

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 534

**FISCAL
NOTE**

By Senator Deeds

[Introduced January 20, 2026; referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §60-11-1, §60-11-2, §60-11-3, §60-11-3a, §60-11-4, §60-11-5, §60-11-6, §60-
3 11-7, §60-11-8, §60-11-9, §60-11-10, §60-11-11, and §60-11-12; and to repeal §19-12F-1,
4 §19-12F-2, §19-12F-3, §19-12F-4, §19-12F-5, §19-12F-6, §19-12F-7, §19-12F-8, §19-
5 12F-9, §19-12F-10, §19-12F-11, §60-10-1, and §60-10-2, relating to the West Virginia
6 Kratom Consumer Protection Act; providing a short title and findings; defining terms;
7 regulating and permitting the sale of kratom; prohibiting certain practices; giving rule-
8 making authority; requiring age verification; taxing kratom business; creating an
9 application process; permitting cooperative enforcement agreements; permitting seizure
10 of contraband; creating criminal penalties; establishing a licensing fund; and permitting
11 coordination.

Be it enacted by the Legislature of West Virginia:

CHAPTER 19. AGRICULTURE.

ARTICLE 12F. SELECT PLANT-BASED DERIVATIVES REGULATION ACT: KRATOM.

§19-12F-1.	Short	title.	Findings.
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1 [Repealed.]

§19-12F-2. Findings; purpose.

1 [Repealed.]

§19-12F-3. Definitions.

1 [Repealed.]

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

1 [Repealed.]

§19-12F-5.	Rule-making	authority.
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1 [Repealed.]

§19-12F-6.	Age	verification	requirements.
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1 [Repealed.]

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

1 [Repealed.]

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

1 [Repealed.]

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

1 [Repealed.]

§19-12F-10. Contraband; seizures; forfeitures; and destruction.

1 [Repealed.]

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

1 [Repealed.]

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

**ARTICLE 10. ENFORCEMENT AUTHORITY RELATING TO RETAIL SALE OF
SELECT PLANT-BASED DERIVATIVES.**

§60-10-1. Enforcement authority; jurisdiction.

1 [Repealed.]

§60-10-2. General provisions.

1 [Repealed.]

ARTICLE 11. WEST VIRGINIA KRATOM CONSUMER PROTECTION ACT.

§60-11-1. Short title; findings.

1 (a) This article shall be known as the West Virginia Kratom Consumer Protection Act.

2 (b) The Legislature finds that the manufacturing, processing, distributing, and sale of
3 kratom or kratom products is an activity deserving of careful and strict attention to the
4 administration and enforcement of West Virginia standards designed to protect and safeguard the
5 welfare and well-being of West Virginia citizens and residents. Therefore, the permitting, labeling,

6 and other control and administration provisions of this article apply to businesses located within
7 this state engaged in manufacturing, processing, distribution, or sale of kratom or kratom products
8 and to businesses located outside of this state that are engaged in the remote distribution or
9 remote retail sale of kratom or kratom products across state lines for delivery into this state.

10 (c) The Legislature further finds that select plant-based derivatives and synthesized
11 material, including kratom, can be regulated so as not to interfere with the strict regulation of
12 controlled substances in this state. The purpose of this article is to allow limited regulated access
13 to kratom for adults 21 years of age and older.

§60-11-2. Definitions.

1 For the purposes of this article:

2 "Commissioner" means the West Virginia Alcohol Beverage Control Administration
3 Commissioner or his or her designee, as used in this article.

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

6 "Department" or "Department of Agriculture" means the West Virginia Department of
7 Agriculture, as used in this article.

8 "Grower" means a person or entity which grows kratom for commercial purposes.

9 "Independent testing laboratory": means a laboratory that:

10 (1) Does not have a direct or indirect interest in the entity whose product is being tested;
11 (2) Does not have a direct or indirect interest in a facility that processes, distributes,
12 dispenses, or sells kratom products in this state or in another jurisdiction; and

13 (3) Is an accredited laboratory through the American Association for Laboratory
14 Accreditation, the National Voluntary Laboratory Accreditation Program, the ANSI National
15 Accreditation Board, or comparable accredited laboratory.

