

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 747
Committee Substitute Favorable 4/27/15
Senate Health Care Committee Substitute Adopted 6/15/16

Short Title: Youth Access to Kratom/Study Abuse OTC Subs.

(Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO REGULATE THE SALE OF MITRAGYNE AND
7-HYDROXYMITRAGYNE, ALSO KNOWN AS KRATOM, TO MINORS AND TO
STUDY THE ABUSE OF KRATOM AND NITROUS OXIDE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 39 of Chapter 14 of the General Statutes is amended by adding a
new section after G.S. 14-313 to read:

"§ 14-313.1. Youth access to kratom.

(a) Definitions. – The following definitions apply in this section:

- (1) Distribute. – To sell, furnish, give, or provide any product containing kratom to the ultimate consumer.
- (2) Proof of age. – A drivers license or other photographic identification that includes the bearer's date of birth that purports to establish that the person is 18 years of age or older.
- (3) Kratom product. – Any product containing any part of the plant *Mitragyna speciosa*, whether growing or not, and any compound, manufacture, salt, derivative, mixture, or preparation of that plant, including, but not limited to, mitragynine or 7-hydroxymitragynine.

(b) Sale or Distribution to Persons Under the Age of 18 Years. – If any person shall distribute or aid, assist, or abet any other person in distributing kratom products to any person under the age of 18 years, or if any person shall purchase kratom products on behalf of a person under the age of 18 years, the person shall be guilty of a Class 2 misdemeanor; provided, however, that it shall not be unlawful to distribute kratom products to an employee when required in the performance of the employee's duties.

A person engaged in the sale of kratom products shall demand proof of age from a prospective purchaser if the person has reasonable grounds to believe that the prospective purchaser is under 18 years of age. Retail distributors of kratom products shall train their sales employees in the requirements of this law. Proof of any of the following shall be a defense to any action brought under this subsection:

- (1) The defendant demanded, was shown, and reasonably relied upon proof of age in the case of a retailer or any other documentary or written evidence of age in the case of a nonretailer.
- (2) The defendant relied on the electronic system established and operated by the Division of Motor Vehicles pursuant to G.S. 20-37.02.



1 (3) The defendant relied on a biometric identification system that demonstrated (i)
2 the purchaser's age to be at least the required age for the purchase and (ii) the
3 purchaser had previously registered with the seller or seller's agent a drivers
4 license, a special identification card issued under G.S. 20-37.7, a military
5 identification card, or passport showing the purchaser's date of birth and
6 bearing a physical description of the person named on the card.

7 (c) Internet Distribution of Kratom Products. – A person engaged in the distribution of
8 kratom products through the Internet or other remote sales methods shall perform an age
9 verification through an independent, third-party age verification service that compares information
10 available from public records to the personal information entered by the individual during the
11 ordering process to establish that the individual ordering the kratom products is 18 years of age or
12 older.

13 (d) Purchase by Persons Under the Age of 18 Years. – If any person under the age of 18
14 purchases or accepts receipt, or attempts to purchase or accept receipt, of kratom products, or
15 presents or offers to any person any purported proof of age which is false, fraudulent, or not
16 actually his or her own, for the purpose of purchasing or receiving any kratom product, the person
17 shall be guilty of an infraction; provided, however, that it shall not be unlawful for an employee to
18 purchase or accept receipt of kratom products when required in the performance of the employee's
19 duties.

20 (e) Sending or Assisting a Person Less Than 18 Years of Age to Purchase or Receive
21 Kratom Products. – If any person shall send a person less than 18 years of age any kratom product,
22 or if any person shall aid or abet a person who is less than 18 years of age in purchasing,
23 acquiring, or receiving or attempting to purchase, acquire, or receive kratom products, the person
24 shall be guilty of a Class 2 misdemeanor; provided, however, persons under the age of 18 may be
25 enlisted by police or local sheriffs' departments to test compliance if the testing is under the direct
26 supervision of that law enforcement department and written parental consent is provided; provided
27 further, that the Department of Health and Human Services shall have the authority, pursuant to a
28 written plan prepared by the Secretary of Health and Human Services, to use persons under 18
29 years of age in annual, random, unannounced inspections, provided that prior written parental
30 consent is given for the involvement of these persons and that the inspections are conducted for
31 the sole purpose of preparing a scientifically and methodologically valid statistical study of the
32 extent of success the State has achieved in reducing the availability of kratom products to persons
33 under the age of 21.

34 (f) Deferred Prosecution or Conditional Discharge. – Notwithstanding G.S. 15A-1341(a1)
35 or G.S. 15A-1341(a4), any person charged with a misdemeanor under this section shall be
36 qualified for deferred prosecution or a conditional discharge pursuant to Article 82 of Chapter 15A
37 of the General Statutes provided the defendant has not previously been placed on probation for a
38 violation of this section and so states under oath."

39 **SECTION 2.** The Legislative Research Commission shall conduct a study on the
40 impact on the public health of the use of kratom, including the existence of any legitimate
41 medicinal use, if any, of kratom and the impact on the public health of the use of nitrous oxide
42 "whippets." During the course of the study, the Commission shall seek input from the
43 Administrative Office of the Courts, the Office of the Chief Medical Examiner, and the Divisions
44 of Public Health and Mental Health, Developmental Disabilities, And Substance Abuse, within the
45 Department of Health and Human Services. The Legislative Research Commission shall report its
46 findings, together with any proposed legislation, to the 2017 Regular Session of the 2017 General
47 Assembly upon its convening.

48 **SECTION 3.** Section 1 of this act becomes effective December 1, 2016, and applies
49 to offenses committed on or after that date. The remainder of the act is effective when it becomes
50 law.