

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO  
FIRST ENGROSSMENT**

**ENGROSSED 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 4.1 of the North Dakota Century  
2 Code, relating to the regulation of kratom products; to provide for a legislative management  
3 study ~~relating to the regulation of kratom~~; to provide a penalty; and to provide an appropriation.

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

5 **SECTION 1.** A new chapter to title 4.1 of the North Dakota Century Code is created and  
6 enacted as follows:

7 **Definitions.**

8 As used in this chapter:

9 1. "Food" means:

10 a. An article used for food or drink for human or animal consumption or the

11 components of the article;

12 b. Chewing gum or chewing gum components; or

13 c. A food supplement for special dietary use that is necessitated because of a

14 physical, physiological, pathological, or other condition.

15 2. "Kratom processor" means any kratom product manufacturer, distributor, or

16 wholesaler.

17 3. "Kratom product" means food containing any part of a leaf of the plant mitragyna

18 speciosa.

19 4. "Kratom retailer" means anyone who sells a kratom product to an end consumer.

**Kratom product label required - Administrative penalty - Request for hearing.**

1. A kratom processor or retailer shall disclose on the product label of each kratom product the kratom processor or retailer prepares, distributes, sells, or offers for sale the factual basis upon which the kratom processor or retailer represents the food as a kratom product.
2. For a violation of this section, a kratom processor retailer is subject to an administrative fine of:
  - a. Up to five hundred dollars for the first offense; and
  - b. Up to one thousand dollars for a second or subsequent offense.
3. Any kratom processor or retailer fined under this section may request a hearing before the commissioner within thirty days after the issuance date of the penalty.

**Kratom processor or retailer requirements - Penalty.**

1. A kratom processor or retailer may not prepare, distribute, sell, or offer for sale a kratom product:
  - a. Mixed or packed with a nonkratom substance affecting the quality or strength of the kratom product to such a degree as to render the kratom product injurious to the consumer;
  - b. Containing a poisonous or otherwise deleterious nonkratom ingredient, including a controlled substance as defined in chapter 19-03;
  - c. Containing a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than two percent of the alkaloid composition of the kratom product;
  - d. Containing a synthetic alkaloid, including synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compound of the kratom plant; or
  - e. That does not include a product label on the kratom product packaging that states the amount of mitragynine and 7-hydroxymitragynine contained in the packaged kratom product.
2. A kratom processor or retailer who violates this section is guilty of a class A misdemeanor.
3. A kratom processor or retailer does not violate this section if the kratom processor or retailer shows by a preponderance of the evidence that the kratom processor or

1 retailer relied in good faith upon the representation of a manufacturer, processor,  
2 packer, or distributor of food represented to be a kratom product.

3 4. A kratom processor or retailer may not prepare, distribute, sell, or offer for sale a  
4 kratom product that is not registered with the commissioner in accordance with this  
5 chapter.

6 **Prohibition on sale to minors - Penalty.**

7 1. A kratom processor or retailer may not distribute, sell, or offer for sale a kratom  
8 product to an individual under twenty-one years of age.

9 2. A kratom processor or retailer who violates this section is guilty of a class A  
10 misdemeanor.

11 **Kratom product retail license.**

12 A person must obtain a kratom products retailer's license for each facility at which the  
13 person sells kratom products. To obtain an annual license required by this section, a person  
14 shall submit an application form at the time and in the manner required by the commissioner  
15 and shall pay a fee in the amount of fifty dollars.

16 **Registration of kratom products.**

17 1. Before being distributed in this state, each kratom product and each kratom food  
18 product must be registered with the commissioner. This requirement does not apply to  
19 a distributor, provided the kratom or kratom food product is registered by another  
20 person.

21 2. To register a kratom product or a kratom food product a person shall submit:

22 a. An application at the time and in the manner required by the commissioner; and

23 b. An annual fee in the amount of twenty-five dollars per product.

24 **Administrative rules.**

25 The commissioner may adopt and amend rules consistent with this chapter governing the  
26 sale, distribution, testing, labeling, and regulation of kratom products, and substances and  
27 products prohibited by this chapter.

28 **SECTION 2. LEGISLATIVE MANAGEMENT STUDY - KRATOM USES.** During the  
29 2025-26 interim, the legislative management shall consider studying the implementation of  
30 regulations related to potential uses of kratom in the state. The legislative management shall

1 report its findings and recommendations, together with any legislation necessary to implement  
2 the recommendations, to the seventieth legislative assembly.

3 **SECTION 3. APPROPRIATION - AGRICULTURE COMMISSIONER - FULL-TIME**

4 **EQUIVALENT POSITION AUTHORIZATION.** There is appropriated out of any moneys in the  
5 general fund in the state treasury, not otherwise appropriated, or so much of the sum as may be  
6 necessary, to the agriculture commissioner for the purpose of regulating kratom, for the  
7 biennium beginning July 1, 2025, and ending June 30, 2027, as follows:

8	Salaries and wages	\$400,808
9	Operating expenses	<u>180,000</u>
10	Total general fund	\$580,808
11	Full-time equivalent positions	2.00