

# **WEST VIRGINIA LEGISLATURE**

**2024 REGULAR SESSION**

**Committee Substitute**

**for**

**Committee Substitute**

**for**

**Senate Bill 679**

BY SENATORS STUART, TAYLOR, AND DEEDS

[Originating in the Committee on Finance; reported

February 23, 2024]



1 A BILL to amend and reenact §11-16-23 of the Code of West Virginia, 1931, as amended; to  
2 amend and reenact §19-12E-12 of said code; to amend and reenact §19-12F-1, §19-12F-  
3 3, §19-12F-4, §19-12F-7, §19-12F-8, §19-12F-9, and §19-12F-11 of said code; to amend  
4 said code by adding thereto a new section, designated §19-12F-9a; and to amend and  
5 reenact §60-7-13 of said code, all relating to regulation of select plant-based derivatives,  
6 including hemp-derived cannabinoid products and regulation of kratom; clarifying findings;  
7 defining terms; redirecting moneys from monetary penalties assessed by Commissioner  
8 of Agriculture to another fund; requiring permits to manufacture, process, distribute, offer  
9 to sell, and sell regulated products; prohibiting retailer from adding imposed tax as  
10 separate new charge; specifying regulatory authority of the Commissioner of Agriculture  
11 and the Alcohol Beverage Control Administration Commissioner; specifying funding  
12 requirements for nonintoxicating beer tax revenues; specifying application of the  
13 Administrative Procedures Act for certain contested cases; specifying application fees for  
14 certain permits; specifying requirements for business registration certificate, nexus,  
15 jurisdiction, and taxation relating to remote interstate sales and distribution; imposition of  
16 use tax; specifying maintenance of lists by the Commissioner of Agriculture of permittees,  
17 approved products and entities, and persons who cease to be permitted; specifying  
18 labeling requirements; authorizing use of funds by the Commissioner of Agriculture and  
19 Alcohol Beverage Control Administration Commissioner; specifying application of Tax  
20 Commissioner's fee; authorizing memoranda of understanding and information sharing  
21 between Tax Commissioner, Commissioner of Agriculture, and Alcohol Beverage Control  
22 Administration Commissioner; specifying administrative sanctions; authorizing the Alcohol  
23 Beverage Control Administration Commissioner to enforce regulation of the product at the  
24 retail level; authorizing enforcement actions involving agents of the Alcohol Beverage  
25 Control Administration Commissioner and persons acting upon the request, direction, or  
26 control of law-enforcement agencies; clarifying Alcohol Beverage Control Administration

27 Commissioner's authority over alcohol licensees selling kratom and hemp-derived  
28 cannabinoid products; and specifying transfer of excess Alcohol Beverage Control  
29 Enforcement Fund money.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 11. TAXATION.**

### **ARTICLE 16. NONINTOXICATING BEER.**

#### **§11-16-23. Revocation or suspension of license; monetary penalty; hearing assessment of costs; establishment of enforcement fund.**

1 (a) Upon a determination by the commissioner that a licensee has: (i) Violated the  
2 provisions of §11-16-18 of this code, or of §60-1-1 *et seq.* of this code; (ii) acted in such a way as  
3 would have precluded initial or renewal licensure; or (iii) violated any rule or order promulgated  
4 by the commissioner, he or she may:

- 5 (1) Revoke the licensee's license;
- 6 (2) Suspend the licensee's license;
- 7 (3) Place the licensee on probationary status for a period not to exceed ~~twelve~~ 12 months;
- 8 and
- 9 (4) Impose a monetary penalty not to exceed ~~one thousand dollars~~ \$1,000 for each  
10 violation where revocation is not imposed.

11 (b) Any monetary penalty assessed and collected by the commissioner shall be  
12 transmitted to the State Treasurer for deposit into the State Treasury to the credit of a special  
13 revenue fund designated the "~~Nonintoxicating Beer Enforcement Fund~~" Alcohol Beverage Control  
14 Enforcement Fund established by the provisions of §60-7-13 of this code. which is hereby created.  
15 ~~All moneys collected, received and deposited in the "Nonintoxicating Beer Enforcement Fund"~~  
16 ~~shall be kept and maintained for expenditures by the commissioner for the purpose of~~  
17 ~~enforcement of the statutes and rules pertaining to nonintoxicating beer and shall not be treated~~

18 ~~by the State Treasurer or State Auditor as any part of the general revenue of the state. At the end~~  
19 ~~of each fiscal year all funds in the nonintoxicating beer enforcement fund in excess of twenty~~  
20 ~~thousand dollars shall be transferred to the General Revenue Fund~~

21 (c) In addition to the grounds for revocation, suspension, or other sanction of a license set  
22 forth in subsection (a) of this section, conviction of the licensee of any offense constituting a  
23 violation of the laws of this ~~State~~ state or of the United States relating to nonintoxicating beer or  
24 alcoholic liquor ~~shall be~~ are mandatory grounds for ~~such~~ sanctioning of a license. Conviction of  
25 the licensee of any violation of the laws of this State or of the United States relating to prostitution  
26 or the sale, possession, or distribution of narcotics or controlled substances ~~shall be~~ is mandatory  
27 grounds for revocation of the licensee's license for a period of at least one year.

## CHAPTER 19. AGRICULTURE.

### ARTICLE 12E. INDUSTRIAL HEMP DEVELOPMENT ACT.

#### §19-12E-12. Regulation of select plant-based derivatives; findings; industrial hemp.

1 (a) This section shall be known as the Select Plant-Based Derivatives Regulation Act:  
2 Industrial Hemp.

3 (b) The Legislature finds that ~~certain~~ select plant-based derivatives can be regulated so  
4 as not to interfere with the strict regulation of controlled substances in this state, and that the  
5 manufacturing, processing, distribution, and retail sale, or other sale of hemp-derived cannabinoid  
6 products is an activity deserving of particular, careful, and strict attention to the administration and  
7 enforcement of West Virginia standards designed to protect and safeguard the welfare and well-  
8 being of West Virginia citizens and residents. The purpose of the act is to allow limited, regulated  
9 access to ~~certain~~ select plant-based derivatives which are naturally occurring and as authorized  
10 by the provisions of this article for adults 21 years of age and older: *Provided*, That the provisions  
11 of this section shall not apply to naturally occurring select plant-based derivative products not  
12 containing tetrahydrocannabinol content. Businesses located within this state engaged in

13 manufacturing, processing, distributing, or sale of hemp-derived cannabinoid products and  
14 businesses located outside of this state that are engaged in the remote distribution or remote  
15 retail sale of hemp-derived cannabinoid products across state lines for delivery into this state, are  
16 subject to the permitting, labeling, and other control and administration provisions of this article.  
17 In the interest of protecting the safety, welfare, and well-being of West Virginia citizens and  
18 residents, West Virginia nexus and jurisdiction attaches for purposes of business registration,  
19 permitting, regulation, and taxation with relation to the activity of distribution or sale of hemp-  
20 derived cannabinoid products across state lines into this state. Persons located outside of this  
21 state that are engaged in distribution or sale of hemp-derived cannabinoid products across state  
22 lines into this state shall obtain a West Virginia business registration certificate as specified in  
23 §11-12-1 et seq. of this code and are subject to other administrative and regulatory requirements  
24 as set forth in this code.

