

By: Senator(s) Hill, Branning, McLendon,  
Jordan

To: Judiciary, Division B

SENATE BILL NO. 2441  
(As Passed the Senate)

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  
7 CIGARETTE OR ELECTRONIC DEVICE THAT CANNOT BE LEGALLY MARKETED OR  
8 SOLD UNDER FEDERAL LAW OR RULE, REGULATION OR GUIDANCE PROMULGATED  
9 BY THE 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.

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

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  
68 is not unlawful to sell any electronic cigarette that has a  
69 premarket tobacco product application filed by a manufacturer that  
70 remains 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.

