
ASSEMBLY BILL NO. 322—ASSEMBLYMEN NGUYEN, YEAGER,
GONZÁLEZ; BROWN-MAY, DICKMAN, D’SILVA AND GALLANT

MARCH 16, 2023

JOINT SPONSORS: SENATORS HANSEN; AND NGUYEN

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to kratom products.
(BDR 52-763)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public health; prohibiting a person from preparing, distributing, advertising, selling or offering to sell a kratom product unless the kratom product has been registered with the State Board of Oriental Medicine; setting forth requirements for the registration of a kratom product with the Board; authorizing the Board to take certain actions relating to kratom products offered for sale that are not registered with the Board; authorizing the Board to adopt certain regulations governing kratom products; revising provisions establishing certain prohibited acts relating to kratom products; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law defines “kratom product” to mean, in general, any product or
2 ingredient containing any part of the leaf of the *Mitragyna Speciosa* plant if the
3 plant contains the alkaloid mitragynine or 7-hydroxymitragynine, or any synthetic
4 material that contains the alkaloid mitragynine or 7-hydroxymitragynine. Existing
5 law prohibits a person from: (1) selling or offering to sell any material, compound,
6 mixture or preparation containing a kratom product to a child under the age of 18
7 years; (2) preparing, distributing, advertising, selling or offering to sell a kratom



8 product that is adulterated with certain substances; and (3) selling a kratom product
9 that does not have a label that meets certain requirements. Existing law provides for
10 the imposition of a civil penalty of not more than \$1,000 against a person who
11 violates those prohibitions. (NRS 597.998)

12 **Section 5** of this bill revises the definition of kratom product to mean food
13 containing any part of the leaf of the *Mitragyna Speciosa* plant. **Section 9** of this
14 bill revises the prohibited acts relating to kratom products set forth under existing
15 law to revise: (1) requirements relating to the type of kratom products that a person
16 is prohibited from preparing, distributing, advertising, selling or offering to sell;
17 and (2) the information that must be included on a label for a kratom product.
18 **Section 9** eliminates the civil penalty imposed for engaging in such prohibited acts
19 and instead provides that a person who engages in such prohibited acts is guilty of a
20 misdemeanor.

21 **Section 6** of this bill prohibits a person from preparing, distributing,
22 advertising, selling or offering to sell a kratom product unless the kratom product
23 has been registered with the State Board of Oriental Medicine. **Section 6** authorizes
24 the Board to: (1) impose an administrative fine for a violation of that prohibition;
25 and (2) seize and destroy a kratom product which is offered for sale and which has
26 not been registered. **Section 6** sets forth certain requirements for a person to
27 register a kratom product with the Board.

28 **Section 7** of this bill authorizes the Board to adopt certain regulations to carry
29 out the provisions of this bill, which may impose certain additional requirements
30 relating to kratom products. **Section 8** of this bill creates a civil cause of action for
31 a person injured by any violation of this bill.

32 **Sections 3 and 4** of this bill define certain other words and terms for the
33 purposes of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 597 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 8, inclusive, of this
3 act.

4 **Sec. 2.** *As used in NRS 597.998 and sections 2 to 8, inclusive,*
5 *of this act, unless the context otherwise requires, the words and*
6 *terms defined in sections 3, 4 and 5 of this act have the meanings*
7 *ascribed to them in those sections.*

8 **Sec. 3.** *“Board” means the State Board of Oriental Medicine.*

9 **Sec. 4.** *“Food” means any food, drink, confection or*
10 *beverage, or any component in the preparation or manufacture*
11 *thereof, intended for ultimate human consumption.*

12 **Sec. 5.** *“Kratom product” means food containing any part of*
13 *the leaf of the Mitragyna Speciosa plant.*

14 **Sec. 6.** 1. *A person shall not knowingly prepare, distribute,*
15 *advertise, sell or offer to sell a kratom product unless the kratom*
16 *product has been registered with the Board pursuant to this*
17 *section.*

18 2. *A person who wishes to register a kratom product must*
19 *submit to the Board:*



1 (a) *An application on a form prescribed by the Board;*
2 (b) *A fee in an amount established by the Board by regulation;*
3 *and*

4 (c) *Any information and documentation that the Board deems*
5 *necessary to ensure that the kratom product meets the*
6 *requirements of NRS 597.998 and sections 2 to 8, inclusive, of this*
7 *act and the regulations adopted pursuant thereto.*

8 3. *A person who violates subsection 1 is subject to an*
9 *administrative fine, imposed by the Board, in an amount*
10 *established by the Board by regulation.*

11 4. *The Board may, in accordance with procedures adopted by*
12 *the Board by regulation, seize and destroy any kratom product*
13 *offered for sale which has not been registered with the Board*
14 *pursuant to this section.*

