

**Not Germane
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2441

BY: Committee

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

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

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

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

45 (b) Combustible tobacco use is the foremost preventable
46 cause of premature death in America. It is responsible for four
47 hundred eighty thousand (480,000) deaths, which is one thousand



48 three hundred (1,300) Americans daily, in the United States
49 annually as reported by the Centers for Disease Control (CDC) and
50 Prevention. This leads to more than \$600 billion in health care
51 and lost worker productivity costs each year;

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

59 (d) The CDC reported an estimated 2.5 million youth
60 aged seventeen (17) and younger use e-cigarettes where most use
61 flavored products and disposable type e-cigarettes are the product
62 of choice;

63 (e) The U.S. Food and Drug Administration reports that
64 Mississippi convenience stores (C-Stores) are responsible for
65 seventy-seven percent (77%) of youth violation sales, twenty
66 percent (20%) for hybrid tobacco stores for youth violation sales,
67 and three percent (3%) for dedicated vapor stores for the year of
68 2022;

69 (f) Senate Bill 2596, 2020 Regular Session, raised the
70 age of tobacco purchases to twenty-one (21) years or older and
71 requiring businesses to require identification for any customer
72 who appears under the age of twenty-seven (27), which led to



73 reduced youth use (which is consistent with raising the age of
74 alcohol);

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

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

81 (b) "Person" means any individual, company, limited
82 liability company, corporation, partnership, association, joint
83 venture, estate, trust or any other group, or combination acting
84 as a unit, and the plural as well as the singular, unless the
85 intention to give a more limited meaning is disclosed by the
86 context;

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

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

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



97 (f) "Electronic smoking device" has the same definition
98 as the term "electronic cigarette" as provided in Section
99 97-32-51. The term "electronic smoking device" also includes the
100 term "alternative nicotine product" as provided in Section
101 97-32-51, as applicable;

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

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

108 (i) "Tobacco" means any cigarettes, cigars, cheroots,
109 stogies, smoking tobacco (including granulated, plug cut, crimp
110 cut, ready rubbed, and other kinds and forms of tobacco, or
111 substitutes therefor, prepared in such manner as to be suitable
112 for smoking in a pipe or cigarette) and including plug and twist
113 chewing tobacco and snuff, when such "tobacco" is manufactured and
114 prepared for sale or personal consumption;

115 (j) "CBD" means cannabidiol.

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

118 **SECTION 5.** (1) The Department of Revenue shall be
119 responsible for the licensing and oversight of age restricted
120 tobacco and/or vapor businesses, and shall begin issuing flavored



121 vapor licenses to such businesses upon the effective date of this
122 act.

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

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

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

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

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



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

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

158 Each age restricted tobacco and/or vapor business is subject
159 to a minimum of two (2) annual unannounced compliance checks
160 during normal operating hours. Unannounced follow-up compliance
161 checks of all noncompliant retailers are required within thirty
162 (30) days after any violation. The department, or its designee,
163 shall publish the results of all compliance checks annually, and
164 shall make the results available to the public upon request. This
165 section does not preclude any law enforcement in the state from
166 conducting checks in coordination with the department or its
167 authorized designee.

168 **SECTION 9.** (1) A business that is not an age restricted
169 tobacco and/or vapor business, that sells flavored vapor products,
170 shall be required to remove the flavored vapor products within



171 thirty (30) days of the effective date of this act. Failure to
172 remove such products shall result in forfeiture of the business's
173 license issued by the Secretary of State within thirty (30) days
174 of a follow up compliance inspection from the State Department of
175 Health, or its authorized designee.

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

180 (b) A business that violates paragraph (a) of this
181 subsection (2) will be subject to a fine of Fifty Thousand Dollars
182 (\$50,000.00), forfeit its business license issued by the Secretary
183 of State, and shall be banned from submitting an application for
184 any future licenses issued by the State of Mississippi for vapor
185 and CBD products. The state may recover costs of any
186 investigations, costs of action, and reasonable attorney fees
187 under this section.