16 "Kratom" means a psychoactive preparation that is composed of the crushed or powdered
17 dried leaves of the mitragyna speciosa, a flowered tropical tree which contains the alkaloids

18 mitragynine and 7-hydroxymitragynine.

19 "Kratom product" means a finished product containing any of the following:

20 (1) Any part of the leaf of the plant mitragyna speciosa in fresh, dehydrated, or dried form;

21 (2) Synthesized material or semi-synthetic alkaloid substance; and

22 (3) A Kratom extract that is manufactured.

23 "Processor" or "manufacturer" means a person or entity that processes, compounds, or

24 converts plant material from mitragyna speciosa into a kratom product. This also includes further

25 processing, compounding, converting, or repackaging of existing kratom products.

26 "Retailer" or "seller" means a person or entity that distributes, offers for sale, or sells

27 kratom or kratom products to persons for personal consumption.

28 "Synthesized material" means an alkaloid, metabolite of an alkaloid, or alkaloid derivative

29 that has been created by chemical synthesis means, including fermentation, recombinant

30 techniques, yeast derived, enzymatic techniques, and oxidation. Synthesized material does not

31 include an alkaloid, metabolite of an alkaloid, or alkaloid derivative created by traditional food

32 preparation techniques. Synthesized material includes the synthesis of 7-hydroxymitragynine

33 when produced by chemical alteration of mitragynine.

34 "Semi-synthetic alkaloid" means a substance derived from an alkaloid naturally occurring

35 in kratom that has been chemically altered through chemical reactions, including reduction,

36 acetylation, or other processes to change the structure or pharmacological activity of the naturally

37 occurring kratom alkaloid. Semi-synthetic kratom alkaloid includes the synthesis of 7-

38 hydroxymitragynine when produced by chemical alteration of mitragynine.

§60-11-3. 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 manufacturer,

4 processor, distributor, and retailer permits. The business activity subject to permitting under this

5 article shall be treated as separate and distinct from manufacturing, processing, distribution, or
6 sale of hemp-derived cannabinoid products addressed and administered under §19-12E-12 of this
7 code, hemp addressed and administered under §19-12E-1 *et seq.* of this code, or medical
8 cannabis addressed and administered under §16A-9-1 *et seq.* of this code.

9 (b) Any person manufacturing, processing, distributing, offering for sale, or selling any
10 kratom or kratom products in this state shall apply for a permit from the commissioner which shall
11 contain, at a minimum, the following information:

12 (1) A permit to manufacture, process, distribute, offer for sale, or selling any kratom or
13 kratom products shall be submitted not less than 30 days and not more than 60 days prior to the
14 anticipated initiation of services.

15 (2) All applicants shall submit, at a minimum, the following:

16 (A) The name of the owner of the location;

17 (B) The current address of the owner of the location;

18 (C) A current telephone number of the owner;

19 (D) The name of the operator of the location; if different than the owner;

20 (E) The address of the operator of the location; if different than the owner;

21 (F) A current telephone number of the operator of the location, if different than the owner;

22 (G) The form of the kratom or kratom product to be manufactured, processed, distributed,
23 offered for sale, or sold;

24 (H) The product label;

25 (I) A signed certification from an independent testing laboratory certifying that the kratom or
26 kratom product does not contain a controlled substance or residual solvent higher than is allowed
27 by the United States Pharmacopeia general chapter 467;

28 (J) A signed certification from an independent laboratory certifying that the kratom or
29 kratom product does not contain a concentration ratio that is:

30 (i) Greater than two percent of the alkaloid composition of the kratom product;

31 (ii) Contains a level of 7-hydroxymitragynine that is greater than one milligram per serving
32 in its final product form, as documented by a certificate of analysis, conducted by the department,
33 on the finished product on the finished product prior to distribution;

34 (iii) Contains a level of mitragynine that is greater than 150 milligrams per serving in its final
35 product form, as documented by a certificate of analysis, conducted by the department, on the
36 finished product on the finished product prior to distribution;

37 (iv) Contains a level of 7-hydroxymitragynine that is greater than 0.5 milligrams per gram in
38 its final product form, as documented by a certificate of analysis, conducted by the department, on
39 the finished product on the finished product prior to distribution; or

40 (K) A signed certification from an independent laboratory certifying that the kratom or
41 kratom product does not contain a synthesized material or semi-synthetic-alkaloid.

