

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5100

By Delegates Pinson, Drennan, and Burkhammer

[Introduced February 03, 2026; referred to the
Committee on Government Organization then the
Judiciary]

1 A BILL to amend and reenact §19-12E-3, §19-12E-12, §19-12F-3, and §19-12F-5 of the Code of
2 West Virginia, 1931, as amended; and to amend said code by adding two new sections,
3 designated §19-12E-13 and §19-12F-12, all relating to the transfer of CBD and Kratom
4 oversight from the Department of Agriculture to the Alcohol Beverage Control
5 Administration Commissioner.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12E. INDUSTRIAL HEMP DEVELOPMENT ACT.

§19-12E-3. Definitions.

1 As used in this article:

2 (a) "Cannabidiol" or "CBD" means the compound by the same name derived from the
3 hemp variety of the cannabis sativa L. plant;

4 (b) "Commercial sales" means the sale of products in the stream of commerce, at retail,
5 wholesale, and online;

6 (c) "Commissioner" means the ~~Commissioner of Agriculture~~ Alcohol Beverage Control
7 Administration Commissioner or his or her designee;

8 (d) "Cultivating" means planting, watering, growing, and harvesting a plant or crop;

9 (e) "Department" means the West Virginia Department of Agriculture and its employees;

10 (f) "Handling" means possessing or storing hemp plants for any period of time on premises
11 owned, operated, or controlled by a person licensed to cultivate or process hemp. "Handling" also
12 includes possessing or storing hemp plants in a vehicle for any period of time other than during its
13 actual transport from the premises of one licensed person to cultivate or process industrial hemp
14 to the premises of another licensed person. "Handling" does not mean possessing or storing
15 finished hemp products;

16 (g) "Hemp" or "industrial hemp" means all parts and varieties of the plant *Cannabis sativa*
17 L. and any part of the plant, including the seeds of the plant and all derivatives, extracts,
18 cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not with no greater

19 than 0.3% tetrahydrocannabinol, or the THC concentration for hemp defined in 7 U.S.C. § 5940,
20 whichever is greater;

21 (h) "Hemp products" means all products derived from, or made by, processing hemp plants
22 or plant parts, that are prepared in a form available for commercial sale;

23 (i) "Licensee" means an individual or business entity possessing a license issued by the
24 Department to grow, handle, cultivate, or process hemp;

25 (j) "Marijuana" means all plant material from the genus cannabis containing more than one
26 percent tetrahydrocannabinol or seeds of the genus capable of germination;

27 (k) "Processing" means converting an agricultural commodity into a marketable form; and

28 (l) "THC" means tetrahydrocannabinol. Notwithstanding any other provision of this code to
29 the contrary, the THC found in industrial hemp shall not be considered to be THC for the purposes
30 of qualifying as a controlled substance.

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

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

24 (c) As used in this section:

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

27 (2) "Commissioner" means the ~~Commissioner of Agriculture~~ Alcohol Beverage Control
28 Administration Commissioner or his or her designees.

29 (3) "Contaminated" means made impure 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 (7) "Hemp-derived cannabinoid" means a naturally occurring non-synthetic substance as
38 follows:

39 (A) Delta-9 tetrahydrocannabinol with a total concentration of not more than 0.3 percent on

40 a dry weight basis; or

41 (B) Delta-8 tetrahydrocannabinol;

42 (C) Delta-10 tetrahydrocannabinol;

43 (D) Hexahydrocannabinol (HHC-);

44 (E) Tetrahydrocannabiphorol (THCp); and

45 (F) Tetrahydrocannabivarin (THCv).

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

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

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

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

58 (d) Permitting and registration.

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

63 (2) The business activity subject to permitting under this section shall be treated as
64 separate and distinct from manufacturing, processing, distribution, or sale of kratom and kratom
65 products addressed and administered under §19-12F-1 *et seq.* of this code, or of hemp addressed

66 and administered under other sections of this article, or of medical cannabis addressed and
67 administered under §16A-9-1 *et seq.* of this code.

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

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

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

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

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

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

88 (1) Issuance of permits to persons who wish to manufacture, handle, process, distribute,
89 offer for sale, or sell hemp-derived cannabinoid products;
90 (2) Regular sampling and testing of hemp-derived cannabinoid products to determine
91 purity levels;

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

94 (4) Assessment of fees as commensurate with the need of the commissioner's activities in
95 issuing permits, laboratory testing, and in overseeing the regulation of hemp-derived products.

96 Such fees shall be in addition to those fees specified in subsection (d) of this section;

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

99 (6) Developing guidelines for the labeling of hemp-derived cannabinoid products,
100 including, but not limited to, a statement which says "KEEP OUT OF REACH OF CHILDREN.

101 CONSULT YOUR PHYSICIAN BEFORE USE IF YOU ARE PREGNANT OR TAKING ANY
102 MEDICATION" and "USE OF THIS PRODUCT MAY IMPACT DRUG TESTING RESULTS";

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

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

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

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

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

112 (f) Emergency rules; mandatory labeling.

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

116 (2) Labeling.

