

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 985

BY SENATORS THORNE, DEEDS, AND AZINGER

[Reported March 2, 2026, from 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
2 Virginia, 1931, as amended; and to amend the code by adding a new section, designated
3 §19-12F-12, relating to the registration and enforcement of kratom products; amending
4 definitions; requiring age verification; requiring the Department of Agriculture to notify the
5 Tax Department on certain violations; clarifying administrative penalties; and requiring the
6 Department of Agriculture to employ a 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
13 not include a product that has been synthetically manipulated or chemically concentrated beyond
14 the 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,
19 or converts plant material from mitragyna speciosa into a kratom product. This also includes
20 further 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~~
4 ~~21 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
12 to 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
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 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, imprisoned in a state correctional facility
36 for not less than one nor more than three years, or both fined and imprisoned.

37 (g) Administrative sanctions. —

38 (1) The commissioner shall impose the following sanctions on any licensee who commits
39 any of the violations provided for in subsection (f) of this section:

40 (A) For a first offense of any violation described in subsection (f) of this section, suspension
41 of the licensee's license for a period of 30 days and a fine of \$2,000: *Provided*, That the
42 commissioner shall inspect the licensee's premises no more than 180 days following the
43 licensee's license reinstatement;

44 (B) For a second offense of any violation described in subsection (f) of this section, which
45 need not be the same violation as the first violation, suspension of the licensee's license for a
46 period of 60 days and a fine of \$5,000: *Provided*, That the commissioner shall inspect the
47 licensee's premises no more than 90 days following the licensee's license reinstatement; and

48 (C) For a third offense of any violation described in subsection (f) of this section, which
49 need not be the same violation as the first or second violation, permanent revocation of the
50 licensee's license and a fine of \$10,000.

51 ~~(1) (2) In the case of any person or entity holding a permit issued by the commissioner~~
52 ~~under this article charged with any criminal violation enumerated in this section, in addition to~~
53 ~~such criminal penalties and administrative sanctions imposed, the commissioner may impose~~

54 ~~administrative sanctions including, but not limited to, permanent revocation of any one or more~~
55 ~~permits held by the violator, revocation of one or more permits held by the violator for a period of~~
56 ~~time to be determined by the commissioner, suspension of any one or more permits held by the~~
57 ~~violator for a period of time to be determined by the commissioner, a~~ fine or fines to any one or
58 more permits held by the violator not to exceed \$1,000 per each violation as determined by the
59 commissioner, or non-issuance of a permit upon application of a violator. For purposes of this
60 subsection, administrative sanctions may be imposed by the commissioner upon or against any
61 alter ego, agent, representative, or person or entity acting on behalf of, or in the interest of, a
62 violator.

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

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

68 (h) Nothing in this article prohibits an authorized enforcement agent of the Alcohol
69 Beverage Control Administration Commissioner or a person who is at least 18 years of age from
70 purchasing or possessing kratom products when he or she is acting upon the request of, or under
71 the direction and control of any member of a state, federal, or local law-enforcement agency or
72 the Alcohol Beverage Control Administration Commissioner while the agency is conducting an
73 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.