42 (3) A permit is valid only for the location and owner or owners described in the permit
43 application.

44 (4) Each location shall have a separate permit, regardless of whether the location is
45 operated under the same business name or management as another location.

46 (5) If the ownership changes, the new owner shall notify the commissioner within 10 days
47 and immediately apply for a new permit. The new owner's application for a permit is valid for three
48 months from the date the application is received by the commissioner.

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

53 (d) In the interest of protecting the safety, welfare, and well-being of West Virginia citizens
54 and residents, West Virginia nexus and jurisdiction attaches for purposes of business registration,
55 permitting, regulation and taxation with relation to the activity of distribution or sale of kratom or
56 kratom products across State lines into this State. Persons located outside of this State that are

57 engaged in distribution or sale of kratom or kratom products across state lines into this State must
58 obtain a West Virginia business registration certificate as specified in §11-12-1 *et seq.* of this code
59 and shall be subject to other administrative and regulatory requirements as set forth in this code.

60 (e) The Tax Commissioner may place a notation on the business registration certificate
61 showing the status of the certificate holder as a person or entity holding a permit from the
62 commissioner pursuant to this article.

63 (f) The commissioner shall keep a list of all persons and entities that have been issued
64 permits pursuant to this article. Such list shall be public information and shall be published initially
65 on or before January 1, 2027, by the commissioner on its website from time to time so as to reflect
66 a current listing.

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

70 (h) The commissioner shall keep a list of all kratom and kratom products that have been
71 approved for sale or distribution in this State. Such list shall be public information and shall be
72 published initially on or before January 1, 2027, by the commissioner on its website from time to
73 time so as to reflect a current listing.

§60-11-3a. Prohibited practices.

1 (a) No person manufacturing, processing, distributing, offering for sale, or selling any
2 kratom or kratom products in this state shall hold or handle for distribution, distribute, or sell a
3 kratom product that meets any of the following:

4 (1) Contains a controlled substance or residual solvent higher than is allowed by the United
5 States Pharmacopeia general chapter 467;

6 (2) Has a concentration ratio that is;

7 (A) Greater than two percent of the alkaloid composition of the kratom product;

8 (B) Contains a level of 7-hydroxymitragynine that is greater than one milligram per serving

9 in its final product form, as documented by a certificate of analysis, conducted by the department,
10 on the finished product on the finished product prior to distribution;

11 (C) Contains a level of mitragynine that is greater than 150 milligrams per serving in its final
12 product form, as documented by a certificate of analysis, conducted by the department, on the
13 finished product on the finished product prior to distribution; or

14 (D) Contains a level of 7-hydroxymitragynine that is greater than 0.5 milligrams per gram in
15 its final product form, as documented by a certificate of analysis, conducted by the department, on
16 the finished product on the finished product prior to distribution.

17 (3) Contains a synthesized material or semi-synthetic-alkaloid;

18 (4) Is in a form that employs a heating element, power source, electronic circuit, or other
19 electric, chemical, or mechanical means, regardless of shape or size, that can be used to produce
20 vapor in a solution of other form, including, but not limited to, an electric cigarette, electronic cigar,
21 electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other
22 container of kratom in a solution or other form that is intended to be used with or in an electronic
23 cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device;

24 (5) Includes a product label inconsistent with the requirements set forth in this article or
25 contains an inaccurate or misleading product label; or

26 (b) No person manufacturing, processing, distributing, offering for sale, or selling any
27 kratom or kratom products in this state shall sell, give, or furnish, or cause to be sold, given, or
28 furnished, any kratom product, in any form, to any person younger than 21 years of age, which
29 shall be verified by a valid driver's license, state identification card, or any valid and unexpired
30 federally issued identification card such as a passport or military identification card.

§60-11-4.

Rule-making

authority.