25 (c) As used in this section:

26 (1) "Alcohol Beverage Control Administration Commissioner" means the West Virginia  
27 Alcohol Beverage Control Administration Commissioner or his or her designees.

28 (2) "Commissioner" means the Commissioner of Agriculture or his or her designees.

29 (3) "Contaminated" means made impure ~~and~~ or unsafe by biological, chemical, or physical  
30 additives.

31 (4) "Department" or "Department of Agriculture" means the West Virginia Department of  
32 Agriculture.

33 (5) "Final product" means a product approved by the Department in accordance with the  
34 provisions of this article, and any other applicable rules and requirements set forth by the  
35 Department, as specified for the product.

36 (6) "Grower" means a person or entity which grows industrial hemp.

37 ~~(6)~~ (7) "Hemp-derived cannabinoid" means a naturally occurring non-synthetic substance  
38 as follows:

39 (A) Delta-9 tetrahydrocannabinol ~~with a concentration level consistent with 7 U.S.C. §5940~~  
40 with a total concentration of not more than 0.3 percent on a dry weight basis or not more than the  
41 concentration established by the provisions of 7 U.S.C.1639o;

42 (B) Delta-8 tetrahydrocannabinol;

43 (C) Delta-10 tetrahydrocannabinol;

44 (D) Hexahydrocannabinol (HHC<sub>2</sub>);

45 (E) Tetrahydrocannabiphorol (THCp); and

46 (F) Tetrahydrocannabivarin (THCv).

47 (8) "Non-naturally occurring derivative" means a product that is contaminated as defined  
48 by this article, or a product that, upon result of Department laboratory testing, is found to be in  
49 violation of this article or rules promulgated therewith, or a product that is unlawful pursuant to 7  
50 U.S.C. §5940 or otherwise violates applicable federal regulations.

51 (9) "Processor" or "manufacturer" means a person or entity that processes compounds or  
52 converts hemp-derived cannabinoids into a hemp-derived cannabinoid product and distributes,  
53 sells, or offers for sale, hemp-derived cannabinoid products in this state on a wholesale basis to  
54 a retailer.

55 ~~(14)~~ (10) "Retail sales" means the sale of hemp-derived products in a commercial setting  
56 as determined and set forth in rules promulgated by the commissioner. ~~of Agriculture.~~

57 ~~(10)~~ (11) "Seller" or "distributor" means a person or entity that distributes, offers for sale,  
58 or sells hemp-derived products to persons for personal consumption.

59 (d) Permitting and registration.

60 (1) The commissioner may issue manufacturer, processor, distributor, and retailer permits.

61 Any person manufacturing, processing, distributing, offering for sale, or selling any hemp-derived  
62 cannabinoid products in this state shall have a permit issued by the commissioner and be  
63 otherwise authorized to do business in this State. ~~The commissioner may issue manufacturer,~~  
64 ~~processor, distributor, and retailer permits.~~

65           (2) The business activity subject to permitting under this section shall be treated as  
66 separate and distinct from manufacturing, processing, distribution, or sale of kratom and kratom  
67 products addressed and administered under §19-12F-1 et seq. of this code, or of hemp addressed  
68 and administered under other sections of this article, or of medical cannabis addressed and  
69 administered under §16A-9-1 et seq. of this code.

70           (3) Persons engaged in manufacturing, processing, distribution, or sale of hemp-derived  
71 cannabinoid products in this state shall obtain a West Virginia business registration certificate as  
72 specified in §11-12-1 et seq. of this code and are subject to other administrative and regulatory  
73 requirements set forth in this code.

74           (4) The Tax Commissioner may place a notation on the business registration certificate  
75 showing the status of the certificate holder as a person or entity holding a permit from the  
76 commissioner pursuant to this section.

77           (5) The commissioner shall keep a list of all persons and entities that have been issued  
78 permits pursuant to this section. Such list shall be public information and shall be published initially  
79 on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect  
80 a current listing.

81           (6) The commissioner shall keep a list of any persons or entities that have been subject  
82 to a permit revocation, withdrawal, suspension, non-renewal, or other process whereby the  
83 person or entity has ceased to be a permit holder in good standing with the commissioner.

84           (7) The commissioner shall keep a list of all hemp-derived cannabinoid products that have  
85 been approved for sale or distribution in this state. Such list shall be public information and shall  
86 be published initially on or before June 30, 2024, by the commissioner on its website from time to  
87 time so as to reflect a current listing.

88           (e) Rules. The commissioner of Agriculture shall propose legislative rules for promulgation  
89 in accordance with §29A-3-1 et seq. of this code that include, but are not limited to:

90           (1) Issuance of permits to persons who wish to manufacture, handle, process, distribute,



91 offer for sale, or sell hemp-derived cannabinoid products;

92 (2) Regular sampling and testing of hemp-derived cannabinoid products to determine  
93 purity levels;

94 (3) Supervision of the hemp-derived cannabinoid products during their cultivation,  
95 processing, and sale;

96 (4) Assessment of fees as commensurate with the need of the commissioner's activities  
97 in issuing permits, laboratory testing, and in overseeing the regulation of hemp-derived products.  
98 Such fees shall be in addition to those fees specified in subsection (d) of this section;

99 (5) Approving the manufacture, production, sale, processing, distributing, and transport of  
100 hemp-derived cannabinoid products;

101 (6) Developing guidelines for the labeling of hemp-derived cannabinoid products,  
102 including, but not limited to, a statement which says "KEEP OUT OF REACH OF CHILDREN.  
103 CONSULT YOUR PHYSICIAN BEFORE USE IF YOU ARE PREGNANT OR TAKING ANY  
104 MEDICATION" and "USE OF THIS PRODUCT MAY IMPACT DRUG TESTING RESULTS";

105 (7) Developing guidelines or standards related to the display or staging of hemp-derived  
106 cannabinoid products to increase the safety of underage patrons in retail environments;

107 (8) Developing guidelines or standards to restrict the advertising or marketing of  
108 unapproved or unlawful products;

109 (9) Developing prohibitions on child-targeted packaging and shapes and forms of  
110 products;

111 (10) Developing administrative rules, procedures, and sanctions for violations of this  
112 section; and

113 (11) Any other rules and procedures necessary to carry out the purposes of this article.

