

By: Senator(s) Hill

To: Judiciary, Division B

SENATE BILL NO. 2441

1 AN ACT TO AMEND SECTION 97-32-51, MISSISSIPPI CODE OF 1972,
 2 TO PROHIBIT ANY PERSON FROM DISTRIBUTING, SELLING OR OFFERING FOR
 3 SALE ANY ALTERNATIVE NICOTINE PRODUCT THAT CANNOT BE LEGALLY
 4 MARKETED OR SOLD UNDER FEDERAL LAW OR RULE, REGULATION OR GUIDANCE
 5 PROMULGATED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION; 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. No person, either directly or
54 indirectly by an agent or employee, or by a vending machine owned
55 by the person or located in the person's establishment, shall
56 distribute, sell, offer for sale, give or furnish any alternative
57 nicotine product that cannot be legally marketed or sold under
58 federal law or a rule, regulation or guidance promulgated by the
59 United State Food and Drug Administration (FDA). The penalties
60 described in this subsection shall be treble the fines described
61 in this section, plus any other penalty provided by law, for the
62 sale, use, possession or furnishing of a controlled substance or
63 other substance to a person, if the alternative nicotine product
64 contains any controlled substance that is otherwise prohibited by
65 law, or any other substance that causes the recipient of such to
66 require emergency medical care as a result of using the product.
67 Each violation of the provisions of this section shall be treated



68 as a separate offense. A violation of this subsection is
69 punishable as follows:

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

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

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

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

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

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



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

