

By: Representative Yancey

To: Public Health and Human Services; Ways and Means

HOUSE BILL NO. 1415

1 AN ACT TO CREATE THE "MISSISSIPPI TOBACCO HARM REDUCTION ACT
2 OF 2024"; TO PROVIDE CERTAIN LEGISLATIVE FINDINGS; TO DEFINE
3 CERTAIN TERMS; TO PROVIDE THAT FLAVORED VAPOR PRODUCTS SHALL ONLY
4 BE SOLD IN AGE RESTRICTED VAPOR AND/OR TOBACCO BUSINESSES; TO
5 PROVIDE THAT THE DEPARTMENT OF REVENUE IS RESPONSIBLE FOR THE
6 LICENSING AND OVERSIGHT OF AGE RESTRICTED TOBACCO AND/OR VAPOR
7 BUSINESSES, AND MUST BEGIN ISSUING FLAVORED VAPOR LICENSES TO SUCH
8 BUSINESSES NO LATER THAN JULY 1, 2024; TO PROVIDE THAT A BUSINESS
9 THAT IS NOT AGE RESTRICTED AND DOES NOT DERIVE MORE THAN SEVENTY
10 PERCENT OF ITS BUSINESS REVENUE FROM THE SALE OF PRODUCTS
11 CONTAINING TOBACCO, VAPOR, OR CBD, IS PROHIBITED FROM SELLING
12 FLAVORED VAPOR PRODUCTS; TO REQUIRE BUSINESSES THAT SELL TOBACCO
13 AND/OR VAPOR PRODUCTS TO POST A CLEARLY VISIBLE AND CONSPICUOUS
14 NOTICE OF CERTAIN AGE RESTRICTIONS AT THE ENTRANCE OF THE LOCATION
15 WHERE SUCH PRODUCTS ARE AVAILABLE FOR PURCHASE; TO AUTHORIZE THE
16 STATE DEPARTMENT OF HEALTH TO CONDUCT RANDOM, UNANNOUNCED
17 INSPECTIONS; TO PROVIDE PENALTIES FOR CERTAIN VIOLATIONS OF THIS
18 ACT; TO PROVIDE FOR EXCEPTIONS AND DEFENSES FOR CERTAIN VIOLATIONS
19 OF THIS ACT; TO PROVIDE THAT AN AGE RESTRICTED BUSINESS THAT SELLS
20 PRODUCTS THAT CONTAIN FENTANYL AND/OR TIANEPTINE SHALL
21 AUTOMATICALLY HAVE ITS FLAVORED VAPING LICENSE REVOKED, AND SHALL
22 BE PERMANENTLY BANNED FROM RENEWING SUCH LICENSE; TO PROHIBIT
23 PERSONS UNDER THE AGE OF TWENTY-ONE YEARS FROM ENTERING THE
24 PREMISES OF A RETAILER THAT SELLS, STORES, OR MAINTAINS KRATOM
25 PRODUCTS; TO PROHIBIT PERSONS UNDER THE AGE OF TWENTY-ONE YEARS
26 FROM PURCHASING, RECEIVING, OR HAVING IN HIS OR HER POSSESSION ANY
27 KRATOM PRODUCT; TO PROHIBIT RETAILERS FROM SELLING ANY KRATOM
28 PRODUCT TO ANY PERSON UNDER THE AGE OF TWENTY-ONE YEARS; TO
29 REQUIRE RETAILERS THAT SELL, STORE, OR MAINTAIN KRATOM PRODUCTS TO
30 POST A SIGN IN A CONSPICUOUS PLACE AT OR NEAR EACH ENTRANCE
31 STATING THAT ONLY PERSONS TWENTY-ONE YEARS OF AGE OR OLDER ARE
32 PERMITTED TO ENTER THE PREMISES; TO DEFINE CERTAIN TERMS RELATING
33 TO SECTIONS 13 THROUGH 15 OF THIS ACT; TO PROVIDE PENALTIES FOR A



34 VIOLATION OF SECTIONS 13 THROUGH 15 OF THIS ACT; AND FOR RELATED
35 PURPOSES.

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

37 **SECTION 1.** This act shall be known and may be cited as the
38 "Mississippi Tobacco Harm Reduction Act of 2024."

