A BILL TO BE ENTITLED
AN ACT TO REGULATE THE SALE AND DISTRIBUTION OF HEMP-DERIVED CONSUMABLE PRODUCTS, TO BAN HEMP-DERIVED CONSUMABLE PRODUCTS FROM SCHOOL GROUNDS, AND TO REGULATE THE SALE AND DISTRIBUTION OF KRATOM PRODUCTS.

The General Assembly of North Carolina enacts:

PART I. REGULATION OF HEMP-DERIVED CONSUMABLE PRODUCTS

SECTION 1.(a) The General Statutes are amended by adding a new Chapter to read:
"Chapter 18D. Regulation of Hemp-Derived Consumable Products.

§ 18D-100. Definitions.
Unless the context requires otherwise, the following definitions apply in this Chapter:

(1) Batch. – The hemp-derived consumable product produced during a period of time under similar conditions and identified by a specific code that allows traceability.

(2) Cannabinoid. – Any phytocannabinoid found in hemp, including tetrahydrocannabinol (THC), tetrahydrocannabinolic acid (THCA), cannabidiol (CBD), cannabidiolic acid (CBDa), cannabinol (CBN), cannabigerol (CBG), cannabichromene (CBC), cannabicyclol (CBL), cannabivarin (CBV), tetrahydrocannabinvarin (THCV), cannabidivarin (CBDV), cannabichromevarin (CBCV), cannabigerovarin (CBGV), cannabigerol monomethyl ether (CBGM), cannabielsoin (CBE), or cannabicitran (CBT).

(4) Distributor. – A person or entity that delivers or sells hemp-derived consumable products for the purpose of distribution in commerce.

(5) Hemp. – As defined in G.S. 90-87.

(7) Hemp-derived consumable product. – A hemp product intended for human ingestion or inhalation that contains a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis or any hemp-derived psychoactive cannabinoid. This term does not include hemp products intended for topical application.
Hemp-derived psychoactive cannabinoid. – A synthetic cannabinoid derived from hemp, including delta-7 tetrahydrocannabinol, delta-8
tetrahydrocannabinol, and delta-10 tetrahydrocannabinol.

Hemp product. – As defined in G.S. 90-87.

Independent testing laboratory. – A laboratory that meets all of the following conditions:

a. Holds an ISO 17025 accreditation.
b. Is registered with the Drug Enforcement Administration (DEA) in accordance with 21 C.F.R. § 1301.13.
c. Does not have a direct or indirect interest in the entity whose product is being tested.
d. Does not have a direct or indirect interest in a facility that cultivates, processes, distributes, dispenses, or sells hemp-derived consumable products in this State or any other jurisdiction.
e. Has entered into a compliance agreement with the ALE Division to conduct tetrahydrocannabinol concentration sampling and testing using the high-performance chromatography (HPLC) testing method.

Ingestion. – The process of consuming hemp through the mouth, by swallowing into the gastrointestinal system or through tissue absorption.

Inhalation. – The process of consuming hemp into the respiratory system through the mouth or nasal passages.

License. – A hemp-derived consumable product license issued in accordance with this Chapter.

Manufacture. – To compound, blend, extract, infuse, cook, or otherwise manipulate hemp or a hemp-derived cannabinoid to make or prepare hemp-derived consumable products. This term includes the processes of extraction or infusion of hemp-derived cannabinoids and packaging, repackaging, labeling, and relabeling of hemp-derived consumable products.

Manufacturer. – Any person or entity that engages in the process of preparing or packaging of hemp-derived consumable products.

Seller. – Any person who sells a hemp-derived consumable product to the ultimate consumer of the product, including an online seller.

Serving. – A quantity of a hemp-derived consumable product reasonably suitable for a person’s use in a single day.

§ 18D-101. Sales restrictions on hemp-derived consumable products.

(a) Restrictions. – No person shall do any of the following:

(1) Knowingly, or having reason to know, sell a hemp-derived consumable product to a person who is under 18 years of age.
(2) Knowingly, or having reason to know, distribute samples of hemp-derived consumable products in or on a public street, sidewalk, or park.
(3) Engage in the business of selling a hemp-derived consumable product without a valid license issued in accordance with G.S. 18D-105.
(4) Knowingly, or having reason to know, sell at retail a hemp-derived consumable product that has a delta-9 tetrahydrocannabinol concentration of more than three-tenths of one percent (0.3%) on a dry weight basis.

(b) Civil Penalties. – For any violation of this section, the Department may take any of the following actions against a seller:

(1) For the first violation, impose a civil penalty of no more than five hundred dollars ($500.00).
(2) For the second violation within three years, impose a civil penalty of no more than seven hundred fifty dollars ($750.00).
(3) For the third violation within three years of the first violation, impose a civil penalty of no more than one thousand dollars ($1,000) and suspend the seller's license for up to 30 days.

(4) For a fourth or subsequent violation within three years of the first violation, impose a civil penalty of no more than two thousand dollars ($2,000) and either (i) suspend the seller's license for up to one year or (ii) revoke the seller's license.

In any case in which the Department is entitled to suspend or revoke a seller's license, the Department may accept from the seller an offer in compromise to pay a penalty of not more than three thousand dollars ($3,000). The Department may either accept a compromise or revoke a license, but not both. The Department may accept a compromise and suspend the license in the same case.

