

HOUSE BILL NO. 1566

Introduced by

Representatives D. Johnston, Christianson, Klemin, J. Olson, Schneider, VanWinkle

1 A BILL for an Act to create and enact a new chapter to title 19 of the North Dakota Century
2 Code, relating to the regulation of kratom; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new chapter to title 19 of the North Dakota Century Code is created and
5 enacted as follows:

6 **Definitions.**

7 As used in this chapter:

- 8 1. "Independent testing laboratory" means a laboratory accredited by a third-party
9 accrediting body as a competent testing laboratory in accordance with the international
10 organization for standardization and international electrotechnical commission.
- 11 2. "Kratom" means any part of the mitragyna speciosa plant.
- 12 3. "Kratom extract" means a substance or compound obtained by the extraction of
13 kratom intended for ingestion containing more than trace amounts of kratom and other
14 alkaloids of the plant.
- 15 4. "Kratom product" means a food, dietary supplement, or beverage, or a food or dietary
16 ingredient intended for human consumption, that contains kratom and is manufactured
17 or served in an edible form, including a pill, powder, capsule, beverage, or liquid.
- 18 5. "Retailer" means a person that advertises, sells, prepares, manufactures, distributes,
19 or maintains kratom products.
- 20 6. "Synthesized material" means an alkaloid or alkaloid derivative created by chemical
21 synthesis or biosynthetic means that alters the composition of a kratom alkaloid or
22 constituent.

23 **Kratom product requirements - Administration.**

- 24 1. A retailer may not prepare, sell, distribute, or expose for sale a kratom product:

- 1 a. Containing a level of 7-hydroxymitragynine in the alkaloid fraction that is greater
- 2 than two percent of the alkaloid composition of the kratom product;
- 3 b. Containing synthesized material;
- 4 c. Containing alkaloids or other plant constituents that are isolated or manipulated
- 5 to increase potency;
- 6 d. Containing a level of residual solvent higher than permitted by United States
- 7 pharmacopeia chapter 467;
- 8 e. Using combustion, vaporization, or injection as a means of introduction into the
- 9 human body; or
- 10 f. Adulterated with a dangerous nonkratom substance including:
 - 11 (1) Controlled substances;
 - 12 (2) Psychoactive compounds;
 - 13 (3) Synthetic cannabinoids and cathinones; or
 - 14 (4) A cytochrome P450 enzyme inhibitor.
- 15 2. A kratom product may not be marketed or sold to a minor.
- 16 3. A kratom product produced, manufactured, distributed, or sold in this state must have
- 17 attached a label which includes:
 - 18 a. A statement against use by an individual who is:
 - 19 (1) Under eighteen years of age;
 - 20 (2) Pregnant; or
 - 21 (3) Breastfeeding.
 - 22 b. A recommendation to consult a health care provider before use;
 - 23 c. A statement that the product may be habit forming;
 - 24 d. A disclosure that the product is not evaluated by the federal food and drug
 - 25 administration;
 - 26 e. A list of all ingredients, including the amount of kratom alkaloids; and
 - 27 f. A recommended amount of product per serving that is clearly defined for the
 - 28 product format.
- 29 4. A kratom product produced, manufactured, distributed, or sold in this state must be
- 30 analyzed by an independent testing laboratory for:
 - 31 a. Alkaloid content;

- 1 b. Heavy metals specified by the department; and
- 2 c. Any other contaminant identified by department rule.
- 3 5. The department shall adopt rules necessary to administer this chapter.

4 **Licensure - Registration.**

- 5 1. A retailer in the state must be licensed by the department. To obtain licensure, a
6 retailer shall:
 - 7 a. Pay a fee; and
 - 8 b. Register each product containing kratom intended for sale by providing
9 certification that the product:
 - 10 (1) Is manufactured, processed, and held in a facility that meets the
11 requirements under 21 C.F.R. 111;
 - 12 (2) Adheres to the labeling requirements under this chapter;
 - 13 (2) Is safe for consumption under the conditions set forth on the label; and
 - 14 (3) Is certified by an independent testing laboratory to meet the requirements
15 under this chapter.
- 16 2. The department shall maintain a kratom registration page on the department's official
17 website listing all registered kratom products for sale by licensed retailers.

18 **Penalties.**

- 19 1. A retailer that sells a kratom product not registered with the department is guilty of a
20 class A misdemeanor.
- 21 2. A retailer that sells a kratom product to an individual under eighteen years of age is
22 guilty of a class A misdemeanor.
- 23 3. A retailer that advertises, sells, prepares, manufactures, distributes, or maintains a
24 kratom product that contains a controlled substance identified in chapter 19-03.1 or
25 19-03.2 must be charged under chapter 19-03.1 or 19-03.2.
- 26 4. A person that advertises, sells, prepares, manufactures, distributes, or maintains a
27 kratom product without a retailer license issued by the department is guilty of a class C
28 felony.