

By: Representative Calvert

To: Judiciary B

HOUSE BILL NO. 1017

1 AN ACT TO AMEND SECTION 97-32-29, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THE PROHIBITION AGAINST ALTERNATIVE NICOTINE ON
3 EDUCATIONAL PROPERTY; TO AMEND SECTION 97-32-51, MISSISSIPPI CODE
4 OF 1972, TO INCREASE THE PENALTIES FOR ALTERNATIVE NICOTINE
5 FURNISHING; TO BRING FORWARD SECTION 37-9-71, MISSISSIPPI CODE OF
6 1972, WHICH PROVIDES THE AUTHORITY TO SUSPEND OR EXPEL A STUDENT;
7 FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 97-32-29, Mississippi Code of 1972, is
10 amended as follows:

11 97-32-29. No person shall use any tobacco product or
12 alternative nicotine product on any educational property as
13 defined in Section 97-32-27. Any * * * person who violates this
14 section shall be subject to a fine and shall be liable as follows:
15 (a) for a first conviction, a warning; (b) for a second
16 conviction, a fine of * * * Two Hundred Dollars (\$200.00); and (c)
17 for all subsequent convictions, a fine not to exceed * * * Five
18 Hundred Dollars (\$500.00) shall be imposed.

19 Any adult found in violation of this section shall be issued
20 a citation by a law enforcement officer, which citation shall



21 include notice of the date, time and location for hearing before
22 the justice court having jurisdiction where the violation is
23 alleged to have occurred. For the purposes of this section,
24 "subsequent convictions" are for violations committed on any
25 educational property within the State of Mississippi.

26 Anyone convicted under this article shall be recorded as
27 being fined for a civil violation of this article and not for
28 violating a criminal statute.

29 It is the responsibility of all law enforcement officers and
30 law enforcement agencies of this state to ensure that the
31 provisions of this article are enforced.

32 **SECTION 2.** Section 97-32-51, Mississippi Code of 1972, is
33 amended as follows:

34 97-32-51. (1) For the purposes of this chapter:

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

36 1. An electronic cigarette;

37 2. Any other product that consists of or
38 contains nicotine that can be ingested into the body by chewing,
39 smoking, absorbing, dissolving, inhaling or by any other means;

40 3. Any electronic device that can be used to
41 deliver nicotine to an individual inhaling from the device,
42 including, but not limited to, any cartridge component, liquid,
43 capsule or powder used to refill or resupply such an electronic
44 device; or

45 4. An electronic cigar or cigarillo.



46 (ii) Alternative nicotine product does not
47 include:

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

50 2. A product that is a drug under 21 USCS
51 321(g) (1);

52 3. A product that is a device under 21 USCS
53 321(h); or

54 4. A combination product described in 21 USCS
55 353(g).

56 (b) (i) "Electronic cigarette" means an electronic
57 product or device that produces a vapor that delivers nicotine or
58 other substances to the person inhaling from the device to
59 simulate smoking, and is likely to be offered to, or purchased by,
60 consumers as an electronic cigarette, electronic cigar, electronic
61 cigarillo or electronic pipe.

62 (ii) Electronic cigarette does not include:

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

65 2. A product that is a drug under 21 USCS
66 321(g) (1);

67 3. A product that is a device under 21 USCS
68 321(h); or

69 4. A combination product described in 21 USCS
70 353(g).



71 (2) No person, either directly or indirectly by an agent or
72 employee, or by a vending machine owned by the person or located
73 in the person's establishment, shall sell, offer for sale, give or
74 furnish any alternative nicotine product, or any cartridge,
75 component, liquid, capsule or powder thereof, to an individual
76 under twenty-one (21) years of age. The penalties described in
77 this subsection shall be treble the fines described in this
78 section, plus any other penalty provided by law, for the sale,
79 use, possession or furnishing of a controlled substance or other
80 substance to a person, if the alternative nicotine product
81 contains any controlled substance that is otherwise prohibited by
82 law, or any other substance that causes the recipient of such to
83 require emergency medical care as a result of using the product.
84 Each violation of the provisions of this section shall be treated
85 as a separate offense. A violation of this subsection is
86 punishable as follows:

87 (a) By a fine of * * * Five Hundred Dollars (\$500.00)
88 for a first offense;

89 (b) By a fine of * * * One Thousand Dollars (\$1,000.00)
90 for a second offense; and

91 (c) By a fine of * * * Three Thousand Dollars
92 (\$3,000.00) for a third or subsequent offense.

93 (3) Before selling, offering for sale, giving or furnishing
94 an alternative nicotine product, or any cartridge, component
95 liquid, capsule or powder thereof, to an individual, a person



96 shall verify that the individual is at least twenty-one (21) years
97 of age by:

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

102 (b) For sales made through the Internet or other remote
103 sales methods, performing an age verification through an
104 independent, third-party age verification service that compares
105 information available from public records to the personal
106 information entered by the individual during the ordering process
107 that establishes the individual is twenty-one (21) years of age or
108 older.

109 **SECTION 3.** Section 37-9-71, Mississippi Code of 1972, is
110 brought forward as follows:

111 37-9-71. The superintendent of schools and the principal of
112 a school shall have the power to suspend or expel a pupil for good
113 cause, including misconduct in the school or on school property,
114 as defined in Section 37-11-29, on the road to and from school, or
115 at any school-related activity or event when such conduct by a
116 pupil, in the determination of the superintendent or principal,
117 renders that pupil's presence in the classroom a disruption to the
118 educational environment of the school or a detriment to the best
119 interest and welfare of the pupils and teacher of such class as a
120 whole, or for any reason for which such pupil might be suspended,



121 dismissed or expelled by the school board under state or federal
122 law or any rule, regulation or policy of the local school
123 district. For any suspension of more than ten (10) days or
124 expulsions, a student shall have the right to a due process
125 hearing, be represented by legal counsel, to present evidence and
126 cross-examine witnesses presented by the district. The student
127 and the student's parent, legal guardian or person in custody of
128 the student may appeal suspension of more than ten (10) days and
129 expulsions to the school board. The standard of proof in all
130 disciplinary proceedings shall be substantial evidence. The
131 parent or guardian of the child shall be advised of this right to
132 a hearing by the appropriate superintendent or principal and the
133 proper form shall be provided for requesting such a hearing.

134 **SECTION 4.** This act shall take effect and be in force from
135 and after July 1, 2024.

