

Senate Amendments to House Bill No. 1478

TO THE CLERK OF THE HOUSE:

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

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

17 97-32-51. (1) For the purposes of this chapter:

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

19 1. An electronic cigarette;

20 2. Any other product that consists of or
21 contains nicotine that can be ingested into the body by chewing,
22 smoking, absorbing, dissolving, inhaling, vaporizing or by any
23 other means;

24 3. Any electronic device that can be used to
25 deliver nicotine to an individual inhaling from the device,
26 including, but not limited to, any cartridge component, liquid,
27 capsule or powder used to refill or resupply such an electronic
28 device; or

29 4. An electronic cigar or cigarillo.

30 (ii) Alternative nicotine product does not
31 include:

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

40 (b) (i) "Electronic cigarette" means an electronic
41 product or device that produces a vapor that delivers nicotine or
42 other substances to the person inhaling from the device to
43 simulate smoking, and is likely to be offered to, or purchased by,
44 consumers as an electronic cigarette, electronic cigar, electronic
45 cigarillo or electronic pipe.

46 (ii) Electronic cigarette does not include:

- 47 1. A cigarette or other tobacco products as
48 defined in Section 97-32-3;
- 49 2. A product that is a drug under 21 USCS
50 321(g) (1);
- 51 3. A product that is a device under 21 USCS
52 321(h); or
- 53 4. A combination product described in 21 USCS
54 353(g).

55 (2) No person, either directly or indirectly by an agent or
56 employee, or by a vending machine owned by the person or located
57 in the person's establishment, shall sell, offer for sale, give or

58 furnish any alternative nicotine product, or any cartridge,
59 component, liquid, capsule or powder thereof, to an individual
60 under twenty-one (21) years of age. It is unlawful to distribute,
61 sell, offer for sale, give or furnish any electronic cigarette,
62 electronic device that can be used to deliver nicotine that can be
63 ingested into the body by inhaling or vaporizing, or any
64 cartridge, component, liquid, capsule or powder used to refill
65 such electronic cigarette or electronic device that cannot be
66 legally marketed or sold under federal law or United States Food
67 and Drug Administration (FDA) rule, regulation or guidance. It is
68 not unlawful to sell any electronic cigarette that has a premarket
69 tobacco product application filed by a manufacturer that remains
70 under review by the FDA. The penalties described in this
71 subsection shall be treble the fines described in this section,
72 plus any other penalty provided by law, for the sale, use,
73 possession or furnishing of a controlled substance or other
74 substance to a person, if the alternative nicotine product
75 contains any controlled substance that is otherwise prohibited by
76 law, or any other substance that causes the recipient of such to
77 require emergency medical care as a result of using the product.
78 Each violation of the provisions of this section shall be treated
79 as a separate offense. A violation of this subsection is
80 punishable as follows:

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

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

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

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

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

96 (b) For sales made through the internet or other remote
97 sales methods, performing an age verification through an
98 independent, third-party age verification service that compares
99 information available from public records to the personal
100 information entered by the individual during the ordering process
101 that establishes the individual is twenty-one (21) years of age or
102 older.

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 97-32-51, MISSISSIPPI CODE OF 1972,
2 TO PROHIBIT ANY PERSON FROM DISTRIBUTING, SELLING, OFFERING FOR

3 SALE OR FURNISHING ANY ELECTRONIC CIGARETTE, ELECTRONIC DEVICE
4 THAT CAN BE USED TO DELIVER NICOTINE THAT CAN BE INGESTED INTO THE
5 BODY BY INHALING OR VAPORIZING, OR ANY CARTRIDGE, COMPONENT,
6 LIQUID, CAPSULE OR POWDER USED TO REFILL SUCH ELECTRONIC CIGARETTE
7 OR ELECTRONIC DEVICE THAT CANNOT BE LEGALLY MARKETED OR SOLD UNDER
8 FEDERAL LAW OR RULE, REGULATION OR GUIDANCE PROMULGATED BY THE
9 UNITED STATES FOOD AND DRUG ADMINISTRATION; TO PROVIDE AN
10 EXCEPTION FOR ANY SUCH PRODUCT WHERE THE MANUFACTURER HAS FILED A
11 PREMARKET TOBACCO PRODUCT APPLICATION THAT REMAINS UNDER REVIEW BY
12 THE UNITED STATES FOOD AND DRUG ADMINISTRATION; AND FOR RELATED
13 PURPOSES.

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Amanda White
Secretary of the Senate