114 (f) Emergency rules; mandatory labeling.

115           (1) Emergency Rules. The commissioner and the Alcohol Beverage Control Administration  
116 Commissioner may, pursuant to §29A-3-15 of this code, promulgate such separate or joint  
117 emergency rules ~~as are~~ necessary to effectuate the purposes of this article.

118           (2) Labeling.

119           (A) The commissioner shall review labels to be used on hemp-derived cannabinoid  
120 products to be sold in this state.

121           (B) In addition to the labeling required by the provisions of subdivision (6) of subsection  
122 (e) of this section the commissioner may require and prescribe such labeling as he or she may  
123 determine to be necessary and appropriate for hemp-derived cannabinoid products to be sold to  
124 the final consumer in this state.

125           (C) Hemp-derived cannabinoid products may not be sold to the final consumer in this State  
126 without an approved label.

127           (g) Any website owned, managed, or operated by a person who manufactures, processes,  
128 distributes, offers for sale, or sells hemp-derived cannabinoid products to persons in this state  
129 shall employ a neutral age-screening mechanism to verify legal age. The mechanism may include  
130 an age-gate, age-screen, or any other age-verification mechanism approved by the  
131 commissioner.

132           (h) Any person or entity distributing, offering to distribute, or selling hemp-derived  
133 cannabinoid products to persons in this state by ~~other~~ means other than a direct in-person  
134 transaction ~~may~~ shall employ an age verification mechanism approved by the commissioner. ~~of~~  
135 ~~Agriculture.~~

136           ~~(i) In addition to all other applicable taxes, there is hereby levied an additional tax equal to~~  
137 ~~11 percent of the retail sales price on each retail sale of hemp-derived cannabinoids for the~~  
138 ~~privilege of engaging in the business of selling hemp-derived cannabinoid products. For the~~  
139 ~~privilege of engaging or continuing within this state in the business of the retail sale of hemp-~~  
140 ~~derived cannabinoid products, as defined in subdivision (6), subsection (a) of this section, there~~

141 is hereby levied upon and collected from every person exercising the privilege a privilege tax  
142 equal to 11 percent of the retail sales price on each retail sale of hemp-derived cannabinoids.  
143 Such tax is imposed in addition to all other applicable taxes.

144 ~~(2)-(1)~~ The rate of tax imposed by this subsection is 11 percent of the retail sales price of  
145 ~~hemp-derived cannabinoid products sold during the reporting period, depending upon the~~  
146 ~~person's method of accounting for federal income tax purposes~~ The tax imposed by this  
147 subsection shall not be added by the retailer as a separate charge or line item on any sales slip,  
148 invoice, receipt, other statement, or memorandum of the price paid by a customer. ~~(3)~~ The tax  
149 shall be due and payable on a quarterly basis as follows: on the 20th day of January, April, July,  
150 and October for the preceding calendar quarter. When the payment of tax is due, the person or  
151 entity permitted by the commissioner shall file a tax return in a form prescribed by the Tax  
152 Commissioner. The Tax Commissioner may require such forms, schedules, and returns and  
153 impose such filing and remittance requirements that are necessary or convenient for the efficient  
154 administration of taxes imposed by this subsection.

155 (2) The taxes imposed by this subsection shall be paid by the person or entity permitted  
156 by the commissioner to the Tax Commissioner by electronic funds transfer unless electronic  
157 payment is prohibited by state or federal law. Tax returns required by this subsection shall be filed  
158 electronically with the Tax Commissioner.

159 ~~(4)~~ (3) The West Virginia use tax shall be collected from sellers and marketplace facilitators  
160 as defined in §11-15A-1 of this code, and referrers engaged in making sales, facilitating sales,  
161 marketing, or referring sellers or purchasers for the purpose of making or furthering retail sales of  
162 hemp-derived cannabinoid products into this state. Such sellers, marketplace facilitators, and  
163 referrers are subject to the taxation and other requirements of §11-15A-1 et seq. of this code,  
164 including §11-15A-6a and §11-15A-6b of this code. Application of §11-15A-6a and §11-15A-6b of  
165 this code shall not be limited to the thresholds specified in subsection §11-15A-6a(e) of this code  
166 but in the interest of protecting the safety, welfare, and well-being of West Virginia citizens and

167 residents, West Virginia nexus and jurisdiction shall attach with relation to any such activity for  
168 the purpose of making or furthering retail sales of hemp-derived cannabinoid products, into this  
169 state.

170 ~~(5)~~ (4) If any retailer does not renew its permit, relinquishes its permit, has said its permit  
171 to operate suspended or revoked, or otherwise ceases selling hemp-derived cannabinoid  
172 products, then any tax, additions to tax, penalties, and interest imposed by this section and by  
173 §11-10-1 *et seq.* of this code shall become due and the retailer shall make a final return or returns  
174 and pay any tax which is due within 90 days of not renewing its permit, relinquishing its permit,  
175 having its permit to operate suspended or revoked, or otherwise ceasing business. The unpaid  
176 amount of any tax is to be considered a lien.

177 ~~(6)~~ (5) All money received from the tax imposed under this subsection, including any  
178 interest and additions to tax paid under §11-10-1 *et seq.* of this code, less the amount of any  
179 refunds, and less the fee retained by the Tax Commissioner pursuant to §11-10-27 of this code,  
180 shall be deposited into the Agricultural Fees Fund created by §19-1-4c of this code.

181 ~~(7)~~ (6) Persons or entities subject to the tax imposed by this ~~subsection~~ section shall  
182 provide to the Tax Commissioner any information required by the Tax Commissioner to  
183 administer, collect, and enforce the tax imposed by this ~~subsection~~ section.

184 ~~(8)~~ (7) Notwithstanding any provision of §11-10-1 *et seq.* of this code or of this ~~section~~  
185 article to the contrary, the Tax Commissioner, the Alcohol Beverage Control Administration  
186 Commissioner, and the commissioner shall may enter into written agreements pursuant to which  
187 the Tax Commissioner shall may disclose to designated employees of the ~~department~~ Alcohol  
188 Beverage Control Administration Commissioner or the commissioner, or both, whether a  
189 particular retailer or permittee, or applicant for a permit, is in good standing with the Tax  
190 Commissioner, and the commissioner of Agriculture shall may disclose to designated employees  
191 of the Tax Commissioner or the Alcohol Beverage Control Administration Commissioner, or both,  
192 information a retailer or permittee, or applicant for a permit, provides to the commissioner

193 pursuant to this code and the Alcohol Beverage Control Administration Commissioner may  
194 disclose to designated employees of the Tax Commissioner, or the commissioner, or both,  
195 information a retailer or permittee, or applicant for a permit, provides to the Alcohol Beverage  
196 Control Administration Commissioner pursuant to this code. Tax information disclosed pursuant  
197 to a written agreement shall remain confidential in the hands of the receiver and shall not be  
198 disclosable under §29B-1-1 *et seq.* of this code. To the extent feasible, this information should be  
199 shared or exchanged electronically to ensure safe destruction, or as necessary, proper file  
200 retention practices.