39 **SECTION 2.** The Legislature makes the following findings:

40 (a) The State of Mississippi recognizes that the use of
41 combustible tobacco products has devastating health and economic
42 consequences costing the state over \$3 billion in lost
43 productivity and healthcare costs;

44 (b) Combustible tobacco use is the foremost preventable
45 cause of premature death in America. It is responsible for four
46 hundred eighty thousand (480,000) deaths, which is one thousand
47 three hundred (1,300) Americans daily, in the United States
48 annually as reported by the Centers for Disease Control (CDC) and
49 Prevention. This leads to more than \$600 billion in health care
50 and lost worker productivity costs each year;

51 (c) ENDS (Electronic Nicotine Delivery Systems)
52 products do not combust any tobacco and have scientifically been
53 proven to be less than five percent (5%) harmful to human beings
54 based upon eight thousand seven hundred (8,700) plus publicly
55 available scientific studies as opposed to one hundred percent
56 (100%) harmful effects of combustible tobacco, such as cigarettes,
57 hookah, cigars, cigarillos and pipe tobacco;

58 (d) The CDC reported an estimated 2.5 million youth
59 aged seventeen (17) and younger use e-cigarettes where most use



60 flavored products and disposable type e-cigarettes are the product
61 of choice;

62 (e) The U.S. Food and Drug Administration reports that
63 Mississippi convenience stores (C-Stores) are responsible for
64 seventy-seven percent (77%) of youth violation sales, twenty
65 percent (20%) for hybrid tobacco stores for youth violation sales,
66 and three percent (3%) for dedicated vapor stores for the year of
67 2022;

68 (f) Senate Bill 2596, 2020 Regular Session, raised the
69 age of tobacco purchases to twenty-one (21) years or older and
70 requiring businesses to require identification for any customer
71 who appears under the age of twenty-seven (27), which led to
72 reduced youth use (which is consistent with raising the age of
73 alcohol);

74 **SECTION 3.** As used in Sections 1 through 12 of this act, the
75 following terms have the meanings as defined in this section,
76 unless the context clearly indicates otherwise:

77 (a) "Age restricted tobacco and/or vapor business"
78 means a business that requires persons to be twenty-one (21) years
79 of age or older to enter the premises of such business;

80 (b) "Person" means any individual, company, limited
81 liability company, corporation, partnership, association, joint
82 venture, estate, trust or any other group, or combination acting
83 as a unit, and the plural as well as the singular, unless the



84 intention to give a more limited meaning is disclosed by the
85 context;

86 (c) "Wholesaler" means dealers whose principal business
87 is that of a wholesale dealer, and that is known to the trade as
88 such, that sells any tobacco products or vapor products to
89 licensed retail dealers only for the purpose of resale;

90 (d) "Retailer" means every dealer, other than a
91 wholesaler as defined above, whose principal business is that of
92 selling merchandise at retail, who sells, or offer for sale,
93 tobacco products or vapor products;

94 (e) "Consumer" means a person who comes into possession
95 of tobacco or vapor products for the purpose of consuming it;

96 (f) "Electronic smoking device" has the same definition
97 as the term "electronic cigarette" as provided in Section
98 97-32-51. The term "electronic smoking device" also includes the
99 term "alternative nicotine product" as provided in Section
100 97-32-51, as applicable;

101 (g) "Flavored vapor product" means any vapor product
102 that contains nicotine, and that is not composed of only tobacco
103 or menthol;

104 (h) "Vapor product" means an electronic product or
105 device that produces a vapor that delivers substances to the
106 person inhaling from the device to simulate smoking;

107 (i) "Tobacco" means any cigarettes, cigars, cheroots,
108 stogies, smoking tobacco (including granulated, plug cut, crimp



109 cut, ready rubbed, and other kinds and forms of tobacco, or
110 substitutes therefor, prepared in such manner as to be suitable
111 for smoking in a pipe or cigarette) and including plug and twist
112 chewing tobacco and snuff, when such "tobacco" is manufactured and
113 prepared for sale or personal consumption;

114 (j) "CBD" means cannabidiol.

115 **SECTION 4.** Flavored vapor products shall only be sold in age
116 restricted vapor and/or tobacco businesses.

117 **SECTION 5.** (1) The Department of Revenue shall be
118 responsible for the licensing and oversight of age restricted
119 tobacco and/or vapor businesses, and shall begin issuing flavored
120 vapor licenses to such businesses upon the effective date of this
121 act.