15 5. *The Board shall adopt regulations governing the*
16 *registration of kratom products. Such regulations must, without*
17 *limitation:*

18 (a) *Prescribe the form and any additional required content for*
19 *an application to register a kratom product;*

20 (b) *Establish the amount of the fee for the registration of a*
21 *kratom product;*

22 (c) *Establish the amount of the administrative fine that the*
23 *Board may impose for a violation of this section;*

24 (d) *Establish procedures for the seizure and destruction of a*
25 *kratom product offered for sale which has not been registered with*
26 *the Board; and*

27 (e) *Address such other matters concerning the registration of*
28 *kratom products as the Board determines to be necessary.*

29 **Sec. 7.** *The Board may adopt regulations as it determines to*
30 *be necessary or advisable to carry out the provisions of NRS*
31 *597.998 and sections 2 to 8, inclusive of this act. Such regulations*
32 *may include, without limitation:*

33 1. *Requirements for the testing of kratom products to ensure*
34 *that such products meet the requirements set forth in NRS 597.998*
35 *and sections 2 to 8, inclusive, of this act and are safe for human*
36 *consumption;*

37 2. *Additional requirements for the labeling of kratom*
38 *products; and*

39 3. *Any other matters the Board deems to be appropriate for*
40 *the safe preparation, distribution and sale of kratom products.*

41 **Sec. 8.** *In addition to any other remedy, a person aggrieved*
42 *by a violation of NRS 597.998 and sections 2 to 8, inclusive, of this*
43 *act may bring a civil action in a court of competent jurisdiction*
44 *against the person who committed the violation to recover*



1 *damages including, without limitation, economic damages,*
2 *noneconomic damages and consequential damages.*

3 **Sec. 9.** NRS 597.998 is hereby amended to read as follows:

4 597.998 1. A person shall not knowingly sell or offer to sell
5 any material, compound, mixture or preparation containing a kratom
6 product to a child under the age of 18 years.

7 2. A person shall not knowingly prepare, distribute, advertise,
8 sell or offer to sell a kratom product that ~~is~~ :

9 (a) *Is combined or* adulterated with ~~it~~ :

10 (1) *A controlled substance or a dangerous drug, as defined*
11 *in chapter 454 of NRS; or*

12 (2) *Any* substance that affects the quality or strength of the
13 kratom product to such a degree as to render the kratom product
14 injurious to a consumer ~~it~~ ;

15 (b) *Contains a level of 7-hydroxymitragynine in the alkaloid*
16 *fraction that is greater than 2 percent of the alkaloid composition*
17 *of the kratom product;*

18 (c) *Contains a synthetic alkaloid, including, without limitation,*
19 *synthetic mitragynine, synthetic 7-hydroxymitragynine or any*
20 *synthetically derived compound of the Mitragyna Speciosa plant;*
21 *or*

22 (d) *Does not include a label that clearly sets forth:*

23 (1) *The ingredients of the kratom product;*

24 (2) *The amount of mitragynine and 7-hydroxymitragynine*
25 *contained in the kratom product; and*

26 (3) *Directions for the safe and effective use of the kratom*
27 *product.*

28 3. A person has not violated the provisions of ~~this~~ subsection
29 2 if he or she can show by a preponderance of evidence that he or
30 she relied in good faith upon the representations of a manufacturer,
31 processor, packer or distributor of the kratom product.

32 ~~{3.—A person shall not sell a kratom product that does not have~~
33 ~~a label that clearly sets forth the ingredients and directions for the~~
34 ~~safe and effective use of the kratom product.}~~

35 4. A person who violates any provision of this section is
36 ~~subject to a civil penalty~~ *guilty* of ~~not more than \$1,000 for each~~
37 ~~violation.~~

38 ~~—5.—As used in this section, “kratom product” means any product~~
39 ~~or ingredient containing:~~

40 ~~—(a) Any part of the leaf of the Mitragyna Speciosa plant if the~~
41 ~~plant contains the alkaloid mitragynine or 7 hydroxymitragynine; or~~

42 ~~—(b) A synthetic material that contains the alkaloid mitragynine~~
43 ~~or 7 hydroxymitragynine,~~

44 ~~→ regardless of whether the product or ingredient is labeled or sold~~
45 ~~for human consumption.} a misdemeanor for each violation.~~



1 **Sec. 10.** 1. This section becomes effective upon passage and
2 approval.

3 2. Sections 1 to 9, inclusive, of this act become effective:

4 (a) Upon passage and approval for the purpose of adopting any
5 regulations and performing any other preparatory administrative
6 tasks that are necessary to carry out the provisions of this act; and

7 (b) On January 1, 2024, for all other purposes.

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