201 ~~(9)~~ (8) The Tax Commissioner may promulgate, in accordance with the provisions of §29A-  
202 3-1 *et seq.* of this code, any necessary legislative rules, including emergency rules, as the Tax  
203 Commissioner considers necessary for the efficient administration of taxes imposed by this  
204 subsection.

205 (A) Funds from the tax imposed by the provisions of subdivision (1) of this subsection, less  
206 the fee retained by the Tax Commissioner pursuant to §11-10-27 of this code, and deposited in  
207 the Agricultural Fees Fund, shall be divided and deposited as follows:

208 (i) Sixty-five percent shall remain in the Agriculture Fees Fund for the use of the  
209 commissioner for administering and enforcing the provisions of this article;

210 (ii) Five percent shall be transferred to the Fight Substance Abuse Fund created by §60A-  
211 9-8 of this code; and

212 (iii) Thirty percent shall be deposited in the Alcohol Beverage Control Enforcement Fund  
213 established by the provisions of §60-7-13 of this code.

214 (B) Notwithstanding any provision in §11-9-1 *et seq.* of this code to the contrary, and as  
215 relevant to the tax imposed by ~~§16A-9-1 of this code~~ this section, the West Virginia Tax Crimes  
216 and Penalties Act set forth in §11-9-1 *et seq.* of this code shall apply with like effect as if the said  
217 West Virginia Tax Crimes and Penalties Act were applicable only to the tax imposed by ~~§16A-9-~~

218 ~~1 et seq. of this code~~ this section and were set forth in extenso in ~~§16A-9-1 et seq. of this code~~  
219 this section.

220 (C) Notwithstanding any provision of §11-10-1 *et seq.* of this code, or any other provision  
221 of this code to the contrary, each and every provision of the West Virginia Tax Procedure and  
222 Administration Act as set forth in §11-10-1 *et seq.* of this code applies to the tax imposed by ~~§16A-~~  
223 ~~9-1 et seq.~~ this section with like effect as if the said West Virginia Tax Procedure and  
224 Administration Act were applicable only to the tax imposed by ~~§16A-9-1 et seq. of this code~~ this  
225 section and were set forth in extenso in ~~§16A-9-1 et seq. of this code~~ this section.

226 (j) ~~All fees collected pursuant to the provisions of this subsection shall be deposited with~~  
227 ~~the State Treasurer to the credit of the Agricultural Fees Fund established by the provisions of~~  
228 ~~§19-1-4c of this code for the use of the Commissioner of Agriculture for administering and~~  
229 ~~enforcing the provisions of this article~~

230 (k)(1) The provisions of this section related to retail sales shall be enforced by the  
231 commissioner of Agriculture with the assistance of the Alcohol Beverage Control Administration  
232 Commissioner.

233 (2) (1) ~~The commissioner of Agriculture, the Tax Commissioner, and the Alcohol Beverage~~  
234 ~~Control Administration Commissioner shall~~ may enter into a memorandum or memoranda of  
235 understanding to facilitate the enforcement of this section.

236 (2) Procedure for contested cases. Any person or entity seeking to contest an  
237 administrative action of the commissioner under this article shall assert such contestation in  
238 writing within 14 days under the provisions of the Administrative Procedures Act set forth in §29A-  
239 5-1 et seq. of this code in administrative proceedings held by or before the commissioner or his  
240 or her designee.

241 (l)(1) Any hemp-derived product found in this state in violation of this article is hereby  
242 declared contraband and any property interest in the hemp-derived product is vested in the State  
243 of West Virginia and is subject to seizure, forfeiture, and destruction.

244 (2) Any certified law-enforcement officer in this state ~~is authorized to~~ may enforce the  
245 criminal provisions of this section, and enforcement agents of the Alcohol Beverage Control  
246 Administration Commissioner ~~are authorized to~~ may enforce the administrative retailer provisions  
247 of this section as relating to retail sales.

248 (3) The commissioner shall provide the requisite training necessary to enforce the criminal  
249 and administrative provisions of this section.

250 (4) The ~~provisions of~~ amendments to this subsection enacted during the 2024 Regular  
251 Legislative Session are effective from passage.

252 (m) Any person who manufactures, processes, distributes, sells, or offers for sale any  
253 hemp-derived cannabinoid product in this state without a permit to do so is guilty of a crime.

254 (1) A first violation of this subsection is a misdemeanor, and, upon conviction thereof, a  
255 person shall be fined not more than \$1,000, confined in jail for not more than one year, or both  
256 fined and confined.

257 (2) A second or subsequent violation of this subsection is a felony and, upon conviction  
258 thereof, a person shall be fined not more than \$5,000, or imprisoned in a state correctional facility  
259 for not less than one nor more than five years, or both fined and imprisoned.

260 (n) Any person who processes, distributes, manufactures, sells, or offers to sell any hemp-  
261 derived product knowing or having reason to know that the product has been contaminated with  
262 a toxic or illegal substance is guilty of a felony and, upon conviction thereof, shall be fined not  
263 more than \$10,000, or imprisoned in a state correctional facility for not less than two nor more  
264 than 10 years, or both fined and imprisoned.

265 (o)(1) Any person who knowingly manufactures, processes, distributes, sells, or offers for  
266 sale any hemp-derived cannabinoid product which has not been approved by the commissioner  
267 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor  
268 more than \$5,000, or confined in jail for not more than one year, or both fined and confined.

269 (2) Notwithstanding the provisions of subdivision (1) of this subsection, a second or  
270 subsequent violation of subdivision (1) of this subsection constitutes a felony and any person  
271 convicted thereof shall be fined not more than \$5,000, or imprisoned in a state correctional facility  
272 for not less than one nor more than five years, or both fined and imprisoned.

273 (p) Any person who knowingly distributes, offers for sale, or sells a contaminated hemp-  
274 derived cannabinoid product is guilty of a felony and, upon conviction thereof, shall be fined not  
275 less than \$10,000 nor more than \$25,000, or imprisoned in a state correctional facility for not less  
276 than one nor more than five years, or both fined and imprisoned.

277 (q) Any person who knowingly distributes or sells hemp-derived cannabinoid product to a  
278 person under the age of 21 is guilty of a felony and, upon conviction thereof, shall be fined not  
279 more than \$5,000, or imprisoned in a state correctional facility for not less than one nor more than  
280 five years, or both fined and imprisoned.