(c) Defenses. – It is a defense to a violation of subdivision (1) of subsection (a) of this section if the seller does any of the following:

(1) Shows that the purchaser produced a drivers license, a special identification card issued under G.S. 20-37.7 or issued by the state agency of any other state authorized to issue similar official state special identification cards for that state, a tribal enrollment card issued by a State or federally recognized Indian Tribe, a military identification card, or a passport showing the purchaser's age to be at least the required age for purchase and bearing a physical description of the person named on the card reasonably describing the purchaser.

(2) Produces evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least the required age.

(3) Shows that at the time of purchase, the purchaser utilized 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 drivers license, a special identification card issued under G.S. 20-37.7 or issued by the state agency of any other state authorized to issue similar official state special identification cards for that state, 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 document.

(d) Proceeds of Civil Penalty. – The clear proceeds of any civil penalty imposed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(e) Forfeiture. – Any product sold in violation of subdivision (4) of subsection (a) of this section shall be subject to forfeiture pursuant to the procedures set forth in G.S. 18D-108.

§ 18D-102. Offenses involving the purchase, attempted purchase, or possession of hemp-derived consumable products by a person under 18 years of age.

(a) It is unlawful for any person to give a hemp-derived consumable product to anyone less than 18 years old without the consent of the underaged person's parent or legal guardian.

(b) It is unlawful for a person less than 18 years old to purchase or attempt to purchase a hemp-derived consumable product.

(c) It is unlawful for any person to enter or attempt to enter a place where hemp-derived consumable products are sold or consumed, or to obtain or attempt to obtain hemp-derived consumable products, or to obtain or attempt to obtain permission to purchase hemp-derived consumable products, in violation of subsection (b) of this section, by using or attempting to use any of the following:

(1) A fraudulent or altered drivers license.

(2) A fraudulent or altered identification document other than a drivers license.

(3) A drivers license issued to another person.
(4) An identification document other than a drivers license issued to another person.
(5) Any other form or means of identification that indicates or symbolizes that the person is not prohibited from purchasing or possessing a hemp-derived consumable product under this section.
(d) It is unlawful for any person to permit the use of the person's drivers license or any other form of identification of any kind issued or given to the person by any other person who violates or attempts to violate subsection (b) of this section.

(e) Penalties. –
(1) Any person less than 18 years old who violates this section is guilty of a Class 2 misdemeanor.
(2) Any person at least 18 years old who violates this section is guilty of a Class 1 misdemeanor.
(3) Aiding or abetting a violation of this section shall be punished as provided in subdivisions (1) and (2) of this subsection, and all other provisions of this section shall apply to that offense.

(f) Nothing in this section prohibits an under age person from selling, transporting, or possessing hemp-derived consumable products in the course of employment, if the employment of the person for that purpose is lawful under applicable youth employment statutes.

§ 18D-103. Offenses involving the manufacture and distribution of hemp-derived consumable products.
(a) Offenses. – It is unlawful for a manufacturer or distributor to do any of the following:
(1) Knowingly, or having reason to know, distribute samples of a hemp-derived consumable product in or on a public street, sidewalk, or park.
(2) Engage in the business of manufacturing or distributing a hemp-derived consumable product without a valid license issued in accordance with G.S. 18D-105.
(3) Knowingly, or having reason to know, manufacture or distribute a hemp-derived consumable product that has a delta-9 tetrahydrocannabinol concentration of more than three-tenths of one percent (0.3%) on a dry weight basis.
(b) Criminal Penalties. – A violation of this section is a Class A1 misdemeanor.
(c) Civil Penalties. – In addition to any criminal punishment authorized by this section, a violation of this section shall result in the Department taking one or more of the following actions against the licensee:
(1) Suspend the licensee's license for a specified period of time not longer than three years.
(2) Revoke the licensee's license.
(3) Impose conditions on the operating hours of the licensee's business.
(4) Impose civil penalties as follows:
   a. For a first violation, impose a civil penalty of no more than one thousand dollars ($1,000).
   b. For a second violation within three years, impose a civil penalty of no more than five thousand dollars ($5,000).
   c. For a third violation within three years of the first violation, impose a civil penalty of no more than seven thousand five hundred dollars ($7,500).
(d) Compromise. – In any case in which the Department is entitled to suspend or revoke a seller's license, the Department may accept from the seller an offer in compromise to pay a penalty of not more than eight thousand dollars ($8,000). The Department may either accept a
compromise or revoke a license, but not both. The Department may accept a compromise and
suspend the license in the same case.

(e) Proceeds of Civil Penalty. – The clear proceeds of any civil penalty imposed under
this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with
G.S. 115C-457.2.

(f) Defense. – It is a defense to a violation of subdivision (3) of subsection (a) of this
section if the manufacturer does all of the following:

(1) Recalls all hemp-derived consumable products from the same batch as the
product on which the violation is based.

(2) Has samples of the batch tested by an independent testing laboratory. The
sample size required for testing pursuant to this subdivision shall be five times
the number of units required pursuant to G.S. 18D-106(d) based on the size of
the batch at production, regardless of the number of units that are able to be
recalled.

(3) Provides certified results from the independent testing laboratory indicating
that the sample tested does not contain a delta-9 tetrahydrocannabinol
concentration of more than three-tenths of one percent (0.3%) on a dry weight
basis.

(g) Forfeiture. – Any product sold in violation of subdivision (3) of subsection (a) of this
section shall be subject to forfeiture pursuant to the procedures set forth in G.S. 18D-108.

§ 18D-104. Enforcement.