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

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



196 (a) Five Hundred Dollars (\$500.00) for a first offense;
197 (b) One Thousand Dollars (\$1,000.00) for a second
198 offense; and
199 (c) Two Thousand Dollars (\$2,000.00) for a third and
200 subsequent offense.

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

208 Retailers who sell vapor products that are composed of only
209 tobacco or menthol flavor to persons under the age of twenty-one
210 (21) years, are subject to the enforcement and monetary penalties
211 as provided in this section.

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

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



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

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

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

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

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

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

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



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

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

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

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

267 (b) Any person under the age of twenty-one (21) years
268 who purchases, receives, or has in his or her possession in any
269 public place, any kratom product, shall be guilty of a misdemeanor



270 and shall be punished by a fine of not less than Two Hundred
271 Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00).

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

279 (b) Any owner, operator, employee, representative, or
280 agent of a retailer that sells, stores, or maintains kratom
281 products, who shall sell, furnish, dispose of, give, or cause to
282 be sold, furnished, disposed of, or given, any kratom product to
283 any person under the age of twenty-one (21) years, upon
284 conviction, shall be punished by a fine of not more than One
285 Thousand Dollars (\$1,000.00), or imprisoned in the county jail not
286 more than six (6) months, or by both such fine and imprisonment.

287 **SECTION 16.** Section 97-32-51, Mississippi Code of 1972, is
288 brought forward as follows:

289 97-32-51. (1) For the purposes of this chapter:

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

291 1. An electronic cigarette;

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



295 3. Any electronic device that can be used to
296 deliver nicotine to an individual inhaling from the device,
297 including, but not limited to, any cartridge component, liquid,
298 capsule or powder used to refill or resupply such an electronic
299 device; or

300 4. An electronic cigar or cigarillo.

301 (ii) Alternative nicotine product does not
302 include:

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

305 2. A product that is a drug under 21 USCS
306 321(g) (1);

307 3. A product that is a device under 21 USCS
308 321(h); or

309 4. A combination product described in 21 USCS
310 353(g).

311 (b) (i) "Electronic cigarette" means an electronic
312 product or device that produces a vapor that delivers nicotine or
313 other substances to the person inhaling from the device to
314 simulate smoking, and is likely to be offered to, or purchased by,
315 consumers as an electronic cigarette, electronic cigar, electronic
316 cigarillo or electronic pipe.

317 (ii) Electronic cigarette does not include:

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



- 320 2. A product that is a drug under 21 USCS
321 321(g) (1) ;
322 3. A product that is a device under 21 USCS
323 321(h) ; or
324 4. A combination product described in 21 USCS
325 353(g) .

326 (2) No person, either directly or indirectly by an agent or
327 employee, or by a vending machine owned by the person or located
328 in the person's establishment, shall sell, offer for sale, give or
329 furnish any alternative nicotine product, or any cartridge,
330 component, liquid, capsule or powder thereof, to an individual
331 under twenty-one (21) years of age. The penalties described in
332 this subsection shall be treble the fines described in this
333 section, plus any other penalty provided by law, for the sale,
334 use, possession or furnishing of a controlled substance or other
335 substance to a person, if the alternative nicotine product
336 contains any controlled substance that is otherwise prohibited by
337 law, or any other substance that causes the recipient of such to
338 require emergency medical care as a result of using the product.
339 Each violation of the provisions of this section shall be treated
340 as a separate offense. A violation of this subsection is
341 punishable as follows:

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



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

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

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

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

357 (b) For sales made through the internet or other remote
358 sales methods, performing an age verification through an
359 independent, third-party age verification service that compares
360 information available from public records to the personal
361 information entered by the individual during the ordering process
362 that establishes the individual is twenty-one (21) years of age or
363 older.

364 **SECTION 17.** This act shall take effect and be in force from
365 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 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; TO BRING FORWARD
35 SECTION 97-32-51, MISSISSIPPI CODE OF 1972, FOR PURPOSE OF
36 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

