



SPONSOR: Sen. Hoffner & Rep. K. Williams
Sen. Richardson; Rep. Gray

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 262

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. AMEND § 4701, Title 16 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows and by redesignating accordingly:

3 (25) "Kratom" means any part of the plant *Mitragyna speciosa* L., whether growing or not, including the seeds,
4 leaves, stems, roots, extracts, resins, and compounds thereof, and any salt, compound, derivative, mixture, preparation,
5 synthetic equivalent, isomer, or salt of an isomer thereof.

6 (26) "Kratom product" means a food, drink, dietary supplement, cosmetic, or other product intended for human
7 consumption or use that contains kratom or any kratom-derived substance, including:

8 a. Powders, capsules, tablets, pills, lozenges, or other solid dosage forms.

9 b. Extracts, tinctures, resins, concentrates, or isolates in any form.

10 c. Beverages, liquid shots, drink mixes, syrups, or other liquid forms.

11 d. Gummies, candies, chocolates, baked goods, or other edible products.

12 e. Topical preparations, inhalants, or any other form intended for human use.

13 Section 2. AMEND § 4714, Subchapter IV, Chapter 47, Title 16 of the Delaware Code by making deletions as
14 shown by strike through and insertions as shown by underline as follows:

15 § 4714. Schedule I.

16 (i) Any material, compound, mixture, or preparation that contains any quantity of the following substances relating
17 to kratom, including their salts, isomers, and salts of isomers unless specifically excepted, whenever the existence of these
18 salts, isomers, and salts of isomers is possible within the specific designation:

19 (1) Kratom.

20 (2) Mitragynine.

21 (3) 7-hydroxy or 7-hydroxymitragynine (7-OH).

22 (4) Any other terpenoid indole alkaloid derived from Mitragyna speciosa or any synthetic analogue
23 substantially similar in chemical structure or pharmacological effect to mitragynine or 7-hydroxymitragynine.

24 (5) Any kratom product, as defined in § 4701 of this title.

25 Section 3. Amend Subchapter IV, Chapter 47, Title 16 of the Delaware Code by making deletions as shown by
26 strike through and insertions as shown by underline as follows:

27 § 4761B. Kratom; possession and commercial activities.

28 (a) It is unlawful for any person to knowingly or intentionally possess kratom, a kratom product, 7-hydroxy or 7-
29 hydroxymitragynine, or any substance containing mitragynine or any kratom derived alkaloid, except as otherwise
30 authorized by this chapter.

31 (b) The manufacturing, processing, packaging, labeling, selling, delivering, distributing, offering for sale, or
32 possessing with intent to manufacture, sell, deliver, or distribute kratom, a kratom product, 7-hydroxy or 7-
33 hydroxymitragynine, or any substance containing mitragynine or any kratom-derived alkaloid is unlawful and is subject to
34 the penalties imposed by this chapter for Schedule I controlled substances.

35 (c) For purposes of subsection (b) of this section, possession of any of the following is prima facie evidence of
36 intent to deliver:

37 (1) More than 100 grams of kratom in any form.

38 (2) 10 or more substantially identical retail packages of any kratom product.

39 (3) Kratom products with commercial packaging, labeling, or barcodes indicating wholesale or retail
40 distribution.

41 (4) Records, scales, packaging materials, or other indicia of commercial drug activity in connection with
42 kratom or kratom products.

43 (5) Any amount of kratom or kratom product found in a retail establishment, vending machine, or
44 commercial distribution facility.

45 (d) Subsection (c) of this section establishes a rebuttable presumption only and does not preclude proof of intent to
46 deliver by other evidence.

47 Section 4. AMEND Subchapter IV, Chapter 47, Title 16 of the Delaware Code by making deletions as shown by
48 strike through and insertions as shown by underline as follows:

49 § 4761C. Prohibited kratom-derived products; synthetic analogues.

50 (a) No person may manufacture, distribute, sell, offer for sale, or possess with intent to sell any kratom product
51 intended for human consumption that contains mitragynine, 7-hydroxymitragynine, or any other alkaloid derived from

52 Mitragyna speciosa, regardless of whether the product is represented, marketed, or labeled as "kratom" or under any other
53 name.

54 (b) Any substance that is substantially similar in chemical structure or produces substantially similar
55 pharmacological effects to mitragynine or 7-hydroxymitragynine shall be deemed a controlled substance analogue under §
56 4701(10) of this title and subject to the same penalties as Schedule I controlled substances.

57 (c) Violation of this section is a class C felony and carries the penalties set forth in § 4751 of this title.
58 § 4761D. Simple possession of kratom; penalties.

59 (a) A person who knowingly or intentionally possesses a personal use quantity of kratom or a kratom product, and
60 who does not possess any indicia of an intent to deliver as described in § 4761B(c) of this title, is guilty of:

61 (1) A class B misdemeanor.

62 (b) Notwithstanding § 4206 of Title 11, for a first offense under this section the court shall not impose a term of
63 incarceration and may impose only a fine not to exceed \$1,150, restitution, and noncustodial conditions of sentence,
64 including evaluation and treatment.

65 (c) Notwithstanding § 4206 of Title 11, for a second offense under this section the court shall not impose a term of
66 incarceration and may impose only a fine not to exceed \$2,300 and any other lawful noncustodial conditions.

67 (d) Notwithstanding § 4206 of Title 11, for a third or subsequent offense under this section the court shall not
68 impose a term of incarceration and may impose only a fine not to exceed \$2,300, restitution, and any other lawful
69 conditions.

70 (e) For purposes of this section, "personal use quantity" means an amount of kratom or kratom products not
71 exceeding 30 grams aggregate weight.

72 (f) A violation of this section is not "drug dealing" under § 4753 of this title. Nothing in this section limits
73 prosecution under § 4753 when supported by the evidence.

SYNOPSIS

Kratom is an herb derived from a leafy Southeast Asia tree, known formally as *Mitragyna speciosa*. Kratom contains two psychoactive compounds, mitragynine and 7-hydroxymitragynine. Both compounds can bind to opioid receptors in the brain and produce a pharmacological response similar to the effects of other opioids, such as morphine, and can lead to addiction. An estimated 11 to 15 million Americans consume Kratom regularly.

According to a 2025 study by the Legislative Analysis and Public Policy Association, 24 states and the District of Columbia regulate kratom or its components in some manner. In six states (Alabama, Arkansas, Indiana, Rhode Island, Vermont, and Wisconsin) and the District of Columbia, kratom's psychoactive components are considered controlled substances. In 18 states, the possession, sale, manufacture, etc. of kratom products is regulated.

A Center for Disease Control analysis found that kratom was implicated in 846 fatal overdose cases across 30 states and the District of Columbia in 2022. Other reports suggest over 2,000 fatal overdoses have been linked to kratom since 2021.

This Act amends Delaware's Uniform Controlled Substances Act. The Act defines "Kratom" and "Kratom Products". The Act makes it unlawful to manufacture, distribute, sell, offer to sell, or possess with intent to sell a Kratom Product. The Act creates a new § 4761C, which makes manufacturing, processing, packaging, labeling, selling, delivering, distributing, offering, or sale, or possession with intent to sell, deliver, or distribute Kratom Products unlawful and is subject to the penalties imposed by Title 16, Chapter 47, for Schedule I controlled substances, and is a Class C felony.

This Act makes the knowing and intentional possession of a personal use quantity of a Kratom Product a Class B misdemeanor, which exposes the person to fines, but not incarceration.

Author: Senator Hoffner