

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

2

HOUSE BILL 563
Committee Substitute Favorable 6/21/23

Short Title: Regulate Hemp-Derived Consumables & Kratom.

(Public)

Sponsors:

Referred to:

April 5, 2023

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

6 The General Assembly of North Carolina enacts:

7
8 **PART I. REGULATION OF HEMP-DERIVED CONSUMABLE PRODUCTS**

9 **SECTION 1.(a)** The General Statutes are amended by adding a new Chapter to read:

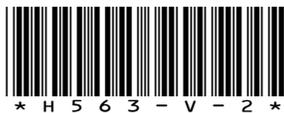
10 **"Chapter 18D.**

11 **"Regulation of Hemp-Derived Consumable Products.**

12 **"§ 18D-100. Definitions.**

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

- 14 (1) ALE Division. – As defined in G.S. 18B-101.
15 (2) Batch. – The hemp-derived consumable product produced during a period of
16 time under similar conditions and identified by a specific code that allows
17 traceability.
18 (3) Cannabinoid. – Any phytocannabinoid found in hemp, including
19 tetrahydrocannabinol (THC), tetrahydrocannabinolic acid (THCA),
20 cannabidiol (CBD), cannabidiolic acid (CBDA), cannabinol (CBN),
21 cannabigerol (CBG), cannabichromene (CBC), cannabicyclol (CBL),
22 cannabivarin (CBV), tetrahydrocannabivarin (THCV), cannabidivarin
23 (CBDV), cannabichromevarin (CBCV), cannabigerovarin (CBGV),
24 cannabigerol monomethyl ether (CBGM), cannabielsoin (CBE), or
25 cannabicitran (CBT).
26 (4) Department. – The Department of Revenue.
27 (5) Distributor. – A person or entity that delivers or sells hemp-derived
28 consumable products for the purpose of distribution in commerce.
29 (6) Hemp. – As defined in G.S. 90-87.
30 (7) Hemp-derived consumable product. – A hemp product intended for human
31 ingestion or inhalation that contains a delta-9 tetrahydrocannabinol
32 concentration of not more than three-tenths of one percent (0.3%) on a dry
33 weight basis or any hemp-derived psychoactive cannabinoid. This term does
34 not include hemp products intended for topical application.



- 1 (8) Hemp-derived psychoactive cannabinoid. – A synthetic cannabinoid derived
2 from hemp, including delta-7 tetrahydrocannabinol, delta-8
3 tetrahydrocannabinol, and delta-10 tetrahydrocannabinol.
4 (9) Hemp product. – As defined in G.S. 90-87.
5 (10) Independent testing laboratory. – A laboratory that meets all of the following
6 conditions:
7 a. Holds an ISO 17025 accreditation.
8 b. Is registered with the Drug Enforcement Administration (DEA) in
9 accordance with 21 C.F.R. § 1301.13.
10 c. Does not have a direct or indirect interest in the entity whose product
11 is being tested.
12 d. Does not have a direct or indirect interest in a facility that cultivates,
13 processes, distributes, dispenses, or sells hemp-derived consumable
14 products in this State or any other jurisdiction.
15 e. Has entered into a compliance agreement with the ALE Division to
16 conduct tetrahydrocannabinol concentration sampling and testing
17 using the high-performance chromatography (HPLC) testing method.
18 (11) Ingestion. – The process of consuming hemp through the mouth, by
19 swallowing into the gastrointestinal system or through tissue absorption.
20 (12) Inhalation. – The process of consuming hemp into the respiratory system
21 through the mouth or nasal passages.
22 (13) License. – A hemp-derived consumable product license issued in accordance
23 with this Chapter.
24 (14) Manufacture. – To compound, blend, extract, infuse, cook, or otherwise
25 manipulate hemp or a hemp-derived cannabinoid to make or prepare
26 hemp-derived consumable products. This term includes the processes of
27 extraction or infusion of hemp-derived cannabinoids and packaging,
28 repackaging, labeling, and relabeling of hemp-derived consumable products.
29 (15) Manufacturer. – Any person or entity that engages in the process of preparing
30 or packaging of hemp-derived consumable products.
31 (16) Seller. – Any person who sells a hemp-derived consumable product to the
32 ultimate consumer of the product, including an online seller.
33 (17) Serving. – A quantity of a hemp-derived consumable product reasonably
34 suitable for a person's use in a single day.

35 **§ 18D-101. Sales restrictions on hemp-derived consumable products.**

- 36 (a) Restrictions. – No person shall do any of the following:
37 (1) Knowingly, or having reason to know, sell a hemp-derived consumable
38 product to a person who is under 18 years of age.
39 (2) Knowingly, or having reason to know, distribute samples of hemp-derived
40 consumable products in or on a public street, sidewalk, or park.
41 (3) Engage in the business of selling a hemp-derived consumable product without
42 a valid license issued in accordance with G.S. 18D-105.
43 (4) Knowingly, or having reason to know, sell at retail a hemp-derived
44 consumable product that has a delta-9 tetrahydrocannabinol concentration of
45 more than three-tenths of one percent (0.3%) on a dry weight basis.
46 (b) Civil Penalties. – For any violation of this section, the Department may take any of
47 the following actions against a seller:
48 (1) For the first violation, impose a civil penalty of no more than five hundred
49 dollars (\$500.00).
50 (2) For the second violation within three years, impose a civil penalty of no more
51 than seven hundred fifty dollars (\$750.00).

