars (\$250.00) and no more than fifty (50)  
33 hours of community service.

34 (3) If the alternative nicotine product as defined in this  
35 act contains any controlled substance that is otherwise prohibited  
36 by law, or any other substance that causes the recipient of such  
37 to require emergency medical care as a result of using the  
38 product, the penalty shall be treble the fines and community  
39 service described in subsection (2) of this section, plus any  
40 other penalty provided by law for the sale, use, possession, or  
41 furnishing of the controlled substance or other substance to a  
42 person.

43 **SECTION 2.** Section 97-32-51, Mississippi Code of 1972, is  
44 amended as follows:

45 97-32-51. (1) For the purposes of this section:

46 (a) (i) "Alternative nicotine product" means:

47 1. An electronic cigarette; \* \* \*



48                   2. Any other product that consists of or  
49 contains nicotine that can be ingested into the body by chewing,  
50 smoking, absorbing, dissolving, inhaling, vaping or by any other  
51 means \* \* \*;

52                   3. Any electronic device, cartridge or  
53 component thereof used to refill or resupply an electronic device  
54 that can be used to deliver nicotine to an individual inhaling  
55 from the device, including, but not limited to, vaping liquid; or

56                   4. An electronic cigar or cigarillo.

57                   (ii) Alternative nicotine product does not  
58 include:

59                   1. A cigarette or other tobacco product as  
60 defined in Section 97-32-3;

61                   2. A product that is a drug under 21 USCS  
62 321(g) (1);

63                   3. A product that is a device under 21 USCS  
64 321(h); or

65                   4. A combination product described in 21 USCS  
66 353(g).

67                   (b) (i) "Electronic cigarette" means an electronic  
68 product or device that produces a vapor that delivers nicotine or  
69 other substances to the person inhaling from the device to  
70 simulate smoking, and is likely to be offered to, or purchased by,  
71 consumers as an electronic cigarette, electronic cigar, electronic  
72 cigarillo or electronic pipe.



- 73 (ii) Electronic cigarette does not include:
- 74 1. A cigarette or other tobacco products as
- 75 defined in Section 97-32-3;
- 76 2. A product that is a drug under 21 USCS
- 77 321(g) (1);
- 78 3. A product that is a device under 21 USCS
- 79 321(h); or
- 80 4. A combination product described in 21 USCS
- 81 353(g).

82 (2) No person, either directly or indirectly by an agent or

83 employee, or by a vending machine owned by the person or located

84 in the person's establishment, shall sell, offer for sale, give or

85 furnish any alternative nicotine product, or any cartridge or

86 component of an alternative nicotine product, to an individual

87 under eighteen (18) years of age. Each violation of the

88 provisions of this section shall be treated as a separate offense.

89 The penalties described in this subsection shall be treble the

90 finer described in this section, plus any other penalty provided

91 by law for the sale, use, possession, or furnishing of the

92 controlled substance or other substance to a person, if the

93 alternative nicotine product as defined in this act contains any

94 controlled substance that is otherwise prohibited by law, or any

95 other substance that causes the recipient of such to require

96 emergency medical care as a result of using the product. A

97 violation of this subsection is punishable as follows:



98 (a) By a fine of \* \* \* Two Hundred Fifty Dollars  
99 (\$250.00) for a first offense;

100 (b) By a fine of \* \* \* Five Hundred Dollars (\$500.00)  
101 for a second offense; and

102 (c) By a fine of \* \* \* up to One Thousand Dollars  
103 (\$1,000.00) for a third or subsequent offense.

104 (3) Before selling, offering for sale, giving or furnishing  
105 an alternative nicotine product, or any cartridge or component of  
106 an alternative nicotine product to an individual, a person shall  
107 verify that the individual is at least eighteen (18) years of age  
108 by:

109 (a) Examining from any individual that appears to be  
110 under twenty-seven (27) years of age a government-issued  
111 photographic identification that establishes the individual is at  
112 least eighteen (18) years of age; or

113 (b) For sales made through the Internet or other remote  
114 sales methods, performing an age verification through an  
115 independent, third-party age verification service that compares  
116 information available from public records to the personal  
117 information entered by the individual during the ordering process  
118 that establishes the individual is eighteen (18) years of age or  
119 older.

120 **SECTION 3.** Section 37-11-18, Mississippi Code of 1972, is  
121 brought forward as follows:



122           37-11-18. Any student in any school who possesses any  
123 controlled substance in violation of the Uniform Controlled  
124 Substances Law, a knife, handgun, other firearm or any other  
125 instrument considered to be dangerous and capable of causing  
126 bodily harm or who commits a violent act on educational property  
127 as defined in Section 97-37-17, Mississippi Code of 1972, shall be  
128 subject to automatic expulsion for a calendar year by the  
129 superintendent or principal of the school in which the student is  
130 enrolled; provided, however, that the superintendent of the school  
131 shall be authorized to modify the period of time for such  
132 expulsion on a case by case basis. Such expulsion shall take  
133 effect immediately subject to the constitutional rights of due  
134 process, which shall include the student's right to appeal to the  
135 local school board.

136           **SECTION 4.** Section 97-32-9, Mississippi Code of 1972, is  
137 brought forward as follows:

138           97-32-9. No person under eighteen (18) years of age shall  
139 purchase any tobacco product. No student of any high school,  
140 junior high school or elementary school shall possess tobacco on  
141 any educational property as defined in Section 97-37-17.

142           (a) If a person under eighteen (18) years of age is  
143 found by a court to be in violation of any other statute and is  
144 also found to be in possession of a tobacco product, the court may  
145 order the minor to perform up to three (3) hours of community  
146 service, in addition to any other punishment imposed by the court.



147           (b) A violation under this section is not to be  
148 recorded on the criminal history of the minor and, upon proof of  
149 satisfaction of the court's order, the record shall be expunged  
150 from any records other than youth court records.

151           **SECTION 5.** This act shall take effect and be in force from  
152 and after July 1, 2019.