1 (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:

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

4 sale, or sell kratom;

5 (2) Coordinating with the department for sampling and testing of kratom to determine purity
6 levels;

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

8 (4) Assessment of fees that are commensurate with the costs of the Commissioner's
9 activities in permitting, testing, and supervising the regulation of kratom and the sale of kratom
10 products;

11 (5) The production, processing, sale, possession, distribution, or transport of kratom
12 products;

13 (6) The procedure for seizing and destroying a kratom product that does not meet the
14 requirements of this article;

15 (7) Developing standards for the labeling of kratom products to include, at a minimum, a
16 statement which says:

17 (A) "KEEP OUT OF REACH OF CHILDREN. CONSULT YOUR PHYSICIAN BEFORE
18 USE IF YOU ARE PREGNANT OR TAKING ANY MEDICATION";

19 (B) That the sale or transfer possession of kratom to another person under 21 years of age
20 is prohibited;

21 (C) The amount of Mitragynine and 7-hydromitragynine contained in such product;

22 (D) The amount of mitragynine and 7-hydromitragynine contained in the packaging for
23 such product;

24 (E) The common or usual names of each ingredient used in the manufacture of such
25 product, listed in descending order or predominance;

26 (F) The name, physical address, and principal mailing address of the manufacturer or the
27 person responsible for distributing such product;

28 (G) Clear and adequate directions for the consumption of such product, including the
29 recommended serving size and the time frame within which safe consumption should occur;

30 (H) Any precautionary statements as to the safety and effectiveness of such product,
31 including a statement that the kratom is not intended to diagnose, treat, cure, or prevent any
32 disease; and

33 (I) A statement that a kratom product label is prohibited from making any therapeutic
34 claims unless approved by the United States Food and Drug Administration.

35 (7) Developing guidelines or standards related to the display or staging of kratom products
36 to increase the safety of underage patrons in retail environments;

37 (8) Developing prohibitive standards as to child targeted packaging and shapes and forms
38 of products;

39 (9) Developing administrative rules, procedures, and sanctions for violations of this
40 section;

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

42 (b) The Commissioner's pursuant to §29A-3-15 of this code, promulgate such separate or
43 joint emergency rules as are necessary to effectuate the purposes of this article.

44 (c) The department shall promulgate a legislative rule in accordance with §29A-3-1 *et seq.*
45 of this code to set forth;

46 (1) The standards and procedures for kratom product testing including but not limited to
47 sampling and testing to determine kratom purity levels;

48 (2) Any fees associated with testing; and

49 (3) Any timeframes for such testing to take place.

§60-11-5. 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.

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

§60-11-6. Taxation; disposition of funds.

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

(b) The tax imposed by this article shall be added by the retailer as a separate charge or line item on any sales slip, invoice, receipt, other statement, or memorandum of the price paid by a customer.

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

15 (d) 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 (e) If any retailer does not renew its permit, relinquishes its permit, has its permit
19 suspended or revoked, or otherwise ceases selling kratom and kratom products, then any tax,
20 additions to tax, penalties, and interest imposed by this section and by §11-10-1 *et seq.* of this
21 code shall become due and the retailer shall make a final return or returns and pay any tax which is
22 due within 90 days of not renewing its permit, relinquishing its permit, having its permit suspended

23 or revoked, or otherwise ceasing business. The unpaid amount of any tax is to be considered a
24 lien.

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

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

32 (h) Notwithstanding any provision of §11-10-1 *et seq.* of this code or of this article to the
33 contrary, the Tax Commissioner, the Commissioner, and the department may enter into written
34 agreements pursuant to which the Tax Commissioner may disclose to designated employees of
35 the Alcohol Beverage Control Administration Commissioner or commissioner, or both, whether a
36 particular retailer or permittee, or applicant for a permit, is in good standing with the Tax
37 Commissioner, and the commissioner may disclose to designated employees of the Tax
38 Commissioner or the Alcohol Beverage Control Administration Commissioner, or both, information
39 a retailer or permittee, or applicant for a permit, provides to the commissioner pursuant to this code
40 and the Alcohol Beverage Control Administration Commissioner may disclose to designated
41 employees of the Tax Commissioner, or the commissioner, or both, information a retailer or
42 permittee, or applicant for a permit, provides to the Alcohol Beverage Control Administration
43 Commissioner pursuant to this code. Tax information disclosed pursuant to a written agreement
44 shall remain confidential in the hands of the receiver and shall not be disclosable under §29B-1-1
45 *et seq.* of this code. To the extent feasible, this information should be shared or exchanged
46 electronically to ensure safe destruction, or as necessary, proper file retention practices.

