A BILL TO BE ENTITLED
AN ACT TO REGULATE THE SALE OF MITRAGYNINE AND
7-HYDROXYMITRAGYNINE, 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.
(3) The defendant relied on a biometric identification system that demonstrated (i) the purchaser's age to be at least the required age for the purchase and (ii) the purchaser had previously registered with the seller or seller's agent a driver's license, a special identification card issued under G.S. 20-37.7, a military identification card, or a passport showing the purchaser's date of birth and bearing a physical description of the person named on the card.

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

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

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

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

SECTION 2. G.S. 15A-150(a)(6) reads as rewritten:

"§ 15A-150. Notification requirements.

(a) Notification to AOC. – The clerk of superior court in each county in North Carolina shall, as soon as practicable after each term of court, file with the Administrative Office of the Courts the names of the following:

... (6) Persons granted a dismissal upon completion of a conditional discharge under G.S. 14-50.29, 14-204, 14-313(f), 14-313.1(f), 15A-1341(a4), 90-96, or 90-113.14."

SECTION 3. The Legislative Research Commission shall conduct a study of the impact on the public health of the use of kratom, including the existence of any legitimate medicinal use, if any, of kratom and the impact on the public health of the use of nitrous oxide "whippets." During the course of the study, the Commission shall seek input from the

SECTION 4. Section 1 of this act becomes effective December 1, 2016, and applies to offenses committed on or after that date. The remainder of the act is effective when it becomes law.