

The House Committee on Judiciary, Non Civil offers the following substitute to HB 968:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to
2 controlled substances, so as to revise the regulation of kratom and kratom products; to
3 designate certain kratom alkaloid derivatives, metabolites, and analogs as controlled
4 substances; to provide definitions; to provide for limitations on the sale of kratom and kratom
5 products; to provide for the availability of a licensed pharmacist; to provide for a real-time
6 electronic logging system; to provide for nondisclosure of information; to provide for access
7 to records by law enforcement agencies; to provide for violations, civil liability, and
8 punishment; to prohibit the sale of any kratom product as a pressed tablet or compressed pill;
9 to prohibit the sale of multi-serving kratom products; to revise labeling requirements; to
10 provide for warnings; to prohibit advertising or marketing toward minors; to limit advertising
11 or marketing; to provide for penalties; to provide for related matters; to provide for an
12 effective date and applicability; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

14

15 Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled
16 substances, is amended in Part 1 of Article 2, relating to schedules, offenses, and penalties,
17 by revising paragraph (4) of Code Section 16-13-21, relating to definitions, as follows:

18 "(4) 'Controlled substance' means a drug, substance, or immediate precursor in
19 Schedules I through V of Code Sections 16-13-25 through 16-13-29 and Schedules I
20 through V of 21 C.F.R. Part 1308. Such term shall include any synthetic or semisynthetic
21 derivatives, alkaloid derivatives, analogs, concentrations, or metabolites of Mitragyna
22 speciosa or kratom as identified in paragraph (23) of Code Section 16-13-25."

SECTION 2.

23

24 Said chapter is further amended in said part by revising Code Section 16-13-25, relating to
25 Schedule I, by substituting a semicolon for the period at the end of paragraph (22) and by
26 adding a new paragraph to read as follows:

27 "(23) Any material, compound, mixture, or preparation which contains any quantity of
28 the following synthetic or semisynthetic derivatives, alkaloid derivatives, analogs,
29 concentrations, or metabolites of Mitragyna speciosa or kratom:

30 (A) 7-hydroxymitragynine (7-OH or 7-OHM);

31 (B) Mitragynine or mitragynine pseudoindoxyl;

32 (C) MGM-15;

33 (D) MGM-16;

34 (E) 7-Acetoxymitragynine; and

35 (F) Any other synthetic or semisynthetic derivatives, alkaloid derivatives, analogs,
36 concentrations, or metabolites of Mitragyna speciosa or kratom."

37 **SECTION 3.**

38 Said chapter is further amended in Article 6, relating to kratom, by revising Code Section
39 16-13-120, relating to definitions, as follows:

40 "16-13-120.

41 As used in this article, the term:

42 (1) 'Adulterated' has the same meaning as provided for in Code Section 26-2-26.

43 (2) 'Kratom' means the tropical evergreen known as *Mitragyna speciosa*, which is native
44 to Southeast Asia and contains the alkaloid mitragynine or metabolite
45 7-hydroxymitragynine.

46 (3) 'Kratom extract' means a kratom product that has been modified, processed, or
47 otherwise manufactured with a food-grade solvent.

48 (4) 'Kratom product' means a natural product ~~containing any~~ made from part of the leaf
49 of the kratom plant ~~mitragyna~~ whether sold as a powder, capsule, pill, beverage, or
50 extract, ~~or other form~~.

51 (5) 'Pharmacist' shall have the same meaning as set forth in Code Section 26-4-5.

52 (6) 'Pharmacy' shall have the same meaning as set forth in Code Section 26-4-5.

53 (7) 'Processor' means a person or entity that prepares, manufactures, distributes, or
54 maintains kratom products or that advertises, represents, or holds itself out as preparing,
55 manufacturing, distributing, or maintaining kratom products. Such term shall include a
56 retailer to the extent such retailer engages in the business of a processor.