47 (i) The Tax Commissioner may promulgate, in accordance with the provisions of §29A-3-1
48 *et seq.* of this code, any necessary legislative rules the Tax Commissioner determines necessary

49 to the efficient administration of taxes imposed by this subsection.

50 (1) Funds from the tax imposed by the provisions of this article, less the fee retained by the

51 Tax Commissioner pursuant to §11-10-27 of this code, and deposited into the Agricultural Fees

52 Fund shall be divided and deposited as follows:

53 (2) Sixty-five percent shall remain in the possession of the Kratom Licensure Fund

54 established by the provisions of §60-11-11 of this code for the use of the commissioner.

55 (3) Five percent shall be transferred to the Fight Substance Abuse Fund created by §60A-

56 9-8 of this code; and

57 (4) Thirty percent shall be deposited in the Agriculture Fees Fund established by the

58 provisions of §19-1-4c of this code to facilitate testing of kratom products.

59 (j) Notwithstanding any provision in §11-9-1 *et seq.* of this code to the contrary, and as

60 relevant to the tax imposed by this article, the West Virginia Tax Crimes and Penalties Act set forth

61 in §11-9-1 *et seq.* of this code shall apply with like effect as if the said West Virginia Tax Crimes and

62 Penalties Act were applicable only to the tax imposed by this article and were set forth in this

63 article.

64 (k) Notwithstanding any provision of §11-10-1 *et seq.* of this code, or any other provision of

65 this code to the contrary, the West Virginia Tax Procedure and Administration Act, as set forth in

66 §11-10-1 *et seq.* of this code, applies to the tax imposed by this article with like effect as if the said

67 West Virginia Tax Procedure and Administration Act were applicable only to the tax imposed by

68 this article and were set forth in this article.

§60-11-7. 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 Kratom Licensure Fund established by the provisions of §60-

4 11-11 of this code for the use of the commissioner for administering and enforcing the provisions of

5 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 Kratom Licensure
8 Fund established by the provisions of §60-11-11 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 *et*
14 *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 this
25 code and shall be subject to other administrative and regulatory requirements as set forth in this
26 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

32 quarterly by the commissioner on its website to reflect a current listing.

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

36 (i) The commissioner shall keep a list of all kratom and kratom products that have been
37 approved for sale or distribution in this state. Such list shall be public information and shall be
38 published by the commissioner on its website quarterly to reflect a current listing.

§60-11-8. Cooperative enforcement agreements.

1 (a) The provisions of this article related to retail sales shall be enforced by the
2 commissioner with the assistance of the department.

3 (b) Pursuant to the labeling requirements under section 4 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.

11 (d) In addition to any other memoranda, the commissioner, department, Commissioner of
12 the Alcohol Beverage Control Administration, and the Tax Commissioner may enter into, they shall
13 agree by memorandum to the following:

14 (1) To assist each other in enforcement of this article;
15 (2) To assist each other in training and cooperating with State and local law enforcement to
16 develop a state-wide plan for implementing the provisions of this article;
17 (3) To confer among themselves and law enforcement about enforcement of this article on
18 a monthly basis; and

19 (4) To jointly compile a report to be submitted to the Joint Committee on the Judiciary on or
20 before January 1, 2027, as to actions undertaken to enforce this article and the results thereof.

§60-11-9 Contraband; seizures; forfeitures; and destruction.

1 (a) Any kratom or kratom product found in this state in violation of this article is hereby
2 declared contraband and any property interest in the kratom or kratom product is vested in the
3 State of West Virginia and is subject to seizure and forfeiture and destruction.

4 (b) Any certified law enforcement officer in this state may enforce the criminal provisions of
5 this article, and any enforcement agent of the Alcohol Beverage Control Commissioner is
6 authorized to enforce the provisions of this article.

§60-11-10. Criminal violations; penalties; and administrative sanction.

1 (a) A processor who knowingly or with criminal negligence commits an act in violation of
2 this article shall, upon first conviction thereof, be guilty of a misdemeanor, and upon a subsequent
3 conviction, be guilty of a felony, and shall be punished by imprisonment for not less than one year
4 nor more than 15 years, by a fine not to exceed \$100,000, or both.

