

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.