57 (8) 'Real-time electronic logging system' means an electronic system approved by the
58 Georgia Bureau of Investigation which is operated in real time and which can track
59 required information and generate a stop sale alert to notify a processor or retailer that a
60 purchase of any kratom product which fails to comply with the requirements set forth in
61 this Code section is being attempted. Such system shall:

62 (A) Contain an override function that will not only allow a processor or retailer to
63 complete a sale in violation of this Code section when the person making the sale is in

64 reasonable fear of imminent bodily harm if he or she does not complete the sale but also
 65 will track any override sale made;

66 (B) Be accessible to the state, the State Board of Pharmacy, processors, retailers,
 67 pharmacies, and law enforcement agencies, without a charge or fee, including a
 68 transaction fee; and

69 (C) Have real-time interstate communicability with similar systems in other states.

70 (9) 'Required information' means the full name and address of the purchaser; the type of
 71 government issued photographic identification presented, including the issuer and
 72 identification number; a description of the kratom product purchased; and the date and
 73 time of the purchase.

74 (10) 'Retailer' means a person or entity that sells or holds itself out as selling kratom
 75 products at retail to the general public, including, but not limited to, online or by mail
 76 order; provided, however, that such person or entity shall also be included within the
 77 definition of 'processor' as set forth in this Code section to the extent that he or she
 78 engages in the business of a processor. Such term shall include any owner, operator, or
 79 manager of any entity that sells kratom products at retail but shall not include a store
 80 employee at a retailer's place of business when such employee does not exercise any
 81 control over such retailer's business or the selection of kratom products to be sold at such
 82 retailer's business."

83 **SECTION 4.**

84 Said chapter is further amended in said article by revising Code Section 16-13-121, relating
 85 to possession by individual under age 21, sale, and penalty, as follows:

86 "16-13-121.

87 (a)(1) No person shall knowingly sell or transfer possession of any kratom, kratom
 88 product, or kratom extract to another person under 21 years of age, nor shall any person
 89 under 21 years of age purchase or possess any kratom, kratom product, or kratom extract.

90 (2)(A) The prohibition contained in paragraph (1) of this subsection shall not apply
91 with respect to the sale or transfer of possession of kratom, kratom product, or kratom
92 extract by a person when such person has been furnished with proper identification
93 showing that the individual to whom the kratom, kratom product, or kratom extract is
94 sold or transferred is 21 years of age or older.

95 (B) In any case when a reasonable or prudent person could reasonably be in doubt as
96 to whether or not the individual to whom kratom, kratom product, or kratom extract is
97 to be sold or transferred is actually 21 years of age or older, it shall be the duty of such
98 person to request to see and to be furnished with proper identification. The failure to
99 make such request and verification may be considered by the trier of fact in determining
100 whether such person did knowingly sell or transfer possession in violation of
101 paragraph (1) of this subsection.

102 (b) No person shall ingest kratom in a manner that employs a heating element, power
103 source, electronic circuit, or other electronic, chemical, or mechanical means, regardless
104 of shape or size, that can be used to produce vapor in a solution or other form, including,
105 but not limited to, any electronic cigarette, electronic cigar, electronic cigarillo, electronic
106 pipe, or similar product or device and any vapor cartridge or other container of kratom in
107 a solution or other form that is intended to be used with or in an electronic cigarette,
108 electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

109 (c) No person shall sell, deliver, cause to be delivered, or assist in the delivery of any
110 kratom in or to this state that can be ingested in a manner that violates subsection (b) of this
111 Code section.

112 (d) No ~~person~~ processor or retailer shall offer for sale or sell any kratom or kratom product
113 in this state unless:

114 (1) The kratom or kratom product is a natural product made from part of the leaf of a
115 kratom plant grown in the United States of America;

116 (2) The kratom or kratom such product is behind a counter in an area only accessible to
117 store employees or in a secured display which is only accessible with the intervention of
118 a store employee;

119 (3) A licensed pharmacist is present at such counter or available by means of real-time
120 two-way audio, visual, or other telecommunications or electronic communications to
121 answer any questions about the use of kratom or kratom products and risks of interactions
122 with prescription drugs or contraindications for certain conditions, illnesses, or diseases;
123 and

124 (4)(A) On and after January 1, 2027, the processor or retailer shall, before completing
125 the sale of any kratom or kratom product, electronically track all such sales and submit
126 the required information to a real-time logging system and maintain a record of required
127 information for each sale for a period of two years from the date of each transaction,
128 after which such record may be destroyed. All written and electronic logs or records
129 shall not be disclosed except that law enforcement agencies shall be provided
130 immediate access upon request.