281 (r)(1) Any person under the age of 21 who possesses hemp-derived cannabinoid product  
282 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or  
283 confined in jail for not more than one year, or both fined and confined.

284 (2) Notwithstanding the provisions of subdivision (1) of this subsection, second and  
285 subsequent violations of subdivision (1) of this subsection, constitute a felony, and any person  
286 convicted thereof, shall be fined not more than \$5,000, and imprisoned in a state correctional  
287 facility for not less than one nor more than three years, or both fined and imprisoned.

288 (s) Administrative sanctions.

289 (1) In the case of any person or entity holding a permit issued by the commissioner under  
290 this article charged with any criminal violation enumerated in this section, the commissioner, in  
291 addition to such criminal penalties imposed, may impose administrative sanctions including, but  
292 not limited to, permanent revocation of any one or more permits held by the violator, revocation  
293 of one or more permits held by the violator for a period of time to be determined by the  
294 commissioner, suspension of any one or more permits held by the violator for a period of time to



295 be determined by the commissioner, a fine or fines to any one or more permits held by the violator  
296 not to exceed \$1,000 per each violation as determined by the commissioner, or non-issuance of  
297 a permit upon application of a violator. For purposes of this subsection, administrative sanctions  
298 may be imposed by the commissioner upon or against any alter ego, agent, representative, or  
299 person or entity acting on behalf of, or in the interest of, a violator.

300 (2) The commissioner may impose the administrative sanctions in subdivision (1) of this  
301 subsection upon any person or entity under indictment for any of the criminal violations during,  
302 and during the pendency, of a criminal trial therefor.

303 (t) Nothing in this article shall prohibit an authorized enforcement agent of the Alcohol  
304 Beverage Control Administration Commissioner or a person who is at least 18 years of age from  
305 purchasing or possessing hemp-derived cannabinoid products when he or she is acting upon the  
306 request of, or under the direction and control of, any member of a state, federal, or local law-  
307 enforcement agency or the Alcohol Beverage Control Administration Commissioner while the  
308 agency is conducting an investigation or other activity relating to the criminal or administrative  
309 enforcement of this section.

**ARTICLE 12F. SELECT PLANT-BASED ~~PRODUCT-DERIVATIVES~~ REGULATION**

**ACT: KRATOM.**

**§19-12F-1. Short title. Findings.**

1 (a) This article shall be known as the Select Plant-Based ~~Product-Derivatives~~ Regulation  
2 Act: Kratom.

3 (b) The Legislature finds that the manufacturing, processing, distributing, and sale of  
4 kratom or kratom products is an activity deserving of particular, careful, and strict attention to the  
5 administration and enforcement of West Virginia standards designed to protect and safeguard the  
6 welfare and well-being of West Virginia citizens and residents. Therefore, the permitting, labeling,  
7 and other control and administration provisions of this article apply to businesses located within

8 this state engaged in manufacturing, processing, distribution, or sale of kratom or kratom products  
9 and to businesses located outside of this state that are engaged in the remote distribution or  
10 remote retail sale of kratom or kratom products across state lines for delivery into this state.

**§19-12F-3. Definitions.**

1 (1) "Alcohol Beverage Control Administration Commissioner" means the West Virginia  
2 Alcohol Beverage Control Administration Commissioner or his or her designee.

3 (2) ~~The~~ "Commissioner" means the Commissioner of Agriculture or his or her designee.

4 (3) "Contaminated" means made impure and unsafe by biological, chemical, or physical  
5 additives.

6 (4) "Department" or "Department of Agriculture" means the West Virginia Department of  
7 Agriculture.

8 (5) "Kratom" means a psychoactive preparation that is composed of the crushed or  
9 powdered dried leaves of the mitragyna speciosa, a ~~yellow~~-flowered tropical tree which contains  
10 the alkaloids mitragynine and 7-hydroxymitragynine.

11 (6) "Kratom product" means a food product, food ingredient, dietary ~~ingredient~~ ingredient,  
12 dietary supplement, or beverage intended or marketed for human consumption containing any  
13 part of the leaf of the plant mitragyna speciosa.

14 (7) ~~Manufacture~~ "Grower" means a person or entity which grows kratom for commercial  
15 purposes.

16 (8) "Processor" or "manufacturer" means a person or entity that processes, ~~distributes,~~  
17 ~~sells, or offers for sale, kratom or kratom products in this State on a wholesale basis to a retailer~~  
18 compounds, or converts plant material from mitragyna speciosa into a kratom product. This also  
19 includes further processing, compounding, converting, or repackaging of existing kratom  
20 products.

21 (9) "Retailer" or "seller" means a person or entity that distributes, offers for sale, or sells  
22 kratom or kratom products to persons for personal consumption.

**§19-12F-4. Processor and retailer permits; regulations; permitting; and registration.**

1           (a) Any person manufacturing, processing, distributing, offering for sale, or selling any  
2 kratom or kratom products in this state shall have a permit issued by the commissioner and be  
3 otherwise authorized to do business in this state. The commissioner may issue permits for  
4 manufacturers, processors, and retailers. manufacturer, processor, distributor, and retailer  
5 permits. The business activity subject to permitting under this article shall be treated as separate  
6 and distinct from manufacturing, processing, distribution, or sale of hemp-derived cannabinoid  
7 products addressed and administered under §19-12E-12 of this code, or of hemp addressed and  
8 administered under §19-12E-1 et seq. of this code, or of medical cannabis addressed and  
9 administered under §16A-9-1 et seq. of this code.

10           (b) Persons engaged in manufacturing, processing, distribution, or sale of kratom or  
11 kratom products in this State must obtain a West Virginia business registration certificate as  
12 specified in §11-12-1 et seq. of this code and shall be subject to other administrative and  
13 regulatory requirements as set forth in this code.

14           (c) In the interest of protecting the safety, welfare, and well-being of West Virginia citizens  
15 and residents, West Virginia nexus and jurisdiction attaches for purposes of business registration,  
16 permitting, regulation and taxation with relation to the activity of distribution or sale of kratom or  
17 kratom products across State lines into this State. Persons located outside of this State that are  
18 engaged in distribution or sale of kratom or kratom products across state lines into this State must  
19 obtain a West Virginia business registration certificate as specified in §11-12-1 et seq. of this code  
20 and shall be subject to other administrative and regulatory requirements as set forth in this code.

21           (d) The Tax Commissioner may place a notation on the business registration certificate  
22 showing the status of the certificate holder as a person or entity holding a permit from the  
23 commissioner pursuant to this article.