(a) Authority. – The ALE Division shall enforce the provisions of this Chapter in a
manner that may reasonably be expected to reduce the extent to which hemp-derived consumable
products are sold or distributed to persons under 18 years of age and shall conduct random,
unannounced inspections at locations where hemp-derived consumable products are sold or
distributed to ensure compliance with the provisions of this Chapter.

(b) Report. – Beginning January 1, 2025, the ALE Division shall submit an annual report
to the General Assembly describing in detail the ALE Division's enforcement efforts under this
Chapter. The ALE Division shall also make the report required under this subsection
available on the ALE Division's website.

§ 18D-105. Licensing for manufacturers, distributors, and sellers of hemp-derived
consumable products.

(a) Requirement. – A person or entity that is in the business of manufacturing,
distributing, or selling hemp-derived consumable products in this State shall obtain the
appropriate license from the Department authorizing the person or entity to engage in that
business. The license shall be obtained prior to the commencement of business or by July 1, 2024,
whichever is later.

(b) Qualifications. – In order to obtain and maintain a license under subsection (a) of this
section, a person shall meet all of the following criteria:

(1) Be at least 18 years old.

(2) Submit to the Department any information determined by the Department to
be necessary for the efficient enforcement of this Chapter.

(3) Have not been convicted of a felony relating to a controlled substance within
10 years in any state or federal jurisdiction.

(4) Consent to reasonable inspection and the taking of reasonable samples by the
ALE Division of the person's inventory of hemp-derived consumable
products.

(5) Be current in filing all applicable tax returns to the State and in payment of all
taxes, interest, and penalties collectable pursuant to G.S. 105-241.22.

(6) Submit to the Department the appropriate fee as follows:
For a license to manufacture hemp-derived consumable products, a fee of five thousand dollars ($5,000).

For a license to distribute hemp-derived consumable products, a fee of two thousand five hundred dollars ($2,500).

For a license to sell hemp-derived consumable products at a retail location, a fee of one hundred dollars ($100.00) for each location. However, a single entity with more than 25 locations shall not pay more than two thousand five hundred dollars ($2,500) and shall submit a list of all locations to the Department.

For a license to sell hemp-derived consumable products online, to be delivered to a person within this State, a fee of one hundred dollars ($100.00) for each internet website offering delivery in this State. However, a single entity with more than 25 internet websites shall not pay more than two thousand five hundred dollars ($2,500) and shall submit a list of all internet websites to the Department.

A license issued pursuant to this section is valid for a period of one year and may be renewed annually. Prior to renewal, licensees shall submit to the Department their most recent inspection report and the appropriate renewal fee as follows:

1. For a license to manufacture hemp-derived consumable products, a renewal fee of one thousand dollars ($1,000).
2. For a license to distribute hemp-derived consumable products, a renewal fee of seven hundred fifty dollars ($750.00).
3. For a license to sell hemp-derived consumable products at a retail location, a renewal fee in the same amount as the initial licensing fees established under subsection (b) of this section.

The Department shall have authority to adopt, amend, and repeal rules to carry out the provisions of this Chapter. Those rules shall become effective when adopted pursuant to Chapter 150B of the General Statutes.

The revenue collected from fees established under this section shall be remitted to the ALE Division to be used to cover costs incurred by the ALE Division in enforcing the provisions of this Chapter. To the extent the funds described in this subsection are deemed unappropriated, the funds are hereby appropriated for the purpose set forth in this subsection.

Notwithstanding the provisions of this section, or any other provision of this Chapter requiring a license pursuant to this section, a business that has a permit issued pursuant to G.S. 18B-1001 or G.S. 90-85.21 is not required to obtain the license under this section for the purpose of making retail sales of hemp-derived consumable products pursuant to the provisions of this Chapter. A business exempted from the licensing requirements by this subsection shall be subject to all other requirements of this Chapter.

§ 18D-106. Testing prior to distribution.

A hemp-derived consumable product shall be tested after being manufactured and prior to distribution to determine the presence and amounts of any of the following:

1. Cannabinoids.
2. Heavy metals.
5. Pesticides.
6. Residual solvents.
7. Any other controlled substance.
(b) Laboratory Qualifications. – A manufacturer or distributor shall contract with an independent testing laboratory to provide the testing required under subsection (a) of this section.

(c) Testing Method. – A laboratory providing testing required under subsection (a) of this section shall use high-performance liquid chromatography for any separation and measurement required in the testing.

(d) Batch Testing. – A sample of each batch manufactured shall undergo the testing required by subsection (a) of this section and shall obtain a certificate of analysis by a third-party laboratory qualified under subsection (b) of this section. The size of sample required to be tested shall be determined by the size of the batch as follows:

(1) For a batch containing 1 to 999 units, the required sample size is one unit.

(2) For a batch containing 1,000 to 4,999 units, the required sample size is two units.

(3) For a batch containing 5,000 to 9,999 units, the required sample size is three units.

(4) For a batch containing 10,000 or more units, the required sample size is five units.

(e) Expiration Date. – An expiration date on the label of a hemp-derived consumable product shall be in conformance with applicable federal law.

(f) Department Duties. – The Department shall do all of the following:

(1) Adopt rules specifying pass or fail action levels for safety and toxicity with respect to the testing required under subsection (a) of this section.

(2) Maintain and post on its website a registry of testing laboratories that are qualified to test intermediate manufactured material and finished hemp-derived consumable products.

(3) Develop an application and process to determine qualifying laboratories to be listed on the Department’s website. The application shall require a potentially qualifying laboratory to submit a sample certificate of analysis issued by the applying laboratory.