131 (B) If a processor or retailer selling any kratom or kratom products experiences
132 mechanical or electronic failure of the real-time electronic logging system and is unable
133 to comply with the requirements of this paragraph, the person shall maintain a written
134 log or an alternative electronic recording mechanism until such time as the person is
135 able to comply with the electronic logging requirement.

136 (C) Absent negligence, wantonness, recklessness, or deliberate misconduct, any person
137 utilizing the real-time electronic logging system in accordance with this paragraph shall
138 not be civilly liable as a result of any act or omission in carrying out the duties required
139 by this paragraph and shall be immune from liability to any third party unless the
140 person has violated any provision of this paragraph in relation to a claim brought for
141 such violation.

142 (D) The Georgia Bureau of Investigation shall provide real-time access to records on
143 such logging system through an online portal to law enforcement agencies in this state.

144 (e)(1) Except as provided in paragraphs (2) and (3) of this subsection, any Any person
145 that commits an act in violation of this Code section shall be guilty of a misdemeanor;
146 provided, however, that, for a conviction of a first offense, such individual shall be
147 punished by a fine not to exceed \$250.00; for a conviction of a second offense, such
148 individual shall be punished by a fine of up to \$500.00; and for a conviction of a third
149 offense and each subsequent offense, such individual shall be punished by a fine of up
150 to \$1,000.00.

151 (2)(A) A processor who knowingly or with criminal negligence commits an act in
152 violation of this Code section shall, upon a first conviction thereof, be guilty of a
153 misdemeanor of a high and aggravated nature, and upon a subsequent conviction, be
154 guilty of a felony, and shall be punished by imprisonment for not less than one year nor
155 more than 15 years, by a fine not to exceed \$100,000.00, or both.

156 (B) A processor who negligently commits an act in violation of this Code section shall
157 be guilty of a misdemeanor and subject to a fine not to exceed \$1,000.00 per violation.

158 (3)(A) A retailer who knowingly or with criminal negligence commits an act in
159 violation of this Code section shall, upon a first conviction thereof, be guilty of a
160 misdemeanor of a high and aggravated nature, and upon a subsequent conviction, be
161 guilty of a felony, and shall be punished by imprisonment for not less than one year nor
162 more than 15 years, by a fine not to exceed \$100,000.00, or both.

163 (B) A retailer who negligently commits an act in violation of this Code section shall
164 be guilty of a misdemeanor; provided, however, that, for a conviction of a first offense,
165 such retailer shall be punished by a fine not to exceed \$250.00; for a conviction of a
166 second offense, the retailer shall be punished by a fine of up to \$500.00; and for a
167 conviction of a third offense, such retailer shall be punished by a fine of up to
168 \$1,000.00; provided, further, that upon each subsequent conviction after a third

169 conviction, the retailer shall be guilty of a high and aggravated misdemeanor and shall
 170 be imprisoned for not less than ten days nor more than 12 months and punished by a
 171 fine of not less than \$1,000.00 nor more than \$5,000.00."

172 **SECTION 5.**

173 Said chapter is further amended in said article by revising Code Section 16-13-122, relating
 174 to content of kratom and required labeling, as follows:

175 "16-13-122.

176 (a) All kratom products sold in, or delivered to, this state shall be derived from the natural
 177 kratom plant, and any manufactured or processed kratom product, including kratom
 178 extracts, shall not be modified, chemically or otherwise, processed, synthesized, or
 179 otherwise treated in any way that increases the levels of mitragynine or
 180 7-hydroxymitragynine, beyond those described in subsection (b) of this Code section.