24           (e) The commissioner shall keep a list of all persons and entities that have been issued  
25 permits pursuant to this article. Such list shall be public information and shall be published initially

26 on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect  
27 a current listing.

28 (f) The commissioner shall keep a list of any persons or entities that have been subject to  
29 a permit, revocation, withdrawal, suspension, non-renewal, or other process whereby the person  
30 or entity has ceased to be a permit holder in good standing with the commissioner.

31 (g) The commissioner shall keep a list of all kratom and kratom products that have been  
32 approved for sale or distribution in this State. Such list shall be public information and shall be  
33 published initially on or before June 30, 2024, by the commissioner on its website from time to  
34 time so as to reflect a current listing.

**§19-12F-7. Taxation; disposition of funds.**

1 (a) For the privilege of engaging or continuing within this state in the business of the retail  
2 sale of kratom or kratom products, there is hereby levied upon and collected from every person  
3 exercising the privilege a privilege tax equal to ~~(b) The rate of tax imposed by this subsection is~~  
4 ~~11 percent~~ 11 percent of the retail sales price of kratom or kratom products sold during the  
5 reporting period. Such tax is imposed in addition to all other applicable taxes.

6 (b) The tax imposed by this article shall not be added by the retailer as a separate charge  
7 or line item on any sales slip, invoice, receipt, other statement, or memorandum of the price paid  
8 by a customer.

9 (c) The tax shall be is due and payable on a quarterly basis as follows: on the 20th day of  
10 January, April, July, and October for the preceding calendar quarter. When the payment of tax is  
11 due, the person shall file a tax return in a form prescribed by the Tax Commissioner. The Tax  
12 Commissioner may require such forms, schedules, and returns and impose such filing and  
13 remittance requirements that are necessary or convenient for the efficient administration of taxes  
14 imposed by this subsection.

15 (d)(1) The taxes imposed by this subsection shall be paid to the Tax Commissioner by  
16 electronic funds transfer unless electronic payment is prohibited by state or federal law. Tax  
17 returns required by this subsection shall be filed electronically with the Tax Commissioner.

18 (2) The West Virginia use tax shall be collected from sellers, marketplace facilitators, and  
19 referrers engaged in making sales, facilitating sales, marketing, or referring sellers or purchasers  
20 for the purpose of making or furthering retail sales of kratom and kratom products into this state.  
21 The sellers, marketplace facilitators, and referrers are subject to the taxation and other  
22 requirements of §11-15A-1 et seq. of this code, including §11-15A-6a and §11-15A-6b of this  
23 code. Application of §11-15A-6a and §11-15A-6b of this code shall not be limited to the thresholds  
24 specified in subsection §11-15A-6a(e) of this code, but in the interest of protecting the safety,  
25 welfare, and well-being of West Virginia citizens and residents, West Virginia nexus and  
26 jurisdiction shall attach with relation to any such activity for the purpose of making or furthering  
27 retail sales of kratom and kratom products into this state.

28 (e) If any retailer does not renew its permit, relinquishes its permit, has ~~said~~ its permit  
29 suspended or revoked, or otherwise ceases selling kratom and kratom products, then any tax,  
30 additions to tax, penalties, and interest imposed by this section and by §11-10-1 et seq. of this  
31 code shall become due and the retailer shall make a final return or returns and pay any tax which  
32 is due within 90 days of not renewing its permit, relinquishing its permit, having its permit  
33 suspended or revoked, or otherwise ceasing business. The unpaid amount of any tax is to be  
34 considered a lien.

35 (f) All money received from the tax imposed under this ~~subsection~~ section, including any  
36 interest and additions to tax paid under §11-10-1 et seq. of this code, less the amount of any  
37 refunds, and less the fee retained by the Tax Commissioner pursuant to §11-10-27 of this code,  
38 shall be deposited into the Agricultural Fees Fund created by §19-1-4c of this code.

39 (g) Persons or entities subject to the tax imposed by this subsection shall provide to the  
40 Tax Commissioner any information required by the Tax Commissioner to administer, collect, and  
41 enforce the tax imposed by this subsection.

42 (h) Notwithstanding any provision of §11-10-1 *et seq.* of this code or of this ~~section~~ article  
43 to the contrary, the Tax Commissioner, the Alcohol Beverage Control Administration  
44 Commissioner, and the commissioner of ~~Agriculture~~ shall may enter into written agreements  
45 pursuant to which the Tax Commissioner shall may disclose to designated employees of the  
46 ~~department~~ Alcohol Beverage Control Administration Commissioner or commissioner, or both,  
47 whether a particular retailer or permittee, or applicant for a permit, is in good standing with the  
48 Tax Commissioner, and the commissioner of ~~Agriculture~~ shall may disclose to designated  
49 employees of the Tax Commissioner or the Alcohol Beverage Control Administration  
50 Commissioner, or both, information a retailer or permittee, or applicant for a permit, provides to  
51 the commissioner of ~~Agriculture~~ pursuant to this code and the Alcohol Beverage Control  
52 Administration Commissioner may disclose to designated employees of the Tax Commissioner,  
53 or the commissioner, or both, information a retailer or permittee, or applicant for a permit, provides  
54 to the Alcohol Beverage Control Administration Commissioner pursuant to this code. Tax  
55 information disclosed pursuant to a written agreement shall remain confidential in the hands of  
56 the receiver and shall not be disclosable under §29B-1-1 *et seq.* of this code. To the extent  
57 feasible, this information should be shared or exchanged electronically to ensure safe destruction,  
58 or as necessary, proper file retention practices.

59 (i) The Tax Commissioner may promulgate, in accordance with the provisions of §29A-3-  
60 1 *et seq.* of this code, any necessary legislative rules as the Tax Commissioner determines  
61 necessary to the efficient administration of taxes imposed by this subsection.

62 (1) Funds from the tax imposed by the provisions of this ~~subsection~~ article, less the fee  
63 retained by the Tax Commissioner pursuant to §11-10-27 of this code, and deposited into the  
64 Agricultural Fees Fund shall be divided and deposited as follows:

65 (2) Sixty-five percent shall remain in the Agriculture Fees Fund for the use of the  
66 commissioner in administering and enforcing the provisions of this article;

67 (3) Five percent shall be transferred to the Fight Substance Abuse Fund created by §60A-  
68 9-8 of this code; and

69 (4) Thirty percent shall be deposited in the Alcohol Beverage Control Enforcement Fund  
70 established by the provisions of §60-7-13 of this code.

71 (j) Notwithstanding any provision in §11-9-1 *et seq.* of this code to the contrary, and as  
72 relevant to the tax imposed by ~~§16A-9-4~~ this article, the West Virginia Tax Crimes and Penalties  
73 Act set forth in §11-9-1 *et seq.* of this code shall apply with like effect as if the said ~~the~~ West  
74 Virginia Tax Crimes and Penalties Act were applicable only to the tax imposed by ~~§16A-9-1 et~~  
75 ~~seq. of this code~~ this article and were set forth in extenso in ~~§16A-9-1 et seq. of this code~~ this  
76 article.

