

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 985

FISCAL
NOTE

By Senator Thorne

[Introduced February 18, 2026; referred
to the Committee on Finance]

1 A BILL to amend and reenact §19-12F-3, §19-12F-6, and §19-12F-11 of the Code of West Virginia,
 2 1931, as amended; and to amend the code by adding a new section, designated §19-12F-
 3 12, relating to the registration and enforcement of kratom products; amending definitions;
 4 requiring age verification; requiring the Department of Agriculture to notify the Tax
 5 Department on certain violations; and requiring the Department of Agriculture to employ a
 6 software management system.

Be it enacted by the Legislature of West Virginia:

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 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 lowered tropical tree which contains the
 10 alkaloids mitragynine and 7-hydroxymitragynine.

11 (6) "Kratom product" means the natural leaf of the plant mitragyna speciosa and any
 12 simple physical form of the leaf, including whole, crushed, or powdered. "Kratom product" does not
 13 include a product that has been synthetically manipulated or chemically concentrated beyond the
 14 leaf's natural alkaloid profile. a food product, food ingredient, dietary ingredient, dietary
 15 supplement, or beverage intended or marketed for human consumption containing any part of the
 16 leaf of the plant mitragyna speciosa.

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

18 (8) "Processor" or "manufacturer" means a person or entity that processes, compounds, or
 19 converts plant material from mitragyna speciosa into a kratom product. This also includes further
 20 processing, compounding, converting, or repackaging of existing kratom 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-6. Age verification requirements.

1 (a) Any website owned, managed, or operated by a person who manufactures, processes,
 2 distributes, offers for sale, or sells a product containing kratom or kratom products to persons in
 3 this state, ~~shall employ a neutral age screening mechanism that verifies that the user is at least 21~~
 4 ~~years old, including by using an age gate, age screen, or other age verification mechanism~~
 5 ~~approved by the commissioner~~ prove that an individual is 21 years of age or older by requiring an
 6 individual to:

- 7 (1) Provide digital identification; or
- 8 (2) Comply with a commercial or governmental age verification system that verifies age
 9 using:

- 10 (A) Government-issued identification which may be digital identification; or
- 11 (B) A commercially reasonable method that relies on public or private transactional data to
 12 verify the age of an individual.

13 (b) Any person or entity distributing, offering to distribute or sell, or selling kratom or kratom
 14 products to persons in this state by means other than a direct in-person transaction shall employ
 15 an age-verification mechanism approved by the commissioner.

§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 more
12 than \$10,000, or imprisoned in a state correctional facility for not less than two nor more than 10
13 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 a
16 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 more
21 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 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 in
32 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, imprisoned in a state correctional facility for
36 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 of
42 one or more permits held by the violator for a period of time to be determined by the commissioner,
43 suspension of any one or more permits held by the violator for a period of time to be determined by
44 the commissioner, fine or fines to any one or more permits held by the violator not to exceed
45 \$1,000 per each violation as determined by the commissioner, or non-issuance of a permit upon
46 application of a violator. For purposes of this subsection, administrative sanctions may be imposed
47 by the commissioner upon or against any alter ego, agent, representative, or person or entity
48 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, and
51 during the pendency of, a criminal trial therefor.

52 (3) The commissioner shall notify the Tax Department of any violation enumerated in this
53 section for revocation of the registered business license.

54 (h) Nothing in this article prohibits an authorized enforcement agent of the Alcohol
55 Beverage Control Administration Commissioner or a person who is at least 18 years of age from
56 purchasing or possessing kratom products when he or she is acting upon the request of, or under

57 the direction and control of any member of a state, federal, or local law-enforcement agency or the
58 Alcohol Beverage Control Administration Commissioner while the agency is conducting an
59 investigation or other activity relating to the criminal or administrative enforcement of this article.

§19-12F-12.

Reporting.

1 The Commissioner shall employ a software system to monitor the following items:

2 (1) Registration of kratom manufacturers, processors, distributors, and retailers;

3 (2) Registration of kratom products;

4 (3) Inspections conducted by the Department of Agriculture;

5 (4) Referrals to prosecutors;

6 (5) Referrals to the Tax Department for any violation of §19-12F-11 of this code.

NOTE: The purpose of this bill is to enhance registration and enforcement requirements for kratom products.

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