181 (b) No kratom product sold in; or delivered to; this state shall have a concentration ratio
 182 that is:

- 183 (1) Greater than 150 mg of mitragynine per serving;
- 184 (2) Greater than 0.5 mg of 7-hydroxymitragynine per gram; or
- 185 (3) Greater than 1 mg of 7-hydroxymitragynine per serving.

186 (c) ~~A~~ No processor or retailer shall ~~not~~ prepare, distribute, sell, or expose for sale any of
 187 the following:

- 188 (1) A kratom product that is adulterated;
- 189 (2) A kratom product that contains or uses in its processing or manufacturing a food
 190 substance that is not generally recognized as safe in food products;
- 191 (3) A kratom product containing any synthetic ~~alkaloids~~ or semisynthetic derivative,
 192 alkaloid derivative, analog, concentration, or metabolite, including synthetic mitragynine,
 193 synthetic 7-hydroxymitragynine, or any other synthetically derived compounds of the
 194 kratom plant; ~~or~~

195 (4) A kratom product in a pressed tablet or compressed pill form or in a form that
196 employs a heating element, power source, electronic circuit, or other electronic, chemical,
197 or mechanical means, regardless of shape or size, that can be used to produce vapor in a
198 solution or other form, including, but not limited to, any electronic cigarette, electronic
199 cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor
200 cartridge or other container of kratom in a solution or other form that is intended to be
201 used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic
202 pipe, or similar product or device; or

203 (5) A kratom product in any container, pouch, bottle, or packaging that contains more
204 than one serving of such product.

205 (d) A processor shall maintain a registered agent in this state for service of process for the
206 entire duration of such entity's engagement in the business of a processor.

207 (e) Kratom packaging shall be accompanied by a label bearing the following information
208 prior to its sale in this state:

209 (1) Clearly labeled ingredients;

210 (2) That the sale or transfer possession of kratom to another person under 21 years of age
211 is prohibited;

212 (3) The amount in milligrams of mitragynine and 7-hydroxymitragynine per serving
213 contained in such product;

214 (4) The total amount in milligrams of mitragynine and 7-hydroxymitragynine contained
215 ~~in the packaging for~~ such product;

216 (5) The common or usual name of each ingredient used in the manufacture of such
217 product, listed in descending order of predominance;

218 (6) The name, physical address, and principal mailing address of the manufacturer or the
219 person responsible for distributing such product;

220 (7) Clear and adequate directions for the consumption of such product, including the
221 recommended serving size and the time frame within which safe consumption should
222 occur;

223 (8) Any precautionary statements as to the safety and effectiveness of such product,
224 including ~~a warning that~~, but not limited to, the following statements in large boldface
225 type:

226 (A) A a consumer should consult their his or her physician on questions about use of
227 kratom and kratom products;

228 (B) A licensed pharmacist is available to answer any questions about the use of kratom
229 and kratom products and the risk of interactions with prescription drugs and
230 contraindications for certain conditions, illnesses, or diseases;

231 (C) The use of kratom or kratom products during pregnancy is not considered safe and
232 is strongly associated with serious adverse effects; and

233 (D) Kratom and kratom products are state that the product is not intended to 'diagnose,
234 treat, cure or prevent any disease'; and

235 (9) ~~A statement that a kratom product label is prohibited from making any therapeutic~~
236 ~~claims unless approved by the United States Food and Drug Administration. The Georgia~~
237 ~~Poison Center Helpline 1-800-222-1222.~~

238 (f)(1) A processor who knowingly or with criminal negligence commits an act in
239 violation of this Code section shall, upon a first conviction thereof, be guilty of a
240 misdemeanor of a high and aggravated nature, and upon a subsequent conviction, be
241 guilty of a felony, and shall be punished by imprisonment for not less than one year nor
242 more than 15 years, by a fine not to exceed \$100,000.00, or both.