77 (k) Notwithstanding any provision of §11-10-1 *et seq.* of this code, or any other provision  
78 of this code to the contrary, the West Virginia Tax Procedure and Administration Act, as set forth  
79 in §11-10-1 *et seq.* of this code, applies to the tax imposed by ~~§16A-9-1 et seq.~~ this article with  
80 like effect as if the said West Virginia Tax Procedure and Administration Act were applicable only  
81 to the tax imposed by ~~§16A-9-1 et seq. of this code~~ this article and were set forth in extenso in  
82 ~~§16A-9-1 et seq. of this code~~ this article.

83 ~~(l) All fees collected pursuant to the provisions of subsection shall be deposited with the~~  
84 ~~State Treasurer to the credit of the Agricultural Fees Fund established by the provisions of §19-~~  
85 ~~1-4c of this code for the use of the Commissioner in administering and enforcing the provisions~~  
86 ~~of this article.~~

**§19-12F-8 Application and registration fees.**

1 (a) Applicants for kratom and kratom manufacturer, processor, distributor, or retailer  
2 permits shall pay a non-refundable application fee of \$1,500 which shall be deposited with the  
3 State Treasurer to the credit of the Agricultural Fees Fund established by the provisions of §19-

4 1-4c of this code for the use of the commissioner for administering and enforcing the provisions  
5 of this article.

6 (b) Processors, manufacturers, distributors, and retailer permit holders shall pay an annual  
7 fee of \$300 which shall be deposited with the State Treasurer to the credit of the Agricultural Fees  
8 Fund established by the provisions of §19-1-4c of this code for the use of the commissioner in  
9 administering and enforcing the provisions of this article.

10 (c) The business activity subject to application, registration, and permitting under this  
11 article shall be treated as separate and distinct from manufacturing, processing, distribution, or  
12 sale of hemp-derived cannabinoid products, or of hemp addressed and administered under §19-  
13 12E-1 et seq. of this code, or of medical cannabis addressed and administered under §16A-9-1  
14 et seq. of this code.

15 (d) Persons engaged in the manufacturing, processing, distribution, or sale of kratom and  
16 kratom products in this state must obtain a West Virginia business registration certificate as  
17 specified in §11-12-1 et seq. of this code and shall be subject to other administrative and  
18 regulatory requirements as set forth in this code.

19 (e) In the interest of protecting the safety, welfare, and well-being of West Virginia citizens  
20 and residents, West Virginia nexus and jurisdiction attaches for purposes of business registration,  
21 permitting, regulation, and taxation with relation to the activity of distribution or sale of kratom and  
22 kratom products across state lines into this state. Persons located outside of this state that are  
23 engaged in distribution or sale of kratom and kratom products across state lines into this state  
24 must obtain a West Virginia business registration certificate as specified in §11-12-1 et seq. of  
25 this code and shall be subject to other administrative and regulatory requirements as set forth in  
26 this code.

27 (f) The Tax Commissioner may place a notation on the business registration certificate  
28 showing the status of the certificate holder as a person or entity holding a permit from the  
29 commissioner pursuant to this article.



30 (g) The commissioner shall keep a list of all persons and entities that have been issued  
31 permits pursuant to this article. Such list shall be public information and shall be published initially  
32 on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect  
33 a current listing.

34 (h) The commissioner shall keep a list of any persons or entities that have been subject  
35 to a permit revocation, withdrawal, suspension, non-renewal, or other process whereby the  
36 person or entity has ceased to be a permit holder in good standing with the commissioner.

37 (i) The commissioner shall keep a list of all kratom and kratom products that have been  
38 approved for sale or distribution in this state. Such list shall be public information and shall be  
39 published initially on or before June 30, 2024, by the commissioner on its website from time to  
40 time so as to reflect a current listing.

**§19-12F-9. Cooperative enforcement agreements.**

1 (a) The provisions of article related to retail sales shall be enforced by the commissioner  
2 with the assistance of the Alcohol Beverage Control Administration Commissioner.

3 (b) Pursuant to the labeling requirements under section 9a of this article, the commissioner  
4 and the Alcohol Beverage Control Administration Commissioner shall enter into a memorandum  
5 or memoranda of understanding to facilitate enforcement of this article.

6 (c) Procedure for contested cases. Any person or entity seeking to contest an  
7 administrative action of the commissioner under this article shall bring such contestation in writing  
8 within 14 days under the provisions of the Administrative Procedures Act set forth in §29A-5-1 et  
9 seq. of this code in administrative proceedings held by or before the commissioner, or his or her  
10 designee.

**§19-12F-9a. Mandatory labeling.**

1 (a) The commissioner shall review labels to be used on kratom and kratom products to be  
2 sold in this state.

3           (b) The commissioner may require and prescribe such labeling as the commissioner may  
4 determine to be necessary and appropriate for kratom and kratom products to be sold to the final  
5 consumer in this state.

6           (c) Kratom and kratom products may not be sold to the final consumer in this state without  
7 an approved label.

**§19-12F-11. Criminal violations; penalties.**

1           (a) Any person who manufactures, processes, distributes, sells, or offers for sale any  
2 kratom or kratom product in this state without a permit is guilty of a crime.

3           (1) A first violation of this subsection is a misdemeanor and, upon conviction thereof, a  
4 person shall be fined not more than \$1,000, confined in jail for not more than one year, or both  
5 fined and confined.

6           (2) A second or subsequent violation of this subsection is a felony and, upon conviction  
7 thereof, a person shall be fined not more than \$5,000, or imprisoned in a state correctional facility  
8 for not less than one nor more than five years, or both fined and imprisoned.

9           (b) Any person who manufactures, processes, distributes, sells, or offers to sell any kratom  
10 or kratom product knowing or having reason to know that the product has been contaminated with  
11 a toxic or illegal substance is guilty of a felony and, upon conviction thereof, shall be fined not  
12 more than \$10,000, or imprisoned in a state correctional facility for not less than two nor more  
13 than 10 years, or both fined and imprisoned.

14           (c)(1) Any person who knowingly manufactures, processes, distributes, sells, or offers for  
15 sale any kratom or kratom product which has not been approved by the commissioner is guilty of  
16 a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than  
17 \$5,000, or confined in jail for not more than one year, or both fined and confined.

18           (2) Notwithstanding the provisions of subdivision (1) of this subsection, a second or  
19 subsequent violation of subdivision (1) of this subsection constitutes a felony and any person

20 convicted thereof shall be fined not more than \$5,000, or imprisoned for not less than one nor  
21 more than five years, or both fined and imprisoned.