§ 18D-107. Additional requirements and restrictions for hemp-derived consumable products.

(a) Packaging Requirements. – A hemp-derived consumable product that is sold in this State shall meet both of the following requirements:

(1) The product shall satisfy the child-resistant effectiveness standards under 16 C.F.R. § 1700.15(b)(1) when tested in accordance with the requirements of 16 C.F.R. § 1700.20.

(2) The product shall be labeled with all of the following:

a. A list of ingredients and possible allergens and a nutritional fact panel.

b. The words "CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CERTAIN CANNABINOIDs IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE HEAVY MACHINERY. PLEASE USE EXTREME CAUTION."

c. A statement that the product is not approved for any medical use by the United States Food and Drug Administration.

d. The words "KEEP OUT OF REACH OF CHILDREN. CONSULT YOUR PHYSICIAN BEFORE USE IF YOU ARE PREGNANT, BREASTFEEDING, OR TAKING ANY MEDICATIONS."

e. If the product is ingestible, the amount of hemp-derived cannabinoid in each serving of the product, measured in milligrams.

f. The total amount of hemp-derived cannabinoid in the entire package, measured in milligrams.
g. The net weight of the product.

h. A code that can be scanned to access a website providing the product's batch number, date received, date of completion, and method of analysis for the testing required under G.S. 18D-106.

i. An expiration date in accordance with applicable federal law.

(b) Advertising Restrictions. – A manufacturer or distributor of a hemp-derived consumable product shall not advertise, market, or offer for sale the product by using, in the labeling or design of the product or product packaging or in advertising or marketing materials for the product trade dress, trademarks, branding, or other related materials, any imagery or scenery that depicts or signifies characters or symbols known to appeal primarily to persons under 18 years of age, including, but not limited to, superheroes, comic book characters, video game characters, television show characters, movie characters, mythical creatures, and unicorns.

(c) Ingestible Product Restrictions. – Any hemp-derived consumable product intended for ingestion shall not do either of the following:

(1) Be sold in a serving that contains more than 200 milligrams, in the aggregate, of one or more hemp-derived cannabinoids.

(2) Be formed in the shape of an animal or cartoon character.

§ 18D-108. Forfeiture of property.

For any property subject to forfeiture that has not previously been seized pursuant to an arrest or search, a law enforcement officer may apply to the court for an order authorizing seizure of that property. An order for seizure may be issued only after criminal process has been issued for a violation of G.S. 18D-101(a)(4) or G.S. 18D-103(a)(3) in connection with that property. The order shall describe the property to be seized and state the facts establishing probable cause to believe that the property is subject to forfeiture.


Nothing in this Chapter shall be construed to do any of the following:

(1) Permit a person to undertake any task under the influence of a hemp-derived consumable product when doing so would constitute negligence or professional malpractice.

(2) Permit a person to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, motorized watercraft, or any other vehicle while under the influence of a hemp-derived consumable product.

(3) Require an employer to accommodate the use of a hemp-derived consumable product in a workplace or an employee working while under the influence of a hemp-derived consumable product.

(4) Require an individual or establishment in lawful possession of property to admit a guest, client, customer, or other visitor who is impaired as a result of the person's use of a hemp-derived consumable product.

(5) Exempt a person from prosecution for a criminal offense related to impairment or intoxication resulting from the use of a hemp-derived consumable product or relieve a person from any requirement under law to submit to a breath, blood, urine, or other test to detect the presence of a controlled substance.

(6) Limit the ability of an employer to establish, continue, or enforce a drug-free workplace program or policy.

(7) Create a cause of action against an employer for wrongful discharge or discrimination.

(8) Allow the possession, sale, manufacture, or distribution of any substance that is otherwise prohibited by Article 5 of Chapter 90 of the General Statutes."

SECTION 1.(b) G.S. 18B-500(b) reads as rewritten:
(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an alcohol law-enforcement agent shall have authority to arrest and take other investigatory and enforcement actions for any criminal offense:

(1) Occurring, encountered, or otherwise discovered on the premises of, or elsewhere when the conduct relates to, a location under application for or holding a permit issued by the North Carolina Alcoholic Beverage Control Commission or the North Carolina Education Lottery Commission.

(1a) Occurring, encountered, or otherwise discovered on the premises of, or elsewhere when the conduct relates to a location holding a license issued pursuant to Chapter 18D of the General Statutes.

"...

SECTION 1.(c) This section becomes effective July 1, 2024, and applies to all hemp-derived consumable products possessed, sold, distributed, or manufactured on or after that date, and to all offenses committed on or after that date.

PART II. TECHNICAL CHANGES

SECTION 2.(a) G.S. 90-94.1 is repealed.

SECTION 2.(b) This section becomes effective July 1, 2023, and applies to offenses committed on or after that date.

PART III. APPROPRIATION

SECTION 3.(a) The following sums are appropriated from the General Fund to the Department of Public Safety in nonrecurring funds for the 2023-2024 fiscal year:

(1) Two million dollars ($2,000,000) to be used to hire 20 full-time equivalent positions in the Alcohol Law Enforcement Division of the Department of Public Safety (ALE Division) to serve as Special Agents and assist in implementing the provisions of this act. Upon exhaustion of these funds, the fees remitted to the ALE Division pursuant to G.S. 18D-105, as enacted by this act, shall be used to support the positions on a recurring basis.

(2) Five hundred thousand dollars ($500,000) to be used for any other costs incurred by the Department of Revenue and the ALE Division from implementing the provisions of this act.

