

## House Amendments to Senate Bill No. 2596

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 2

1           **AMEND** by deleting lines 113 through 804 and inserting in lieu  
2 thereof, the following:

3           **SECTION 2.** The following shall be codified as Section  
4 97-32-52, Mississippi Code of 1972:

5           97-32-52. (1) It shall be unlawful for any person who is  
6 in, on or within One Thousand Five Hundred (1,500) feet of a  
7 building or outbuilding which is all or part of educational  
8 property as defined by Section 97-37-17 to sell or furnish an  
9 alternative nicotine product as defined by Section 97-32-51, or  
10 any cartridge, component, liquid, capsule or powder thereof to any  
11 individual under twenty-one (21) years of age. Each violation of  
12 the provisions of this section shall be treated as a separate  
13 offense.

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

16           (a) For a first offense, a fine of Five Hundred Dollars  
17 (\$500.00), and no more than twenty (20) hours of community  
18 service;

19 (b) For a second offense, a fine of One Thousand  
20 Dollars (\$1000.00), and no more than thirty (30) hours of  
21 community service;

22 (c) For a third offense or subsequent offense, a fine  
23 of One Thousand Five Hundred Dollars (\$1500.00), and no more than  
24 fifty (50) hours of community service.

25 (3) If the alternative nicotine product as defined in this  
26 act contains any controlled substance that is otherwise prohibited  
27 by law, or any other substance that causes the recipient of such  
28 to require emergency medical care as a result of using the  
29 product, the penalty, upon conviction for such, shall be treble  
30 the fines and community service described in subsection (2) of  
31 this section, plus any other penalty provided by law for the sale,  
32 use, possession or furnishing of the controlled substance or other  
33 substance to a person.

34 (4) Any person who violates this section in, on or within One  
35 Thousand (1,000) feet of any church, public park, ballpark, public  
36 gymnasium, youth center or movie theater shall be punished, upon  
37 conviction for such violation, with treble the fines and community  
38 service described in subsection (2) of this section.

39 **SECTION 3.** Section 97-32-51, Mississippi Code of 1972, is  
40 amended as follows:

41 97-32-51. (1) For the purposes of this section:

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

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

44                   2. Any other product that consists of or  
45 contains nicotine that can be ingested into the body by chewing,  
46 smoking, absorbing, dissolving, inhaling or by any other  
47 means \* \* \*;

48                   3. Any electronic device, cartridge  
49 component, liquid, capsule or powder thereof used to refill or  
50 resupply an electronic device that can be used to deliver nicotine  
51 to an individual inhaling from the device, including, but not  
52 limited to, liquid, powder or capsule; or

53                   4. An electronic cigar or cigarillo.

54                   (ii) Alternative nicotine product does not  
55 include:

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

58                   2. A product that is a drug under 21 USCS  
59 321(g) (1);

60                   3. A product that is a device under 21 USCS  
61 321(h); or

62                   4. A combination product described in 21 USCS  
63 353(g).

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

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

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

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

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

82 furnish any alternative nicotine product, or any cartridge \* \* \*,

83 component \* \* \*, liquid, capsule or powder thereof, to an

84 individual under \* \* \* twenty-one (21) years of age. The

85 penalties described in this subsection shall be treble the fines

86 described in this section, plus any other penalty provided by law

87 for the sale, use, possession, or furnishing of the controlled

88 substance or other substance to a person, if the alternative

89 nicotine product contains any controlled substance that is

90 otherwise prohibited by law, or any other substance that causes

91 the recipient of such to require emergency medical care as a

92 result of using the product. Each violation of the provisions of

93 this section shall be treated as a separate offense. A violation

94 of this subsection is punishable as follows:

95 (a) By a fine of \* \* \* Two Hundred Fifty Dollars  
96 (\$250.00) for a first offense;

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

99 (c) By a fine of \* \* \* One Thousand Dollars (\$1000.00)  
100 for a third or subsequent offense.

101 (3) Before selling, offering for sale, giving or furnishing  
102 an alternative nicotine product, or any cartridge \* \* \*,  
103 component \* \* \* liquid, capsule or powder thereof, to an  
104 individual, a person shall verify that the individual is at  
105 least \* \* \* twenty-one (21) years of age by:

106 (a) Examining from any individual that appears to be  
107 under twenty-seven (27) years of age a government-issued  
108 photographic identification that establishes the individual is at  
109 least \* \* \* twenty-one (21) years of age; or

110 (b) For sales made through the Internet or other remote  
111 sales methods, performing an age verification through an  
112 independent, third-party age verification service that compares  
113 information available from public records to the personal  
114 information entered by the individual during the ordering process  
115 that establishes the individual is \* \* \* twenty-one (21) years of  
116 age or older.

117 **SECTION 4.** Section 97-32-9, Mississippi Code of 1972, is  
118 amended as follows:

119 97-32-9. No person under \* \* \* twenty-one (21) years of age  
120 shall purchase any tobacco or alternative nicotine product. No

121 student of any high school, junior high school or elementary  
122 school shall possess tobacco or alternative nicotine on any  
123 educational property as defined in Section 97-37-17.

124 (a) If a person under \* \* \* twenty-one (21) years of  
125 age is found by a court to be in violation of any other statute  
126 and is also found to be in possession of a tobacco or alternative  
127 nicotine product, the court \* \* \* shall punish the minor as  
128 follows:

129 (i) For a first offense, pay a fine of One Hundred  
130 Dollars (\$100.00), and perform no more than fifteen (15) hours of  
131 community service;

132 (ii) For a second offense, a fine of Three Hundred  
133 Dollars (\$300.00), and no more than twenty-five (25) hours of  
134 community service;

135 (iii) For a third offense or subsequent offense, a  
136 fine of Five Hundred Dollars (\$500.00), and no more than forty  
137 (40) hours of community service.

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

142 **SECTION \*.** Section 97-32-7, Mississippi Code of 1972, is  
143 brought forward as follows:

144 97-32-7. (1) Every person engaged in the business of  
145 selling tobacco products at retail shall notify each individual  
146 employed by that person as a retail sales clerk that state law:

147 (a) Prohibits the sale or distribution of tobacco  
148 products, including samples, to any person under eighteen (18)  
149 years of age and the purchase or receipt of tobacco products by  
150 any person under eighteen (18) years of age \* \* \*; and

151 (b) Requires that proof of age be demanded from a  
152 prospective purchaser or recipient if the prospective purchaser or  
153 recipient is under the age of eighteen (18) years. Every person  
154 employed by a person engaged in the business of selling tobacco  
155 products at retail shall sign an agreement with his employer in  
156 substantially the following or similar form:

157 "I understand that state and federal law prohibit the sale or  
158 distribution of tobacco products to persons under the age of  
159 eighteen (18) years and out-of-package sales, and requires that  
160 proof of age be demanded from a prospective purchaser or recipient  
161 under eighteen (18) years of age if the individual is not known to  
162 the seller, barterer, deliverer or giver of the tobacco product to  
163 be over the age of eighteen (18) years. I promise, as a condition  
164 of my employment, to observe this law."

165 (2) Any person violating the provisions of this section  
166 shall be penalized not less than Fifty Dollars (\$50.00) nor more  
167 than One Hundred Dollars (\$100.00).

168 (3) No retailer who instructs his employee as provided in  
169 this section shall be liable for any violations committed by such  
170 employees.

171 **AMEND FURTHER THE TITLE TO CONFORM**

Andrew Ketchings  
Clerk of the House of Representatives