22 (d) Any person who knowingly manufactures, distributes, offers for sale, or sells  
23 contaminated kratom or kratom product is guilty of a felony and, upon conviction thereof, shall be  
24 fined not less than \$10,000 nor more than \$25,000, or imprisoned for not less than one nor more  
25 than five years, or both fined and imprisoned.

26 (e) Any person who knowingly distributes or sells a kratom or a kratom product to a person  
27 under the age of 21 is guilty of a felony and, upon conviction thereof, shall be fined not more than  
28 \$5,000, or imprisoned in a state correctional facility for not less than one nor more than five years,  
29 or both fined and imprisoned.

30 (f) (1) Any person under the age of 21 who possesses kratom or a kratom product is guilty  
31 of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or confined  
32 in jail for not more than one year, or both fined and confined.

33 (2) Notwithstanding the provisions of subdivision (1) of this subsection, second and  
34 subsequent violations of subdivision (1) of this subsection constitute a felony and any person  
35 convicted thereof, shall be fined not more than \$5,000, ~~and~~ imprisoned in a state correctional  
36 facility for not less than one nor more than three years, or both fined and imprisoned.

37 (g) Administrative sanctions.

38 (1) In the case of any person or entity holding a permit issued by the commissioner under  
39 this article charged with any criminal violation enumerated in this section, in addition to such  
40 criminal penalties imposed, the commissioner may impose administrative sanctions including, but  
41 not limited to, permanent revocation of any one or more permits held by the violator, revocation  
42 of one or more permits held by the violator for a period of time to be determined by the  
43 commissioner, suspension of any one or more permits held by the violator for a period of time to  
44 be determined by the commissioner, fine or fines to any one or more permits held by the violator  
45 not to exceed \$1,000 per each violation as determined by the commissioner, or non-issuance of

46 a permit upon application of a violator. For purposes of this subsection, administrative sanctions  
47 may be imposed by the commissioner upon or against any alter ego, agent, representative, or  
48 person or entity acting on behalf of, or in the interest of, a violator.

49 (2) The commissioner may impose the administrative sanctions in subdivision (1) of this  
50 subsection upon any person or entity under indictment for any of the criminal violations during,  
51 and during the pendency of, a criminal trial therefor.

52 (h) Nothing in this article prohibits an authorized enforcement agent of the Alcohol  
53 Beverage Control Administration Commissioner or a person who is at least 18 years of age from  
54 purchasing or possessing kratom products when he or she is acting upon the request of, or under  
55 the direction and control of any member of a state, federal, or local law-enforcement agency or  
56 the Alcohol Beverage Control Administration Commissioner while the agency is conducting an  
57 investigation or other activity relating to the criminal or administrative enforcement of this article.

## **CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.**

### **ARTICLE 7. LICENSES TO PRIVATE CLUBS.**

#### **§60-7-13. Revocation or suspension of license; monetary penalty; hearing; assessment of costs; establishment of enforcement fund.**

1 (a) Upon a determination by the commissioner that a licensee has: (i) Violated the  
2 provisions of §11-16-1 *et seq.* of this code or of this chapter; (ii) acted in such a way as would  
3 have precluded initial or renewal licensure; or (iii) violated any rule or order promulgated by the  
4 commissioner, the commissioner may impose any one or a combination of the following  
5 sanctions:

6 (1) Revoke the licensee's license;

7 (2) Suspend the licensee's license;

8 (3) Place the licensee on probationary status for a period not to exceed 12 months; and

9 (4) Impose a monetary penalty not to exceed \$1,000 for each violation where revocation  
10 is not imposed.

11 (b) Any monetary penalty assessed and collected by the commissioner shall be  
12 transmitted to the State Treasurer for deposit into the State Treasury to the credit of a special  
13 revenue fund designated the Alcohol Beverage Control Enforcement Fund, which is hereby  
14 continued. All moneys collected, received, and deposited in the Alcohol Beverage Control  
15 Enforcement Fund shall be kept and maintained for expenditures by the commissioner for the  
16 purpose of enforcement of the statutes and rules pertaining to alcoholic liquor, nonintoxicating  
17 beer as set forth in §11-16-1 et seq. of this code, hemp-derived cannabinoids as set forth in §19-  
18 12E-12 of this code, and kratom as set forth in §19-12F-1 et seq. of this code. ~~and The Alcohol~~  
19 ~~Beverage Control Enforcement Fund~~ shall not be treated by the State Treasurer or State Auditor  
20 as any part of the general revenue of the ~~state~~ state. At the end of each fiscal year all funds in the  
21 Alcohol Beverage Control Enforcement Fund in excess of ~~\$20,000~~ \$200,000 shall be transferred  
22 to the General Revenue Fund.

23 (c) In addition to the grounds for revocation, suspension, or other sanction of a license set  
24 forth in §60-7-13(a) of this code, conviction of the licensee of any offense constituting a violation  
25 of the laws of this state or of the United States relating to alcoholic liquor, nonintoxicating beer, or  
26 gambling shall be mandatory grounds for such sanctioning of a license. Conviction of the licensee  
27 of any violation of the laws of this state or of the United States relating to prostitution, or the sale,  
28 possession, or distribution of narcotics or controlled substances, ~~shall be~~ is mandatory grounds  
29 for revocation of the licensee's license for a period of at least one year.

30 (d) A licensee shall notify, in a timely manner, emergency medical services or law  
31 enforcement if a licensee knows, or has reason to know, of a life-threatening medical emergency  
32 occurring on the licensed premises. In addition to the grounds for revocation, suspension, or other  
33 sanction of a license set forth in this section, the commissioner may ~~in his or her discretion,~~

34 revoke, suspend, or otherwise sanction a licensee for failing to comply with the provisions of this  
35 ~~subsection~~ section.

36 (e) If a life-threatening medical emergency occurs on a licensee's private premises  
37 requiring notification of emergency medical services or law enforcement under §60-7-13(d) of this  
38 code, the licensee shall notify the Alcohol Beverage Control Administration within 48 hours of the  
39 emergency's occurrence. The commissioner may ~~in his or her discretion~~, revoke, suspend, or  
40 otherwise sanction a licensee for failing to comply with the 48-hour notification requirement.

41 (f) As used in this section, a life-threatening medical emergency includes, but is not limited  
42 to, respiratory distress or cessation of breathing, severe chest pains, shock, uncontrolled  
43 bleeding, poisoning, prolonged unconsciousness, overdose, any complaint or observation which  
44 indicates significant head or spinal injury, and life-threatening physical injury caused by a crime  
45 of violence against the person occupying or emanating from the licensed premises.