25.1428.01000

Sixty-ninth
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

Representative D. Johnston

A BILL for an Act to create and enact a new chapter to title 4.1 of the North Dakota Century Code, relating to the regulation of kratom products; to provide a penalty; to provide an appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Definitions.

As used in this chapter:

1. "Food" means:
   a. An article used for food or drink for human or animal consumption or the components of the article;
   b. Chewing gum or chewing gum components; or
   c. A food supplement for special dietary use that is necessitated because of a physical, physiological, pathological, or other condition.
2. "Kratom processor" means a kratom product manufacturer, distributor, or wholesaler.
3. "Kratom product" means food containing any part of a leaf of the plant mitragyna speciosa.
4. "Kratom retailer" means a person that sells a kratom product to an end consumer.

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

1. A kratom processor or kratom retailer shall disclose on the product label of each kratom product the kratom processor or kratom retailer prepares, distributes, sells, or offers for sale the factual basis upon which the kratom processor or kratom retailer represents the food as a kratom product.

2. For a violation of this section, a kratom processor or kratom 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. A kratom processor or kratom 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 kratom 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 section 19-03.1-01;
   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 kratom retailer that violates this section is guilty of a class A misdemeanor.
3. A kratom processor or kratom retailer does not violate this section if the kratom processor or kratom retailer shows by a preponderance of the evidence that the kratom processor or kratom retailer relied in good faith upon the representation of a manufacturer, processor, packager, or distributor of food represented to be a kratom product.

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

Prohibition on sale to minors - Penalty.

1. A kratom processor or kratom retailer may not distribute, sell, or offer for sale a kratom product to an individual under twenty-one years of age.
2. A kratom processor or kratom retailer that violates this section is guilty of a class A misdemeanor.

Kratom product retail license.

1. A person shall obtain an annual kratom products retailer's license for each facility at which the person sells kratom products.
2. To obtain an annual license, a person shall:
   a. Submit an application form at the time and in the manner required by the commissioner; and
   b. Pay a fee in the amount of fifty dollars.

Registration of kratom products.

1. Before being distributed in this state, each kratom product and each kratom food product must be registered with the commissioner. This requirement does not apply to a distributor if the kratom or kratom food product is registered by another person.
2. To register a kratom product or a kratom food product a person shall submit:
   a. An application at the time and in the manner required by the commissioner; and
   b. An annual fee in the amount of twenty-five dollars per product.

Administrative rules.

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

SECTION 2. APPROPRIATION - AGRICULTURE COMMISSIONER - FULL-TIME EQUIVALENT POSITION AUTHORIZATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, or so much of the sum as may be necessary, to the agriculture commissioner for the purpose of regulating kratom, for the period beginning with the effective date of this Act, and ending June 30, 2027, as follows:

Salaries and wages	$150,303
Operating expenses	67,500
Total general fund	$217,803
Full-time equivalent positions	2.00

SECTION 3. EFFECTIVE DATE. This Act becomes effective upon its filing with the secretary of state.