243 (2) A processor who negligently commits an act in violation of this Code section shall
244 be guilty of a misdemeanor and subject to a fine not to exceed \$1,000.00.

245 (3) A processor whose label falsely declares or conceals the presence or concentration
246 of mitragynine or 7-hydroxymitragynine shall be guilty of a felony and shall be

247 punished by imprisonment for not less than one year nor more than 15 years, by a fine not
248 to exceed \$100,000.00, or both.

249 (g)(1) A retailer who knowingly or with criminal negligence commits an act in violation
250 of subsection (a), (b), (c), or (e) of this Code section shall, upon a first conviction thereof,
251 be guilty of a misdemeanor of a high and aggravated nature, and upon a subsequent
252 conviction, be guilty of a felony, and shall be punished by imprisonment for not less than
253 one year nor more than 15 years, by a fine not to exceed \$100,000.00, or both.

254 (2) A retailer who negligently commits an act in violation of subsection (a), (b), (c),
255 or (e) of this Code section shall be guilty of a misdemeanor; provided, however, that, for
256 a conviction of a first offense, such individual shall be punished by a fine not to exceed
257 \$250.00; for a conviction of a second offense, such individual shall be punished by a fine
258 of up to \$500.00; and for a conviction of a third offense, such individual shall be
259 punished by a fine of up to \$1,000.00; provided, further, that upon each subsequent
260 conviction after a third conviction, such individual shall be guilty of a high and
261 aggravated misdemeanor and shall be imprisoned for not less than ten days nor more than
262 12 months and punished by a fine of not less than \$1,000.00 nor more than \$5,000.00.

263 (3) A retailer shall have a defense to prosecution under this subsection if such retailer
264 proves by a preponderance of the evidence that the retailer relied in good faith upon the
265 representations of a processor that the kratom, kratom product, or kratom extract and
266 labeling complied with the provisions of this Code section."

267 **SECTION 6.**

268 Said chapter is further amended in said article by adding a new Code section to read as
269 follows:

270 "16-13-123.

271 (a) No person may directly or indirectly advertise a therapeutic benefit of kratom or
272 kratom products.

273 (b) No person may directly or indirectly advertise or market kratom or kratom products
274 to minors.

275 (c) It shall be a violation of subsection (b) of this Code section for a person to use any of
276 the following in the advertising, promotion, packaging, or labeling of any kratom or kratom
277 products:

278 (1) A cartoon;

279 (2) A superhero;

280 (3) A video game reference;

281 (4) An image of a food product primarily intended for minors;

282 (5) A trademark that imitates or mimics the trademark of a product that has been
283 advertised or marketed primarily to minors;

284 (6) A symbol or celebrity that is primarily associated with minors or media primarily
285 directed to minors; or

286 (7) An image of an individual who appears to be under 21 years of age.

287 (d) It shall be a violation of subsection (b) of this Code section for a person to advertise
288 or promote kratom or a kratom product:

289 (1) In a newspaper, a magazine, a periodical, or any other publication, including online
290 social media, for which individuals under 21 years of age constitute 15 percent or more
291 of the total audience, as measured by competent and reliable survey evidence;

292 (2) At a concert, a stadium, a sporting event, or any other public event for which
293 individuals under 21 years of age constitute 15 percent or more of the total audience, as
294 measured by competent and reliable survey evidence; or

295 (3) On an outdoor billboard or sign board that is within 500 feet of any educational
296 institution, public or private, providing elementary or secondary education to children at
297 any level, kindergarten through grade 12, or the equivalent thereof if grade divisions are
298 not used by such institution.

299 (e) Any person that commits an act in violation of the provisions of this Code section shall
300 be guilty of a misdemeanor and shall be subject to a fine of \$500.00 for each offense. Each
301 advertisement or marketing act in violation of this Code section shall constitute a separate
302 offense."

303 **SECTION 7.**

304 This Act shall become effective on July 1, 2026, and shall apply to offenses committed on
305 or after such date.

306 **SECTION 8.**

307 All laws and parts of laws in conflict with this Act are repealed.