

The Senate Committee on Health and Human Services offered the following substitute to HB 181:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated,
2 relating to kratom, so as to revise definitions; to prohibit the sale or transfer of possession of
3 kratom to an individual under 21 years of age; to prohibit the ingestion of kratom through a
4 heating element or vaporizing mechanism or the selling of such mechanisms; to provide
5 requirements and limitations relating to the sale of kratom products in this state; to prohibit
6 the sale of kratom unless behind a counter or in a secured display; to revise packaging
7 requirements; to require manufacturers and others to maintain a registered agent in this state;
8 to provide for violations of such requirements; to provide for a civil action; to provide for
9 related matters; to provide for an effective date; to repeal conflicting laws; and for other
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**
13 Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled
14 substances, is amended by revising Code Section 16-13-120, relating to the definition of
15 kratom, as follows:

16 "16-13-120.

17 As used in this article, the term:

18 (1) 'Adulterated' has the same meaning as in Code Section 26-2-26.

19 (2) 'Kratom' ~~'kratom'~~ means the tropical evergreen known as Mitragyna speciosa, which
 20 is native to Southeast Asia and contains the alkaloid mitragynine or metabolite
 21 7-hydroxymitragynine.

22 (3) 'Kratom extract' means any kratom product that has been modified, processed, or
 23 otherwise manufactured with a food-grade solvent.

24 (4) 'Kratom product' means any product containing any part of the leaf of the plant
 25 mitragyna whether sold as a powder, capsule, pill, beverage, extract, or other form.

26 (5) 'Processor' means any person or entity that sells, prepares, manufactures, distributes,
 27 or maintains kratom products, or advertises, represents, or holds itself out as selling,
 28 preparing, or maintaining kratom products."

29

SECTION 2.

30 Said chapter is further amended by revising Code Section 16-13-121, relating to possession
 31 of kratom by individual under age 18 and penalty, as follows:

32 "16-13-121.

33 (a) No person shall sell or transfer possession of kratom to another person under ~~18~~ 21
 34 years of age, nor shall any person under ~~18~~ 21 years of age possess kratom.

35 (b) No person shall ingest kratom in a manner that employs a heating element, power
 36 source, electronic circuit, or other electronic, chemical, or mechanical means, regardless
 37 of shape or size, that can be used to produce vapor in a solution or other form, including,
 38 but not limited to, any electronic cigarette, electronic cigar, electronic cigarillo, electronic
 39 pipe, or similar product or device and any vapor cartridge or other container of kratom in
 40 a solution or other form that is intended to be used with or in an electronic cigarette,
 41 electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

42 (c) No person shall sell, deliver, cause to be delivered, or assist in the delivery of any
43 kratom in or to this state that can be ingested in a manner that violates subsection (b) of this
44 Code section.

45 (d) No person shall offer for sale kratom in this state unless such product is behind a
46 counter in an area only accessible to store employees or in a secured display which is only
47 accessible with the intervention of a store employee.

48 (e) A person who is convicted of violating this Code section shall be guilty of a
49 misdemeanor."

50 **SECTION 3.**

51 Said chapter is further amended by revising Code Section 16-13-122, relating to required
52 labeling, as follows:

53 "16-13-122.

54 (a) All kratom products sold in, or delivered to, this state shall be derived from the natural
55 kratom plant, and any manufactured or processed kratom product, including kratom
56 extracts, shall not be modified, chemically or otherwise, processed, synthesized, or
57 otherwise treated in any way that increases the levels of mitragynine or
58 7-hydroxymitragynine, beyond those described in subsection (b) of this Code section.

59 (b) No kratom product sold in, or delivered to, this state shall have a concentration ratio
60 that is:

61 (1) Greater than 150 mg of mitragynine per serving;

62 (2) Greater than 0.5 mg 7-hydroxymitragynine per gram; or

63 (3) Greater than 1 mg 7-hydroxymitragynine per serving.

64 (c) A kratom processor shall not prepare, distribute, sell, or expose for sale any of the
65 following:

66 (1) A kratom product that is adulterated;

- 67 (2) A kratom product that contains or uses in its processing or manufacturing a food
68 substance that is not generally recognized as safe in food products;
- 69 (3) A kratom product containing any synthetic alkaloids or metabolite including
70 synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived
71 compounds of the kratom plant; or
- 72 (4) A kratom product in a form that employs a heating element, power source, electronic
73 circuit, or other electronic, chemical, or mechanical means, regardless of shape or size,
74 that can be used to produce vapor in a solution or other form, including, but not limited
75 to, any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or
76 similar product or device and any vapor cartridge or other container of kratom in a
77 solution or other form that is intended to be used with or in an electronic cigarette,
78 electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.
- 79 (d) Any entity that manufactures, distributes, sells, delivers, or causes to be delivered in
80 this state any kratom shall maintain a registered agent in this state for service of process for
81 the entire duration of any such activity.
- 82 (e) Kratom packaging shall be accompanied by a label bearing the following information
83 prior to its sale in this state:
- 84 (1) Clearly labeled ingredients;
- 85 (2) That the sale or transfer possession of kratom to another person under ~~18~~ 21 years of
86 age is prohibited;
- 87 (3) The amount of mitragynine and 7-hydroxymitragynine contained in such product;
- 88 (4) The total amount of mitragynine and 7-hydroxymitragynine contained in the
89 packaging for such product;
- 90 (5) The common or usual name of each ingredient used in the manufacture of such
91 product, listed in descending order of predominance;
- 92 (6) The name, physical address, and ~~the~~ principal mailing address of the manufacturer
93 or the person responsible for distributing such product;

94 (7) ~~Clear and adequate directions for the consumption and safe and effective use of such~~
95 ~~product, including the recommended serving size and the time frame within which safe~~
96 ~~consumption should occur; and~~

97 (8) Any precautionary statements as to the safety and effectiveness of such product,
98 including a warning that a consumer should consult their physician on questions about
99 use of kratom, and state that the kratom product is not intended to 'diagnose, treat, cure
100 or prevent any disease'; and

101 (9) A statement that a kratom product label is prohibited from making any therapeutic
102 claims unless approved by the United States Food and Drug Administration.

103 (f) No processor shall offer for sale kratom in this state unless such product is behind the
104 counter in an area only accessible to store employees or in a secured display which is only
105 accessible with the intervention of a store employee.

106 (g) A processor who knowingly or with criminal negligence commits an act in violation
107 of this Code section shall upon a first conviction thereof, be guilty of a misdemeanor of a
108 high and aggravated nature, and upon a subsequent conviction be guilty of a felony, and
109 shall be punished by imprisonment for not less than one nor more than 15 years, by a fine
110 not to exceed \$100,000.00, or both.

111 (h) A processor who negligently commits an act in violation of this Code section shall be
112 guilty of a misdemeanor and subject to a fine not to exceed \$1,000.00.

113 (i) Any person who suffers injury or damages as a result of a violation of this Code section
114 may bring an action in any court of competent jurisdiction for actual damages, including
115 general or specific damages, which shall be presumed to be not less than \$250.00, together
116 with court costs. A court shall award three times actual damages for an intentional violation
117 of this Code section."

118 **SECTION 4.**

119 This Act shall become effective on January 1, 2024.

120

SECTION 5.

121 All laws and parts of laws in conflict with this Act are repealed.