SECTION 3.(b) Any nonrecurring funds appropriated by this section for the 2023-2024 fiscal year that remain unexpended at the end of the 2023-2024 fiscal year shall not revert at the end of the 2023-2024 fiscal year and shall remain available for expenditure for the purpose for which the funds were appropriated until the funds are expended.

SECTION 3.(c) This section becomes effective July 1, 2023.

PART IV. PROHIBIT USE OF HEMP-DERIVED CONSUMABLE PRODUCTS FROM BEING USED ON SCHOOL GROUNDS

SECTION 4.(a) The title of Article 29A of Chapter 115C of the General Statutes reads as rewritten:

"Article 29A.

"Policy Prohibiting Use Of Tobacco and Hemp-Derived Consumable Products."

SECTION 4.(b) G.S. 115C-407 reads as rewritten:

"§ 115C-407. Policy prohibiting tobacco use in school buildings, grounds, and at school-sponsored events.

(a) Not later than August 1, 2008, local boards of education Governing bodies of public school units shall adopt, implement, and enforce a written policy prohibiting at all times the use of any tobacco product by any person in school buildings, in school facilities, on school campuses, and in or on any other school property owned or operated by the local school
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administrative public school unit. The policy shall further prohibit the use of all tobacco products by persons attending a school-sponsored event at a location not listed in this subsection when in the presence of students or school personnel or in an area where smoking is otherwise prohibited by law.

(b) The policy shall include at least all of the following elements:

(1) Adequate notice to students, parents, the public, and school personnel of the policy.

(2) Posting of signs prohibiting at all times the use of tobacco products by any person in and on school property.

(3) Requirements that school personnel enforce the policy.

(c) The policy may permit tobacco products to be included in instructional or research activities in public school buildings if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not include smoking, chewing, or otherwise ingesting the tobacco product.

(d) The North Carolina Health and Wellness Trust Fund Commission shall work with local boards of education—governing bodies of public school units—to provide assistance with the implementation of this policy including providing information regarding smoking cessation and prevention resources. Nothing in this section, G.S. 143-595 through G.S. 143-601, or any other section prohibits a governing body of a public school unit from adopting and enforcing a more restrictive policy on the use of tobacco in school buildings, in school facilities, on school campuses, or at school-related or school-sponsored events, and in or on other school property.

SECTION 4.(c) Article 29A of Chapter 115C of the General Statutes is amended by adding a new section to read:

§ 115C-407.1. Policy prohibiting use of hemp-derived consumable products in school buildings, grounds, and at school-sponsored events.

(a) For purposes of this section, the term "hemp-derived consumable product" is defined as in G.S. 18D-100.

(b) Governing bodies of public school units shall adopt a written policy prohibiting at all times the use of any hemp-derived consumable product by any person in school buildings, in school facilities, on school campuses, and in or on any other school property owned or operated by the public school unit. The policy shall further prohibit the use of all hemp-derived consumable products by persons attending a school-sponsored event at a location not listed in this subsection when in the presence of students or school personnel or in an area where the use of hemp-derived consumable products is otherwise prohibited by law.

(c) The policy shall include at least all of the following elements:

(1) Adequate notice to students, parents, the public, and school personnel of the policy.

(2) Posting of signs prohibiting at all times the use of hemp-derived consumable products by any person in and on school property.

(3) Requirements that school personnel enforce the policy.

(d) The policy may permit hemp-derived consumable products to be included in instructional or research activities in public school buildings if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not include smoking, chewing, or otherwise ingesting or inhaling the hemp-derived consumable product.

(e) Nothing in this section, G.S. 143-595 through G.S. 143-601, or any other section prohibits a governing body of a public school unit from adopting and enforcing a more restrictive policy on the use of hemp-derived consumable products in school buildings, in school facilities, on school campuses, or at school-related or school-sponsored events, and in or on other school property.
SECTION 4.(d) G.S. 115C-218.75 is amended by adding a new subsection to read:

"(a1) Policies Prohibiting Use of Tobacco and Hemp-Derived Consumable Products. – A charter school shall adopt policies prohibiting use of tobacco and hemp-derived consumable products in school buildings, grounds, and at school-sponsored events in accordance with Article 29A of this Chapter."

SECTION 4.(e) G.S. 115C-238.66 is amended by adding a new subdivision to read:

"(7h) Policies prohibiting use of tobacco and hemp-derived consumable products. – A regional school shall adopt policies prohibiting use of tobacco and hemp-derived consumable products in school buildings, grounds, and at school-sponsored events in accordance with Article 29A of this Chapter."

SECTION 4.(f) G.S. 115C-150.12C is amended by adding a new subdivision to read:

"(15a) Policies prohibiting use of tobacco and hemp-derived consumable products. – The board of trustees shall adopt policies prohibiting use of tobacco and hemp-derived consumable products in school buildings, grounds, and at school-sponsored events in accordance with Article 29A of Chapter 115C of the General Statutes."

SECTION 4.(g) G.S. 116-239.8(b) is amended by adding a new subdivision to read:

"(9a) Policies prohibiting use of tobacco and hemp-derived consumable products. – The chancellor shall adopt policies prohibiting use of tobacco and hemp-derived consumable products in school buildings, grounds, and at school-sponsored events in accordance with Article 29A of Chapter 115C of the General Statutes."

SECTION 4.(h) Subdivision (21) of Section 6(d) of S.L. 2018-32 reads as rewritten:

"(21) Article 29A, Policy Prohibiting Use of Tobacco and Hemp-Derived Consumable Products."