5 (b) A processor who negligently commits an act in violation of this article shall be guilty of a
6 misdemeanor and subject to a fine not to exceed \$1000.

7 (c) Upon request by the Alcohol Beverage Control Administration or the Tax Department,
8 the processor shall provide test results from a United States-based testing facility, that is an
9 independent testing facility as defined in section 3 of this article, to confirm the items listed on the
10 product label.

11 (d) A retailer who knowingly or with criminal negligence commits an act in violation of
12 section 3a and the labeling requirements of this article shall upon a first conviction thereof be guilty
13 of a misdemeanor, and upon a second conviction be guilty of a felony, and shall be punished by
14 imprisonment for not less than one year nor more than 15 years, by a fine not to exceed \$100,000,
15 or both.

16 (e) A retailer who negligently commits an act in violation of subsection 4a and the labeling

17 requirements of this article shall be guilty of a misdemeanor: *Provided, however,* That for a
18 conviction of a first offense such individual shall be punished by a fine not to exceed \$250; for a
19 conviction of a second offense, such individual shall be punished by a fine of up to \$500; and for a
20 third offense, such individual shall be punished by a fine of up to \$1,000; *Provided, further,* that
21 upon each subsequent conviction after a third conviction, such individual shall be guilty of a
22 misdemeanor and shall be imprisoned for not less than 10 days nor more than 12 months and
23 punished by a fine of not less than \$1,000 nor more than \$5,000.

24 (f) A retailer shall have a defense to prosecution under this article if such retailer provides
25 by a preponderance of the evidence that the retailer relied in good faith upon the representations
26 of a processor that the kratom, kratom product, or kratom labeling complied with this article.

27 (g) Administrative sanctions.

28 (1) In the case of any person or entity holding a permit issued by the commissioner under
29 this article charged with any criminal violation enumerated in this section, in addition to such
30 criminal penalties imposed, the commissioner may impose administrative sanctions including, but
31 not limited to, permanent revocation of any one or more permits held by the violator, revocation of
32 one or more permits held by the violator for a period of time to be determined by the commissioner,
33 suspension of any one or more permits held by the violator for a period of time to be determined by
34 the commissioner, fine or fines to any one or more permits held by the violator not to exceed
35 \$1,000 per each violation as determined by the commissioner, or non-issuance of a permit upon
36 application of a violator. For purposes of this subsection, administrative sanctions may be imposed
37 by the commissioner upon or against any alter ego, agent, representative, or person or entity
38 acting on behalf of, or in the interest of, a violator.

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

42 (h) Nothing in this article prohibits an authorized enforcement agent of the commissioner or

43 a person who is at least 18 years of age from purchasing or possessing kratom products when he
44 or she is acting upon the request of, or under the direction and control of any member of a state,
45 federal, or local law-enforcement agency or the commissioner while the agency is conducting an
46 investigation or other activity relating to the criminal or administrative enforcement of this article.

<u>§60-11-11.</u>	<u>Kratom</u>	<u>Licensure</u>	<u>Fund.</u>
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1 There is hereby created a special revenue account within the state Treasury to be known
2 as "Kratom Licensure Fund". Expenditures from the fund shall be used exclusively by the
3 commissioner of tax for the purpose of enforcement and administration of this article. Moneys paid
4 into the account shall be from all moneys collected under this article.

§60-11-12. Coordination with Department and grace period.

1 (a) Within 90 days of the effective date of this article, the department shall transmit the
2 names, along with the date of issuance and renewal period, of those having a permit to
3 manufacture, process, distribute, offer for sale, or sell any kratom or kratom products in this state
4 to the Commissioner.

5 (b) A permittee that has a current permit approved on the effective date of passage of this
6 legislation shall have a grace period of compliance with this article: *Provided*, That the permittee
7 within 180 days prior to the expiration of their current permit file a new application in compliance
8 with the provisions of this article with the Commissioner.

NOTE: The purpose of this bill is to create the West Virginia Kratom Consumer Protection Act and establish the Kratom Consumer Protection Fund under the jurisdiction of the Tax Department.

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