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

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

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

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

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

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

24 (3) Shows that at the time of purchase, the purchaser utilized a biometric
25 identification system that demonstrated (i) the purchaser's age to be at least
26 the required age for the purchase and (ii) the purchaser had previously
27 registered with the seller or seller's agent a drivers license, a special
28 identification card issued under G.S. 20-37.7 or issued by the state agency of
29 any other state authorized to issue similar official state special identification
30 cards for that state, a military identification card, or a passport showing the
31 purchaser's date of birth and bearing a physical description of the person
32 named on the document.

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

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

38 **§ 18D-102. Offenses involving the purchase, attempted purchase, or possession of**
39 **hemp-derived consumable products by a person under 18 years of age.**

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

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

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

49 (1) A fraudulent or altered drivers license.

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

51 (3) A drivers license issued to another person.

- 1 (4) An identification document other than a drivers license issued to another
2 person.
3 (5) Any other form or means of identification that indicates or symbolizes that the
4 person is not prohibited from purchasing or possessing a hemp-derived
5 consumable product under this section.

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

9 (e) Penalties. –

- 10 (1) Any person less than 18 years old who violates this section is guilty of a Class
11 2 misdemeanor.
12 (2) Any person at least 18 years old who violates this section is guilty of a Class
13 1 misdemeanor.
14 (3) Aiding or abetting a violation of this section shall be punished as provided in
15 subdivisions (1) and (2) of this subsection, and all other provisions of this
16 section shall apply to that offense.

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

20 **§ 18D-103. Offenses involving the manufacture and distribution of hemp-derived**
21 **consumable products.**

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

- 23 (1) Knowingly, or having reason to know, distribute samples of a hemp-derived
24 consumable product in or on a public street, sidewalk, or park.
25 (2) Engage in the business of manufacturing or distributing a hemp-derived
26 consumable product without a valid license issued in accordance with
27 G.S. 18D-105.
28 (3) Knowingly, or having reason to know, manufacture or distribute a
29 hemp-derived consumable product that has a delta-9 tetrahydrocannabinol
30 concentration of more than three-tenths of one percent (0.3%) on a dry weight
31 basis.

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

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

- 36 (1) Suspend the licensee's license for a specified period of time not longer than
37 three years.
38 (2) Revoke the licensee's license.
39 (3) Impose conditions on the operating hours of the licensee's business.
40 (4) Impose civil penalties as follows:
41 a. For a first violation, impose a civil penalty of no more than one
42 thousand dollars (\$1,000).
43 b. For a second violation within three years, impose a civil penalty of no
44 more than five thousand dollars (\$5,000).
45 c. For a third violation within three years of the first violation, impose a
46 civil penalty of no more than seven thousand five hundred dollars
47 (\$7,500).

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

1 compromise or revoke a license, but not both. The Department may accept a compromise and
2 suspend the license in the same case.

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

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

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

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

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

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

21 **"§ 18D-104. Enforcement.**

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

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

31 **"§ 18D-105. Licensing for manufacturers, distributors, and sellers of hemp-derived**
32 **consumable products.**

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

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

40 (1) Be at least 18 years old.

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

43 (3) Have not been convicted of a felony relating to a controlled substance within
44 10 years in any state or federal jurisdiction.

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

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

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

- 1 a. For a license to manufacture hemp-derived consumable products, a fee
2 of five thousand dollars (\$5,000).
- 3 b. For a license to distribute hemp-derived consumable products, a fee of
4 two thousand five hundred dollars (\$2,500).
- 5 c. For a license to sell hemp-derived consumable products at a retail
6 location, a fee of one hundred dollars (\$100.00) for each location.
7 However, a single entity with more than 25 locations shall not pay
8 more than two thousand five hundred dollars (\$2,500) and shall submit
9 a list of all locations to the Department.
- 10 d. For a license to sell hemp-derived consumable products online, to be
11 delivered to a person within this State, a fee of one hundred dollars
12 (\$100.00) for each internet website offering delivery in this State.
13 However, a single entity with more than 25 internet websites shall not
14 pay more than two thousand five hundred dollars (\$2,500) and shall
15 submit a list of all internet websites to the Department.

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

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

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

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

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

40 **§ 18D-106. Testing prior to distribution.**

41 (a) Requirement. – A hemp-derived consumable product shall be tested after being
42 manufactured and prior to distribution to determine the presence and amounts of any of the
43 following:

- 44 (1) Cannabinoids.
- 45 (2) Heavy metals.
- 46 (3) Microbials.
- 47 (4) Mycotoxins.
- 48 (5) Pesticides.
- 49 (6) Residual solvents.
- 50 (7) Any other controlled substance.

1 (b) