

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 431

By Senator Deeds

[Introduced January 16, 2026; referred

to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
2 designated §60-11-6a, relating to prohibiting Kratom products that resemble vapor or
3 electronic cigarette devices.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. REGULATION OF KRATOM PRODUCTS.

§60-11-6a. Prohibition on Kratom products resembling electronic cigarettes or vapor devices.

1 (a) Legislative findings. - The Legislature finds that certain Kratom products are being
2 marketed and sold in forms that resemble electronic cigarettes or vapor devices. Such packaging
3 and appearance create a substantial risk of confusion, particularly among minors and young
4 adults, and promote inhalation of Kratom products in unsafe and unregulated forms. The
5 Legislature further finds it necessary to restrict the sale, distribution, and advertisement of such
6 deceptive products to protect the health and welfare of the citizens of West Virginia.

7 (b) Definitions. — As used in this section:

8 (1) "Kratom" means any part of the plant Mitragyna speciosa, whether growing or not, and
9 any compound, derivative, extract, alkaloid, or salt thereof, including but not limited to mitragynine
10 or 7-hydroxymitragynine.

11 (2) "Kratom product" means any food, drink, capsule, tablet, powder, extract, or other
12 material that contains any quantity of Kratom or its derivatives, intended for human consumption.

13 (3) "Vapor product" or "electronic cigarette" means any noncombustible product containing
14 a heating element, power source, or electronic circuit designed to aerosolize or vaporize a liquid,
15 solid, or other substance for inhalation by the user, including e-cigarettes, vape pens, and similar
16 devices.

17 (c) Prohibition. —

18 (1) It is unlawful for any person, retailer, distributor, or manufacturer to:

19 (A) Sell, offer for sale, or distribute any Kratom product that is packaged, shaped, or

20 designed to resemble an electronic cigarette, vape pen, cartridge, or any other vapor device;
21 (B) Sell, offer, or distribute any Kratom product that is intended or marketed for
22 vaporization or inhalation through an electronic or battery-powered device; or
23 (C) Advertise, display, or promote any Kratom product using imagery, trademarks, or
24 descriptions commonly associated with electronic cigarettes or vaping devices.

25 (d) Penalties. —

26 (1) A first offense under this section is a misdemeanor, punishable by a fine not to exceed
27 \$1,000.

28 (2) A second or subsequent offense is a misdemeanor, punishable by a fine not to exceed
29 \$5,000, and the offending business may have its business or tobacco sales license suspended or
30 revoked for up to one year.

31 (3) Any Kratom products found to be in violation of this section are subject to immediate
32 seizure and destruction by the Alcohol Beverage Control Administration, local law enforcement, or
33 the Department of Health.

34 (e) Exceptions. —

35 (1) This section does not prohibit the lawful sale of Kratom products in non-inhaled forms,
36 including but not limited to:

37 (A) Powdered or crushed leaf form;

38 (B) Encapsulated or tablet form; or

39 (C) Prepared tea or beverage form not designed for vaporization or aerosolization.

40 (f) Effective date. — This section shall take effect July 1, 2026.

NOTE: The purpose of this bill is to prohibit the sale, distribution, or advertisement of Kratom products that resemble, are designed as, or are intended for use with vapor or electronic cigarette devices. The bill provides definitions, enforcement mechanisms, penalties, and an effective date.

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