SECTION 4.(i) This section is effective when it becomes law and applies beginning with the 2023-2024 school year.

PART V. REGULATION OF KRATOM

SECTION 5.(a) The General Statutes are amended by adding a new Chapter to read:

"Chapter 18E.

"Regulation of Kratom Products and Processors."

§ 18E-100. Definitions.

Unless the context requires otherwise, the following definitions apply in this Chapter:

(1) Department. – The Department of Revenue.
(2) Distributor. – Any person that delivers or sells kratom products for the purpose of distribution in commerce.
(3) Kratom product. – Any consumer commodity containing either mitragynine or 7-hydroxymitragynine or both, extracted from the leaf of the plant mitragyna speciosa.
(4) Processor. – Any person that prepares or manufactures kratom products in the State, or advertises, represents, or holds itself out as preparing or manufacturing kratom products in the State.
(5) Seller. – Any person who sells a kratom product to consumers, including an online seller.

§ 18E-101. Sales restrictions on kratom products.

(a) Restriction. – No person shall do any of the following:

(1) Knowingly, or having reason to know, sell a kratom product to a person under 18 years of age.
(2) Knowingly, or having reason to know, distribute samples of kratom products in or on a public street, sidewalk, or park.
Engage in the business of selling a kratom product without a valid license issued in accordance with G.S. 18E-105.

Knowingly, or having reason to know, sell at retail a kratom product that violates the provisions of G.S. 18E-106.

Civil Penalties. – For any violation of this section, the Department may take any of the following actions against a seller:

For the first violation, impose a civil penalty of no more than five hundred dollars ($500.00).

For the second violation within three years, impose a civil penalty of no more than seven hundred fifty dollars ($750.00).

For the third violation within three years of the first violation, impose a civil penalty of no more than one thousand dollars ($1,000) and suspend the seller’s license for up to 30 days.

For a fourth or subsequent violation within three years of the first violation, impose a civil penalty of no more than two thousand dollars ($2,000) and either (i) suspend the seller’s license for up to one year or (ii) revoke the seller’s license.

In any case in which the Department is entitled to suspend or revoke a seller’s license, the Department may accept from the seller an offer in compromise to pay a penalty of not more than three thousand dollars ($3,000). The Department may either accept a compromise or revoke a license, but not both. The Department may accept a compromise and suspend the license in the same case.

Defenses. – It is a defense to a violation of subdivision (1) of subsection (a) of this section if the seller does any of the following:

Shows that the purchaser produced a drivers license, a special identification card issued under G.S. 20-37.7 or issued by the state agency of any other state authorized to issue similar official state special identification cards for that state, a tribal enrollment card issued by a State or federally recognized Indian Tribe, a military identification card, or a passport showing the purchaser’s age to be at least the required age for purchase and bearing a physical description of the person named on the card reasonably describing the purchaser.

(2) Produces evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least the required age.

(3) Shows that at the time of purchase, the purchaser utilized 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 drivers license, a special identification card issued under G.S. 20-37.7 or issued by the state agency of any other state authorized to issue similar official state special identification cards for that state, 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 document.

Proceeds of Civil Penalty. – The clear proceeds of any civil penalty imposed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

Forfeiture. – Any product sold in violation of subdivision (4) of subsection (a) of this section shall be subject to forfeiture pursuant to the procedures set forth in G.S. 18E-107.

§ 18E-102. Offenses involving the purchase, attempted purchase, or possession of kratom products by a person under 18 years of age.

(a) It is unlawful for any person to give a kratom product to anyone less than 18 years old without the consent of the underaged person’s parent or legal guardian.
It is unlawful for a person less than 18 years old to purchase or attempt to purchase a kratom product.

It is unlawful for any person to enter or attempt to enter a place where kratom products are sold or consumed, or to obtain or attempt to obtain kratom products, or to obtain or attempt to obtain permission to purchase kratom products, in violation of subsection (b) of this section, by using or attempting to use any of the following:

1. A fraudulent or altered drivers license.
2. A fraudulent or altered identification document other than a drivers license.
3. A drivers license issued to another person.
4. An identification document other than a drivers license issued to another person.
5. Any other form or means of identification that indicates or symbolizes that the person is not prohibited from purchasing or possessing a kratom product under this section.

It is unlawful for any person to permit the use of the person's drivers license or any other form of identification of any kind issued or given to the person by any other person who violates or attempts to violate subsection (b) of this section.

Penalties. –

1. Any person less than 18 years old who violates this section is guilty of a Class 2 misdemeanor.
2. Any person at least 18 years old who violates this section is guilty of a Class 1 misdemeanor.
3. Aiding or abetting a violation of this section shall be punished as provided in subdivisions (1) and (2) of this subsection, and all other provisions of this section shall apply to that offense.
4. Nothing in this section prohibits an underage person from selling, transporting, or possessing kratom products in the course of employment, if the employment of the person for that purpose is lawful under applicable youth employment statutes.

§ 18E-103. Offenses involving the manufacture and distribution of kratom products.

(a) Offenses. – It is unlawful for a manufacturer or distributor to do any of the following:

1. Knowingly, or having reason to know, distribute samples of a kratom product in or on a public street, sidewalk, or park.
2. Engage in the business of manufacturing or distributing a kratom product without a valid license issued in accordance with G.S. 18E-105.
3. Knowingly, or having reason to know, manufacture or distribute a kratom product that violates the provisions of G.S. 18E-106.

