

By: Representative Hall

To: Judiciary B

HOUSE BILL NO. 1478

1 AN ACT TO AMEND SECTION 97-32-51, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT IT IS UNLAWFUL TO DISTRIBUTE, SELL, OFFER FOR  
 3 SALE, GIVE OR FURNISH ANY ALTERNATIVE NICOTINE PRODUCT THAT CANNOT  
 4 BE LEGALLY MARKETED OR SOLD UNDER FEDERAL LAW OR UNITED STATES  
 5 FOOD AND DRUG ADMINISTRATION RULE, REGULATION, OR GUIDANCE; AND  
 6 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 chapter:

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

12 1. An electronic cigarette;

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, vaporizing or by any  
 16 other means;

17 3. Any electronic device that can be used to  
 18 deliver nicotine to an individual inhaling from the device,  
 19 including, but not limited to, any cartridge component, liquid,



20 capsule or powder used to refill or resupply such an electronic  
21 device; or

22 4. An electronic cigar or cigarillo.

23 (ii) Alternative nicotine product does not  
24 include:

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

27 2. A product that is a drug under 21 USCS  
28 321(g) (1);

29 3. A product that is a device under 21 USCS  
30 321(h); or

31 4. A combination product described in 21 USCS  
32 353(g).

33 (b) (i) "Electronic cigarette" means an electronic  
34 product or device that produces a vapor that delivers nicotine or  
35 other substances to the person inhaling from the device to  
36 simulate smoking, and is likely to be offered to, or purchased by,  
37 consumers as an electronic cigarette, electronic cigar, electronic  
38 cigarillo or electronic pipe.

39 (ii) Electronic cigarette does not include:

40 1. A cigarette or other tobacco products as  
41 defined in Section 97-32-3;

42 2. A product that is a drug under 21 USCS  
43 321(g) (1);



44                   3. A product that is a device under 21 USCS  
45 321(h); or

46                   4. A combination product described in 21 USCS  
47 353(g).

48           (2) No person, either directly or indirectly by an agent or  
49 employee, or by a vending machine owned by the person or located  
50 in the person's establishment, shall sell, offer for sale, give or  
51 furnish any alternative nicotine product, or any cartridge,  
52 component, liquid, capsule or powder thereof, to an individual  
53 under twenty-one (21) years of age. It is unlawful to distribute,  
54 sell, offer for sale, give or furnish any alternative nicotine  
55 product that cannot be legally marketed or sold under federal law  
56 or United States Food and Drug Administration (FDA) rule,  
57 regulation, or guidance. The penalties described in this  
58 subsection shall be treble the fines described in this section,  
59 plus any other penalty provided by law, for the sale, use,  
60 possession or furnishing of a controlled substance or other  
61 substance to a person, if the alternative nicotine product  
62 contains any controlled substance that is otherwise prohibited by  
63 law, or any other substance that causes the recipient of such to  
64 require emergency medical care as a result of using the product.  
65 Each violation of the provisions of this section shall be treated  
66 as a separate offense. A violation of this subsection is  
67 punishable as follows:



68 (a) By a fine of Two Hundred Fifty Dollars (\$250.00)  
69 for a first offense;

70 (b) By a fine of Five Hundred Dollars (\$500.00) for a  
71 second offense; and

72 (c) By a fine of One Thousand Dollars (\$1,000.00) for a  
73 third or subsequent offense.

74 (3) Before selling, offering for sale, giving or furnishing  
75 an alternative nicotine product, or any cartridge, component  
76 liquid, capsule or powder thereof, to an individual, a person  
77 shall verify that the individual is at least twenty-one (21) years  
78 of age by:

79 (a) Examining from any individual that appears to be  
80 under twenty-seven (27) years of age a government-issued  
81 photographic identification that establishes the individual is at  
82 least twenty-one (21) years of age; or

83 (b) For sales made through the internet or other remote  
84 sales methods, performing an age verification through an  
85 independent, third-party age verification service that compares  
86 information available from public records to the personal  
87 information entered by the individual during the ordering process  
88 that establishes the individual is twenty-one (21) years of age or  
89 older.

90 **SECTION 2.** This act shall take effect and be in force from  
91 and after July 1, 2024.

