

By: Senator(s) Branning

To: Judiciary, Division B;  
Municipalities

SENATE BILL NO. 2189

1 AN ACT TO AMEND SECTION 97-32-51, MISSISSIPPI CODE OF 1972,  
2 TO REVISE DEFINITIONS RELATED TO POSSESSION OF ALTERNATIVE  
3 NICOTINE PRODUCTS BY MINORS; TO CREATE NEW SECTION 97-32-53,  
4 MISSISSIPPI CODE OF 1972, TO PROHIBIT POSSESSION OF ALTERNATIVE  
5 NICOTINE PRODUCTS BY MINORS, INCLUDING WHILE ON EDUCATIONAL  
6 PROPERTY; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 97-32-51, Mississippi Code of 1972, is  
9 amended as follows:

10 97-32-51. (1) For the purposes of this \* \* \* Article 5:

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

12 1. An electronic cigarette; or

13 2. Any other product that consists of or  
14 contains nicotine that can be ingested into the body by chewing,  
15 smoking, absorbing, dissolving, inhaling or by any other means.

16 (ii) Alternative nicotine product does not  
17 include:

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



- 20                   2. A product that is a drug under 21 USCS  
21 321(g) (1) ;  
22                   3. A product that is a device under 21 USCS  
23 321(h) ; or  
24                   4. A combination product described in 21 USCS  
25 353(g) .

26                   (b) (i) "Electronic cigarette" means an electronic  
27 product or device that produces a vapor that delivers nicotine or  
28 other substances to the person inhaling from the device to  
29 simulate smoking, and is likely to be offered to, or purchased by,  
30 consumers as an electronic cigarette, electronic cigar, electronic  
31 cigarillo or electronic pipe.

32                   (ii) Electronic cigarette does not include:

- 33                   1. A cigarette or other tobacco products as  
34 defined in Section 97-32-3;  
35                   2. A product that is a drug under 21 USCS  
36 321(g) (1) ;  
37                   3. A product that is a device under 21 USCS  
38 321(h) ; or  
39                   4. A combination product described in 21 USCS  
40 353(g) .

41                   (2) No person, either directly or indirectly by an agent or  
42 employee, or by a vending machine owned by the person or located  
43 in the person's establishment, shall sell, offer for sale, give or  
44 furnish any alternative nicotine product, or any cartridge or



45 component of an alternative nicotine product, to an individual  
46 under eighteen (18) years of age. A violation of this subsection  
47 is punishable as follows:

48 (a) By a fine of Fifty Dollars (\$50.00) for a first  
49 offense;

50 (b) By a fine of Seventy-five Dollars (\$75.00) for a  
51 second offense; and

52 (c) For a third or subsequent offense, by a fine of One  
53 Hundred Dollars (\$100.00) or confinement in jail not to exceed ten  
54 (10) days, or both.

55 (3) Before selling, offering for sale, giving or furnishing  
56 an alternative nicotine product, or any cartridge or component of  
57 an alternative nicotine product to an individual, a person shall  
58 verify that the individual is at least eighteen (18) years of age  
59 by:

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

64 (b) For sales made through the Internet or other remote  
65 sales methods, performing an age verification through an  
66 independent, third-party age verification service that compares  
67 information available from public records to the personal  
68 information entered by the individual during the ordering process



69 that establishes the individual is eighteen (18) years of age or  
70 older.

71 **SECTION 2.** The following shall be codified as Section  
72 97-32-53, Mississippi Code of 1972:

73 97-32-53. (1) No person under eighteen (18) years of age  
74 shall purchase any alternative nicotine product or any cartridge  
75 or component of an alternative nicotine product. No student of  
76 any high school, junior high school, middle school or elementary  
77 school shall possess an alternative nicotine product or any  
78 cartridge or component of an alternative nicotine product on any  
79 educational property as defined in Section 97-37-17.

80 (2) If a person under eighteen (18) years of age is found by  
81 a court to be in violation of any other statute and is also found  
82 to be in possession of an alternative nicotine product or any  
83 cartridge or component of an alternative nicotine product the  
84 court may order the minor to perform up to three (3) hours of  
85 community service, in addition to any other punishment imposed by  
86 the court.

87 (3) A violation under this section is not to be recorded on  
88 the criminal history of the minor and, upon proof of satisfaction  
89 of the court's order, the record shall be expunged from any  
90 records other than youth court records.

91 **SECTION 3.** This act shall take effect and be in force from  
92 and after its passage.

