



SPONSOR: Sen. Hoffner

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
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 f. Any product intended for human consumption that contains mitragynine, 7-hydroxymitragynine, or any
14 other alkaloid derived from Mitragyna speciosa, regardless of whether the product is represented, marketed, or
15 labeled as "kratom" or under any other name.

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

18 § 4714. Schedule I.

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

- 22 (1) Kratom.
- 23 (2) Mitragynine.
- 24 (3) 7-hydroxy or 7-hydroxymitragynine (7-OH).
- 25 (4) Any other terpenoid indole alkaloid derived from Mitragyna speciosa or any synthetic analogue
26 substantially similar in chemical structure or pharmacological effect to mitragynine or 7-hydroxymitragynine.
- 27 (5) Any kratom product, as defined in § 4701 of this title.

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

30 § 4751C. Quantity tiers related to drug offenses.

31 For the purposes of this subchapter:

32 (1) “Tier 3 Controlled Substances Quantity” means:

33 j. 500 grams or more, 50 or more packages produced for individual retail sale, or 500 milliliters
34 or more of kratom, kratom products, synthetic analogues, or any mixture containing any such substance.

35 (2) “Tier 2 Controlled Substances Quantity” means:

36 k. 200 grams or more, 20 or more packages produced for individual retail sale, or 200 milliliters
37 or more of kratom, kratom products, synthetic analogues, or any mixture containing any such substance.

38 (3) “Tier 1 Controlled Substances Quantity” means:

39 k. 100 grams or more, 10 or more packages produced for individual retail sale, or 100 milliliters
40 or more of kratom, kratom products, synthetic analogues, or any mixture containing any such substance.

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

43 § 4761B. Prohibited kratom-derived products; synthetic analogues.

44 (a) Notwithstanding any other provision of this chapter, no civil or criminal penalty may be imposed, nor may
45 criminal or civil asset forfeiture be pursued, for possession by an individual of kratom, kratom products, or synthetic
46 analogues.

47 (b) The manufacturing, selling, or delivery of kratom, kratom products, or synthetic analogues remains unlawful
48 and is subject to penalties imposed by this chapter.

49 (c) Any substance that is substantially similar in chemical structure or produces substantially similar
50 pharmacological effects to mitragynine or 7-hydroxymitragynine is a controlled substance analogue under § 4701(10) of
51 this title and subject to the same penalties as kratom or kratom products.

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-hydroximitragynine. 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.

This Substitute differs from the original bill in that it fits kratom into the Uniform Controlled Substances Act by specifying tier quantities for drug offenses that result in the classification of the charge under the existing criminal framework. It moves to the definition of "kratom products" any product that contains the active ingredients of kratom, regardless of whether the product is represented, labeled, or marketed as "kratom" or not. It removes criminal charges for simple possession by an individual, and it clarifies that manufacturing, selling, or delivery of kratom or similar products is subject to criminal charges under this chapter.

Author: Senator Hoffner