122 Any business that intends to derive its primary source of
123 revenue from flavored vapor products must submit an application
124 for a flavored vapor license in a manner and form as prescribed by
125 the department. The business shall be subject to an annual
126 license fee of Two Hundred Fifty Dollars (\$250.00) per location.
127 The flavored vapor license must be renewed on an annual basis, and
128 the business shall renew its license no more than thirty (30) days
129 after the date of expiration of such license.

130 Any business is allowed to sell vapor products that are
131 composed of only tobacco, menthol, or nicotine, and that are not
132 enhanced with any other flavors. Such a business is not required
133 to be issued a flavored vapor license.



134 The department shall issue flavored vapor licenses for age
135 restricted tobacco and/or vapor businesses as provided for in this
136 section within thirty (30) days of receipt of the application.

137 (2) The department is authorized to adopt rules and
138 regulations as necessary in order to best effectuate the purpose
139 and intent of Sections 1 through 12 of this act.

140 **SECTION 6.** Any business that is not age restricted and does
141 not derive more than seventy percent (70%) of its business revenue
142 from the sale of products containing tobacco, vapor, CBD, or any
143 combination thereof, shall not sell flavored vapor products that
144 are not composed of only tobacco or menthol.

145 **SECTION 7.** A business shall not sell, or permit the sale
146 of, tobacco and/or vapor products in this state unless a clearly
147 visible and conspicuous notice is posted at the entrance of the
148 location where tobacco and/or vapor products are available for
149 purchase. Such notice must state, "No person under the age of
150 twenty-one (21) may purchase tobacco products," legibly printed in
151 letters not less than one (1) inch in size. Any sale of vapor
152 products requires legal age verification.

153 **SECTION 8.** The State Department of Health, or its
154 authorized designee, may conduct random, unannounced inspections
155 at locations where tobacco and/or vapor products are sold to test
156 and ensure compliance with Sections 1 through 12 of this act.

157 Each age restricted tobacco and/or vapor business is subject
158 to a minimum of two (2) annual unannounced compliance checks



159 during normal operating hours. Unannounced follow-up compliance
160 checks of all noncompliant retailers are required within thirty
161 (30) days after any violation. The department, or its designee,
162 shall publish the results of all compliance checks annually, and
163 shall make the results available to the public upon request. This
164 section does not preclude any law enforcement in the state from
165 conducting checks in coordination with the department or its
166 authorized designee.

167 **SECTION 9.** (1) A business that is not an age restricted
168 tobacco and/or vapor business, that sells flavored vapor products,
169 shall be required to remove the flavored vapor products within
170 thirty (30) days of the effective date of this act. Failure to
171 remove such products shall result in forfeiture of the business's
172 license issued by the Secretary of State within thirty (30) days
173 of a follow up compliance inspection from the State Department of
174 Health, or its authorized designee.

175 (2) (a) A business that is issued a business license by the
176 Secretary of State shall not transfer such license to any family
177 member of any owner, operator, employee, agent or representative
178 of such business.

179 (b) A business that violates paragraph (a) of this
180 subsection (2) will be subject to a fine of Fifty Thousand Dollars
181 (\$50,000.00), forfeit its business license issued by the Secretary
182 of State, and shall be banned from submitting an application for
183 any future licenses issued by the State of Mississippi for vapor



184 and CBD products. The state may recover costs of any
185 investigations, costs of action, and reasonable attorney fees
186 under this section.

187 (3) A business that sublets its business location to a
188 family member who is in violation of this act shall forfeit its
189 business license, and will be subject to a fine of Fifty Thousand
190 Dollars (\$50,000.00). The state is entitled to recover costs of
191 any investigations, costs of action, and reasonable attorney fees.

192 **SECTION 10.** Age restricted tobacco and/or vapor businesses
193 that sell vapor products to persons under the age of twenty-one
194 (21) years shall be subject to a fine of:

195 (a) Five Hundred Dollars (\$500.00) for a first offense;
196 (b) One Thousand Dollars (\$1,000.00) for a second
197 offense; and

198 (c) Two Thousand Dollars (\$2,000.00) for a third and
199 subsequent offense.

200 Age restricted tobacco and/or vapor businesses that have more
201 than three (3) sales to persons under the age of twenty-one (21)
202 years at the same location within a twelve-month consecutive
203 period shall forfeit its flavored vapor license issued by the
204 Department of Revenue for that location for the remaining period
205 until the date of expiration for such license. After such license
206 expires, the business may reapply for license renewal.