117 (A) The commissioner shall review labels to be used on hemp-derived cannabinoid

118 products to be sold in this state.

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

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

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

129 (h) Any person or entity distributing, offering to distribute, or selling hemp-derived
130 cannabinoid products to persons in this state by means other than a direct in-person transaction
131 shall employ an age verification mechanism approved by the commissioner.

132 (i) For the privilege of engaging or continuing within this state in the business of the retail
133 sale of hemp-derived cannabinoid products, as defined in this section, there is hereby levied upon
134 and collected from every person exercising the privilege a privilege tax equal to 11 percent of the
135 retail sales price on each retail sale of hemp-derived cannabinoids. Such tax is imposed in addition
136 to all other applicable taxes.

137 (1) The tax imposed by this subsection shall not be added by the retailer as a separate
138 charge or line item on any sales slip, invoice, receipt, other statement, or memorandum of the
139 price paid by a customer. The tax shall be due and payable on a quarterly basis as follows: on the
140 20th day of January, April, July, and October for the preceding calendar quarter. When the
141 payment of tax is due, the person or entity permitted by the commissioner shall file a tax return in a
142 form prescribed by the Tax Commissioner. The Tax Commissioner may require such forms,
143 schedules, and returns and impose such filing and remittance requirements that are necessary or

144 convenient for the efficient administration of taxes imposed by this subsection.

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

149 (3) The West Virginia use tax shall be collected from sellers and marketplace facilitators as
150 defined in §11-15A-1 of this code, and referrers engaged in making sales, facilitating sales,
151 marketing, or referring sellers or purchasers for the purpose of making or furthering retail sales of
152 hemp-derived cannabinoid products into this state. Such sellers, marketplace facilitators, and
153 referrers are subject to the taxation and other requirements of §11-15A-1 *et seq.* of this code,
154 including §11-15A-6a and §11-15A-6b of this code. Application of §11-15A-6a and §11-15A-6b of
155 this code shall not be limited to the thresholds specified in subsection §11-15A-6b(e) of this code
156 but in the interest of protecting the safety, welfare, and well-being of West Virginia citizens and
157 residents, West Virginia nexus and jurisdiction shall attach with relation to any such activity for the
158 purpose of making or furthering retail sales of hemp-derived cannabinoid products, into this state.

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

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

170 (6) Persons or entities subject to the tax imposed by this section shall provide to the Tax
171 Commissioner any information required by the Tax Commissioner to administer, collect, and
172 enforce the tax imposed by this section.

173 (7) Notwithstanding any provision of §11-10-1 *et seq.* of this code or of this article to the
174 contrary, the Tax Commissioner, the Alcohol Beverage Control Administration Commissioner, and
175 the commissioner may enter into written agreements pursuant to which the Tax Commissioner
176 may disclose to designated employees of the Alcohol Beverage Control Administration
177 Commissioner or the commissioner, or both, whether a particular retailer or permittee, or applicant
178 for a permit, is in good standing with the Tax Commissioner, and the commissioner may disclose to
179 designated employees of the Tax Commissioner or the Alcohol Beverage Control Administration
180 Commissioner, or both, information a retailer or permittee, or applicant for a permit, provides to the
181 commissioner pursuant to this code and the Alcohol Beverage Control Administration
182 Commissioner may disclose to designated employees of the Tax Commissioner, or the
183 commissioner, or both, information a retailer or permittee, or applicant for a permit, provides to the
184 Alcohol Beverage Control Administration Commissioner pursuant to this code. Tax information
185 disclosed pursuant to a written agreement shall remain confidential in the hands of the receiver
186 and shall not be disclosable under §29B-1-1 *et seq.* of this code. To the extent feasible, this
187 information should be shared or exchanged electronically to ensure safe destruction, or as
188 necessary, proper file retention practices.

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

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

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

202 (B) Notwithstanding any provision in §11-9-1 *et seq.* of this code to the contrary, and as
203 relevant to the tax imposed by this section, the West Virginia Tax Crimes and Penalties Act set
204 forth in §11-9-1 *et seq.* of this code shall apply with like effect as if the said West Virginia Tax
205 Crimes and Penalties Act were applicable only to the tax imposed by this section and were set
206 forth in extenso in this section.

207 (C) Notwithstanding any provision of §11-10-1 *et seq.* of this code, or any other provision of
208 this code to the contrary, each and every provision of the West Virginia Tax Procedure and
209 Administration Act as set forth in §11-10-1 *et seq.* of this code applies to the tax imposed by this
210 section with like effect as if the said West Virginia Tax Procedure and Administration Act were
211 applicable only to the tax imposed by this section and were set forth in extenso in this section.

212 (j) The provisions of this section related to retail sales shall be enforced by the
213 commissioner with the assistance of the Alcohol Beverage Control Administration Commissioner.

