

By: Representative Creekmore IV

To: Judiciary B

## HOUSE BILL NO. 668

1 AN ACT TO AMEND SECTIONS 97-32-5, 97-32-11 AND 97-32-15,  
2 MISSISSIPPI CODE OF 1972, TO PROHIBIT THE SELL, BARTER OR DELIVERY  
3 OF TOBACCO PRODUCTS TO ANY INDIVIDUAL UNDER 21 YEARS OF AGE; TO  
4 AMEND SECTION 97-32-23, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE  
5 PUBLICATION OF THE NAME OF ANY PERSON UNDER 21 YEARS OF AGE; AND  
6 FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 97-32-5, Mississippi Code of 1972, is  
9 amended as follows:

10 97-32-5. It shall be unlawful for any person, or retailer,  
11 to sell, barter, deliver or give tobacco products to any  
12 individual under \* \* \* twenty-one (21) years of age unless the  
13 individual under \* \* \* twenty-one (21) years of age holds a  
14 retailer's license to sell tobacco under Section 27-69-1 et seq.,  
15 Mississippi Code of 1972.

16 It shall be an absolute affirmative defense that the person  
17 selling, bartering, delivering or giving tobacco products over the  
18 counter in a retail establishment to an individual under \* \* \*  
19 twenty-one (21) years of age in violation of this article had  
20 requested and examined a government-issued photographic



21 identification from such person establishing his or her age as at  
22 least \* \* \* twenty-one (21) years prior to selling such person a  
23 tobacco product. The failure of a seller, barterer, deliverer or  
24 giver of tobacco products over the counter in a retail  
25 establishment to request and examine photographic identification  
26 from a person under \* \* \* twenty-one (21) years of age prior to  
27 the sale of a tobacco product to such person if the individual is  
28 not known to the seller, barterer, deliverer or giver of the  
29 tobacco product to be over the age of \* \* \* twenty-one (21) years,  
30 shall be construed against the seller, barterer, deliverer or  
31 giver and form a conclusive basis for the seller's violation of  
32 this section.

33 It shall be an absolute affirmative defense that the person  
34 or entity giving tobacco products through the mail to an  
35 individual under \* \* \* twenty-one (21) years of age in violation  
36 of this article had requested and received documentary or written  
37 evidence from such person purportedly establishing his age to be  
38 at least \* \* \* twenty-one (21) years of age.

39 Any person who violates this section shall be liable as  
40 follows: For a first conviction, a fine of Fifty Dollars  
41 (\$50.00); for a second conviction, a fine of Seventy-five Dollars  
42 (\$75.00); and for all subsequent convictions, a fine of One  
43 Hundred Fifty Dollars (\$150.00) shall be imposed.

44 Any person found in violation of this section shall be issued  
45 a citation and the holder of the retailer permit shall be sent



notification of this citation by registered mail by the law enforcement agency issuing the citation. Notification shall include the opportunity for hearing before the appropriate court. For a first conviction, the retailer shall be sent a warning letter informing him of the retailer's responsibility in the selling of tobacco products. For a second conviction, the retailer, or retailer's designee, shall be required to enroll in and complete a "Retailer Tobacco Education Program."

For a third or subsequent violation of this section by any retailer, within one (1) year of the two (2) prior violations, any retailer's permit issued pursuant to Section 27-69-1 et seq., Mississippi Code of 1972, may be revoked or suspended for a period of at least one (1) year after notice and opportunity for hearing. If said permit is revoked by the Department of Revenue, the retailer may not reapply for a permit to sell tobacco for a period of six (6) months. For the purposes of this section, "subsequent violations" are those committed at the same place of business.

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

It shall not be considered a violation of this section on the part of any law enforcement officer or person under \* \* \* twenty-one (21) years of age for any law enforcement officer of this state to use persons under \* \* \* twenty-one (21) years of age to purchase or attempt to purchase tobacco products for the



71 purpose of monitoring compliance with this section, as long as  
72 those persons are supervised by duly authorized law enforcement  
73 agency officials.

74 Any law enforcement agency conducting enforcement efforts  
75 undertaken pursuant to this article shall prepare a report as  
76 prescribed by the Attorney General which includes the number of  
77 unannounced inspections conducted by the agency, a summary of  
78 enforcement actions taken pursuant to this article, the name and  
79 permit number of the retailer pursuant to Section 27-69-1 et seq.,  
80 Mississippi Code of 1972, and final judicial disposition on all  
81 enforcement actions. Reports shall be forwarded to the Office of  
82 the Attorney General within twenty (20) working days of the final  
83 judicial disposition.

84 On notification from local law enforcement that a retailer  
85 has violated this article so as to warrant a revocation of the  
86 retailer's permit, the Attorney General shall notify in writing  
87 the Department of Revenue within twenty (20) working days.

88 In accordance with the procedures of Section 27-69-9,  
89 Mississippi Code of 1972, the Department of Revenue shall initiate  
90 revocation procedures of the retailer's permit. The Office of the  
91 Attorney General shall provide legal assistance in revocation  
92 procedures when requested by the Department of Revenue.

93 **SECTION 2.** Section 97-32-11, Mississippi Code of 1972, is  
94 amended as follows:



95           97-32-11. Point of sale warning signs are required, and each  
96 seller shall place and maintain in legible condition, at each  
97 point of sale of tobacco products to consumers, a sign no smaller  
98 than eight and one-half (8-1/2) by eleven (11) inches or  
99 ninety-three (93) square inches stating: "STATE LAW PROHIBITS THE  
100 SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF \* \* \* 21  
101 YEARS. PROOF OF AGE REQUIRED."

102           Any person who violates this section shall be punished by a  
103 penalty of not more than One Hundred Dollars (\$100.00).

104           **SECTION 3.** Section 97-32-15, Mississippi Code of 1972, is  
105 amended as follows:

106           97-32-15. It shall be unlawful for any person to sell  
107 tobacco products through a vending machine, unless the vending  
108 machine is located in an establishment to which individuals under  
109 the age of \* \* \* twenty-one (21) years are denied access or are  
110 required to be accompanied by an adult. A person who violates  
111 this section shall be punished by a penalty of not more than Two  
112 Hundred Fifty Dollars (\$250.00).

113           **SECTION 4.** Section 97-32-23, Mississippi Code of 1972, is  
114 amended as follows:

115           97-32-23. It shall be unlawful to publish the name or  
116 identity of any person under the age of \* \* \* twenty-one (21)  
117 years who is convicted or adjudicated of any violation of this  
118 article.



119           **SECTION 5.** This act shall take effect and be in force from  
120 and after July 1, 2025.