(b) Criminal Penalties. – A violation of this section is a Class A1 misdemeanor.

(c) Civil Penalties. – In addition to any criminal punishment authorized by this section, a violation of this section shall result in the Department taking one or more of the following actions against the licensee:

1. Suspend the licensee's license for a specified period of time not longer than three years.
2. Revoke the licensee's license.
3. Impose conditions on the operating hours of the licensee's business.
4. Impose civil penalties as follows:
   a. For a first violation, impose a civil penalty of no more than one thousand dollars ($1,000).
   b. For a second violation within three years, impose a civil penalty of no more than five thousand dollars ($5,000).
c. For a third violation within three years of the first violation, impose a civil penalty of no more than seven thousand five hundred dollars ($7,500).

(d) Compromise. – In any case in which the Department is entitled to suspend or revoke a seller's license, the Department may accept from the seller an offer in compromise to pay a penalty of not more than eight thousand dollars ($8,000). The Department may either accept a compromise or revoke a license, but not both. The Department may accept a compromise and suspend the license in the same case.

(e) Proceeds of Civil Penalty. – The clear proceeds of any civil penalty imposed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(f) Forfeiture. – Any product sold in violation of subdivision (3) of subsection (a) of this section shall be subject to forfeiture pursuant to the procedures set forth in G.S. 18D-108.

§ 18E-104. Enforcement.

(a) Authority. – The ALE Division shall enforce the provisions of this Chapter in a manner that may reasonably be expected to reduce the extent to which kratom products are sold or distributed to persons under 18 years of age and shall conduct random, unannounced inspections at locations where kratom products are sold or distributed to ensure compliance with the provisions of this Chapter.

(b) Report. – Beginning January 1, 2025, the ALE Division shall submit an annual report to the General Assembly describing in detail the ALE Division's enforcement efforts under this Chapter. The ALE Division shall also make the report required under this subsection available on the ALE Division's website.

§ 18E-105. Licensing for manufacturers, distributors, and sellers of kratom products.

(a) Requirement. – Any person or entity that is in the business of manufacturing, distributing, or selling kratom products in this State shall obtain the appropriate license from the Department authorizing the person or entity to engage in that business. The license shall be obtained prior to the commencement of business or by July 1, 2024, whichever is later.

(b) Qualifications. – In order to obtain and maintain a license under subsection (a) of this section, a person shall meet all of the following criteria:

(1) Be at least 18 years old.

(2) Submit to the Department any information determined by the Department to be necessary for the efficient enforcement of this Chapter.

(3) Have not been convicted of a felony relating to a controlled substance within 10 years in any state or federal jurisdiction.

(4) Consent to reasonable inspection and the taking of reasonable samples by the ALE Division of the person's inventory of kratom products.

(5) Be current in filing all applicable tax returns to the State and in payment of all taxes, interest, and penalties collectable pursuant to G.S. 105-241.22.

(6) Submit to the Department the appropriate fee as follows:

a. For a license to manufacture kratom products, a fee of five thousand dollars ($5,000).

b. For a license to distribute kratom products, a fee of two thousand five hundred dollars ($2,500).

c. For a license to sell kratom products at a retail location, a fee of one hundred dollars ($100.00) for each location. However, a single entity with more than 25 locations shall not pay more than two thousand five hundred dollars ($2,500) and shall submit a list of all locations to the Department.

d. For a license to sell kratom products online, to be delivered to a person within this State, a fee of one hundred dollars ($100.00) for each...
internet website offering delivery in this State. However, a single
entity with more than 25 internet websites shall not pay more than two
thousand five hundred dollars ($2,500) and shall submit a list of all
internet websites to the Department.

(c) Duration and Renewal. – A license issued pursuant to this section is valid for a period
of one year and may be renewed annually. Prior to renewal, licensees shall submit to the
Department their most recent inspection report and the appropriate renewal fee as follows:

(1) For a license to manufacture kratom products, a renewal fee of one thousand
dollars ($1,000).
(2) For a license to distribute kratom products, a renewal fee of seven hundred
fifty dollars ($750.00).
(3) For a license to sell kratom products at a retail location, a renewal fee in the
same amount as the initial licensing fees established under subsection (b) of
this section.

(d) Additional Requirements for Processors and Distributors. – The Department shall
require all processors and distributors to register all kratom products offered for sale by the
processor or distributor, in the State, with the Department. The registration shall include any
information that the Department deems necessary to ensure compliance with the provisions of
this Chapter.

(e) Adverse Event Reports. – The Department shall require a processor or distributor,
upon receipt of any adverse event report related to a product manufactured or distributed by that
processor or distributor, to submit a copy of the adverse event report, as required under 21 U.S.C.
§ 379aa-1, to the Department within 30 days. If the processor or distributor does not submit a
copy of the adverse event report within the time allotted, the registration for that product shall be
revoked and the license for that processor or distributor shall be suspended or revoked, at the
discretion of the Department.

(f) Rules. – The Department shall have authority to adopt, amend, and repeal rules to
carry out the provisions of this Chapter. Those rules shall become effective when adopted
pursuant to Chapter 150B of the General Statutes.

(g) Distribution of Revenue. – The revenue collected from fees established under this
section shall be remitted to the ALE Division to be used to cover costs incurred by the ALE
Division in enforcing the provisions of this Chapter. To the extent the funds described in this
subsection are deemed unappropriated, the funds are hereby appropriated for the purpose set forth
in this subsection.