214 (1) The commissioner, the Tax Commissioner, and the Alcohol Beverage Control
215 Administration Commissioner may enter into a memorandum or memoranda of understanding to
216 facilitate the enforcement of this section. In addition to any other memoranda, the aforementioned
217 commissioners may enter into, they shall agree by memorandum to the following:

218 (A) To assist each other in enforcement of this section;

219 (B) To assist each other in training and cooperating with State and local law enforcement to
220 develop a state-wide plan for implementing the provisions of this section;

221 (C) To confer among themselves and law enforcement about enforcement of this section

222 on a monthly basis; and

223 (D) To jointly compile a report to be submitted to the Joint Committee on Government and
224 Finance on or before January 1, 2025, as to actions undertaken to enforce this section and the
225 results thereof.

226 (2) Procedure for contested cases. Any person or entity seeking to contest an
227 administrative action of the commissioner under this article shall assert such contestation in
228 writing within 14 days under the provisions of the Administrative Procedures Act set forth in §29A-
229 5-1 *et seq.* of this code in administrative proceedings held by or before the commissioner or his or
230 her designee.

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

234 (2) Any certified law-enforcement officer in this state may enforce the criminal provisions of
235 this section, and enforcement agents of the Alcohol Beverage Control Administration
236 Commissioner may enforce the administrative retailer provisions of this section as relating to retail
237 sales.

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

240 (4) The amendments to this subsection enacted during the 2024 Regular Legislative
241 Session are effective from passage.

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

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

247 (2) A second or subsequent violation of this subsection is a felony and, upon conviction

248 thereof, a person shall be fined not more than \$5,000, or imprisoned in a state correctional facility
249 for not less than one nor more than five years, or both fined and imprisoned.

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

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

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

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

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

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

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

278 (s) Administrative sanctions.

279 (1) In the case of any person or entity holding a permit issued by the commissioner under
280 this article charged with any criminal violation enumerated in this section, the commissioner, in
281 addition to such criminal penalties imposed, may impose administrative sanctions including, but
282 not limited to, permanent revocation of any one or more permits held by the violator, revocation of
283 one or more permits held by the violator for a period of time to be determined by the commissioner,
284 suspension of any one or more permits held by the violator for a period of time to be determined by
285 the commissioner, a fine or fines to any one or more permits held by the violator not to exceed
286 \$1,000 per each violation as determined by the commissioner, or non-issuance of a permit upon
287 application of a violator. For purposes of this subsection, administrative sanctions may be imposed
288 by the commissioner upon or against any alter ego, agent, representative, or person or entity
289 acting on behalf of, or in the interest of, a violator.

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

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

§19-12E-13. Transfer of regulatory and enforcement to Alcohol and Beverage Commission.

1 Effective July 1, 2026, all regulatory and enforcement under this article shall be transferred
2 from the Department of Agriculture to the Alcohol and Beverage Commission.

ARTICLE 12F. SELECT PLANT-BASED DERIVATIVES REGULATION ACT: KRATOM.**§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) "Commissioner" means the ~~Commissioner of Agriculture~~ Alcohol Beverage Control
4 Administration Commissioner or his or her designee.

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

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

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

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

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

16 (8) "Processor" or "manufacturer" means a person or entity that processes, compounds, or
17 converts plant material from *mitragyna speciosa* into a kratom product. This also includes further
18 processing, compounding, converting, or repackaging of existing kratom products.

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

§19-12F-5.**Rule-making****authority.**

(a) The commissioner shall propose legislative rules for promulgation in accordance with

2 §29A-3-1 *et seq.* of this code that include, but are not limited to:

(1) Issuance of permits to persons who wish to manufacture, process, distribute, offer for

4 sale, or sell kratom;

(2) Sampling and testing of kratom to determine purity levels;

(3) Supervision of the kratom during its manufacture, processing, and sale;

(4) Assessment of fees that are commensurate with the costs of the Commissioner of

8 Agriculture's activities in permitting, testing, and supervising the regulation of kratom and the sale
9 of kratom products;

(5) The production, processing, sale, possession, distribution, or transport of kratom

11 products;

(6) Developing standards for the labeling of kratom products to include, at a minimum, a

13 statement which says "KEEP OUT OF REACH OF CHILDREN. CONSULT YOUR PHYSICIAN

14 BEFORE USE IF YOU ARE PREGNANT OR TAKING ANY MEDICATION";

(7) Developing guidelines or standards related to the display or staging of kratom products

16 to increase the safety of underage patrons in retail environments;

(8) Developing prohibitive standards as to child targeted packaging and shapes and forms

18 of products;

(9) Developing administrative rules, procedures, and sanctions for violations of this

20 section;

(10) Any other rules and procedures necessary to carry out the provisions of this article.

22 (b) The Commissioner of Agriculture and the Alcohol Beverage Control Commissioner
23 may, pursuant to §29A-3-15 of this code, promulgate such separate or joint emergency rules as
24 are necessary to effectuate the purposes of this article.

§19-12F-12. Transfer of regulatory and enforcement to Alcohol and Beverage Commission.

1 Effective July 1, 2026, all regulatory and enforcement of Kratom under this article shall be

2 transferred from the Department of Agriculture to the Alcohol and Beverage Commission.

NOTE: The purpose of this bill is to transfer all regulatory and enforcement responsibilities for CBD and Kratom from the Department of Agriculture to the Alcohol Beverage Control Administration.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.