207 Retailers who sell vapor products that are composed of only
208 tobacco or menthol flavor to persons under the age of twenty-one



209 (21) years, are subject to the enforcement and monetary penalties
210 as provided in this section.

211 Retailers who sell vapor products that are composed of only
212 tobacco or menthol flavor that have more than three (3) violations
213 in a twelve-month consecutive period shall be subject to a fine of
214 Ten Thousand Dollars (\$10,000.00) per occurrence.

215 **SECTION 11.** (1) The penalties in Sections 1 through 12 of
216 this act do not apply to persons under the age of twenty-one (21)
217 years who purchase or attempt to purchase tobacco products while
218 under the direct supervision of employees of a state agency for
219 training, education, research, or enforcement purposes.

220 (2) A person under the age of twenty-one (21) years is
221 prohibited from handling flavored vapor products in the course of
222 lawful employment.

223 (3) It is an affirmative defense to a violation of Sections
224 1 through 12 of this act for a person to have reasonably relied on
225 proof of age as provided by Mississippi law.

226 **SECTION 12.** An age restricted tobacco and/or vapor business
227 that sells products that contain fentanyl and/or tianeptine shall
228 automatically have its flavored vaping license revoked, and shall
229 be permanently banned from renewing such license.

230 **SECTION 13.** As used in Sections 13 through 15 of this act,
231 the following terms have the meanings as defined in this section,
232 unless the context clearly indicates otherwise:



233 (a) "Kratom product" means a product containing any
234 part of the leaf of the plant *Mitragyna Speciosa*, or an extract of
235 it processed as a powder, capsule, pill, beverage, or any other
236 edible or consumable form, or any product containing Mitragynine
237 or 7-hydroxymitragynine.

238 (b) "Retailer" means any individual, partnership,
239 corporation, cooperative association, or other business entity
240 that sells or advertises kratom products to consumers at retail,
241 or stores or maintains kratom products.

242 **SECTION 14.** (1) (a) No person under the age of twenty-one
243 (21) years shall be permitted to enter the premises of a retailer
244 that sells, stores, or maintains kratom products.

245 (b) No person under the age of twenty-one (21) years
246 shall purchase, receive, or have in his or her possession in any
247 public place, any kratom product.

248 (2) (a) No retailer, nor any owner, operator, employee,
249 representative, or agent of such retailer, shall sell, furnish,
250 dispose of, give, or cause to be sold, furnished, disposed of, or
251 given, any kratom product to any person under the age of
252 twenty-one (21) years.

253 (b) Retailers that sell, store, or maintain kratom
254 products shall post a sign in a conspicuous place at or near each
255 entrance stating that only persons twenty-one (21) years of age or
256 older are permitted to enter the premises.



257 **SECTION 15.** (1) (a) Any person under the age of twenty-one
258 (21) years who falsely states he or she is twenty-one (21) years
259 of age or older, or presents any document that indicates he or she
260 is twenty-one (21) years of age or older, for the purpose of
261 entering the premises of a retailer that sells, stores, or
262 maintains kratom products shall be guilty of a misdemeanor, and
263 shall be punished by a fine of not less than Two Hundred Dollars
264 (\$200.00), nor more than Five Hundred Dollars (\$500.00), and a
265 sentence to not more than thirty (30) days' community service.

266 (b) Any person under the age of twenty-one (21) years
267 who purchases, receives, or has in his or her possession in any
268 public place, any kratom product, shall be guilty of a misdemeanor
269 and shall be punished by a fine of not less than Two Hundred
270 Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00).

271 (2) (a) Any owner, operator, employee, representative, or
272 agent of a retailer that sells, stores, or maintains kratom
273 products, who violates, or permits the violation of, subsection
274 (1)(a) of this section, upon conviction, shall be punished by a
275 fine of not more than One Thousand Dollars (\$1,000.00), or
276 imprisoned in the county jail not more than six (6) months, or by
277 both such fine and imprisonment.

278 (b) Any owner, operator, employee, representative, or
279 agent of a retailer that sells, stores, or maintains kratom
280 products, who shall sell, furnish, dispose of, give, or cause to
281 be sold, furnished, disposed of, or given, any kratom product to



282 any person under the age of twenty-one (21) years, upon
283 conviction, shall be punished by a fine of not more than One
284 Thousand Dollars (\$1,000.00), or imprisoned in the county jail not
285 more than six (6) months, or by both such fine and imprisonment.

286 **SECTION 16.** This act shall take effect and be in force from
287 and after July 1, 2024.