(h) Exception. – Notwithstanding the provisions of this section, or any other provision of
this Chapter requiring a license pursuant to this section, a business that has a permit issued
pursuant to G.S. 18B-1001 or G.S. 90-85.21 is not required to obtain the license under this
section for the purpose of making retail sales of kratom products pursuant to the provisions of
this Chapter. A business exempted from the licensing requirements by this subsection shall be
subject to all other requirements of this Chapter.

§ 18E-106. Kratom product limitations.

A kratom processor, distributor, or seller shall not prepare, manufacture, distribute, or offer
for sale any of the following:

(1) A kratom product that is adulterated with a dangerous non-kratom substance.
A kratom product is adulterated with a dangerous non-kratom substance if the
kratom product is mixed or packed with a non-kratom substance and that
substance affects the quality or strength of the kratom product to such a degree
as to render the kratom product injurious to a consumer.

(2) A kratom product that is contaminated with a dangerous non-kratom
substance. A kratom product is contaminated with a dangerous non-kratom
substance if the kratom product contains a poisonous or otherwise deleterious
non-kratom ingredient, including any controlled substance regulated by Article 5 of Chapter 90 of the General Statutes.

(3) A kratom extract that contains levels of residual solvents higher than is allowed in the U.S. Pharmacopeia 467.

(4) A kratom product containing a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than one percent (1%) of the overall alkaloid composition of the product.

(5) A kratom product containing any synthetic alkaloids, including synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compounds of the kratom plant.

(6) A kratom product that does not provide adequate labeling directions necessary for safe use by consumers, including a recommended serving size, the recommended number of servings per day, and the number of servings in the package that is sold.

"§ 18E-107. Forfeiture of property.
For any property subject to forfeiture that has not previously been seized pursuant to an arrest or search, a law enforcement officer may apply to the court for an order authorizing seizure of that property. An order for seizure may be issued only after criminal process has been issued for a violation of G.S. 18E-101(a)(4) or G.S. 18E-103(a)(3) in connection with that property. The order shall describe the property to be seized and shall state the facts establishing probable cause to believe that the property is subject to forfeiture.

Nothing in this Chapter shall be construed to do any of the following:

(1) Permit a person to undertake any task under the influence of a kratom product when doing so would constitute negligence or professional malpractice.

(2) Permit a person to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, motorized watercraft, or any other vehicle while under the influence of a kratom product.

(3) Require an employer to accommodate the use of a kratom product in a workplace or an employee working while under the influence of a kratom product.

(4) Require an individual or establishment in lawful possession of property to admit a guest, client, customer, or other visitor who is impaired as a result of the person’s use of a kratom product.

(5) Exempt a person from prosecution for a criminal offense related to impairment or intoxication resulting from the use of a kratom product or relieve a person from any requirement under law to submit to a breath, blood, urine, or other test to detect the presence of a controlled substance.

(6) Limit the ability of an employer to establish, continue, or enforce a drug-free workplace program or policy.

(7) Create a cause of action against an employer for wrongful discharge or discrimination.

(8) Allow the possession, sale, manufacture, or distribution of any substance that is otherwise prohibited by Article 5 of Chapter 90 of the General Statutes."

SECTION 5.(b) G.S. 18B-500(b), as amended by Section 1 of this act, reads as rewritten:

"(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an alcohol law-enforcement agent shall have authority to arrest and take other investigatory and enforcement actions for any criminal offense:

(1) Occurring, encountered, or otherwise discovered on the premises of, or elsewhere when the conduct relates to, a location under application for or
holding a permit issued by the North Carolina Alcoholic Beverage Control
Commission or the North Carolina Education Lottery Commission.

(1a) Occurring, encountered, or otherwise discovered on the premises of, or
elsewhere when the conduct relates to a location holding a license issued
pursuant to Chapter 18D or Chapter 18E of the General Statutes.

"..."

SECTION 5.(c) This section becomes effective July 1, 2024, and applies to all
kratom products possessed, sold, distributed, processed, or manufactured on or after that date and
to all offenses committed on or after that date.

PART VI. MISCELLANEOUS

SECTION 6.(a) The Department of Revenue shall establish guidance to parties
regulated by the provisions of Chapter 18D and Chapter 18E of the General Statutes, as enacted
by this act. The Department shall adopt and amend rules prior to July 1, 2024, however, no rule
may become effective until on or after that date. The Department shall provide and accept
applications for licensure, and issue licenses in accordance with Chapter 18D and Chapter 18E
of the General Statutes, as enacted by this act, prior to July 1, 2024, in order that licensees may
be in compliance with the provisions of Chapter 18D and Chapter 18E of the General Statutes on
July 1, 2024. No license issued by the Department shall become effective prior to July 1, 2024.
The Department of Revenue may use the procedure set forth in G.S. 150B-21.1 to adopt or amend
any rules as required under this section.

SECTION 6.(b) The Department of Public Safety shall adopt rules, or amend their
rules, consistent with the provisions of this act. The Department of Public Safety may use the
procedure set forth in G.S. 150B-21.1 to adopt or amend any rules as required under this section.

SECTION 6.(c) Prosecutions for offenses committed before the effective date of this
act are not abated or affected by this act, and the statutes that would be applicable but for this act
remain applicable to those prosecutions.

SECTION 6.(d) If any provision of this act or its application is held invalid, the
invalidity does not affect other provisions or applications of this act that can be given effect
without the invalid provisions or application and, to this end, the provisions of this act are
severable.

SECTION 6.(e) Except as otherwise provided, this act is effective when it becomes
law.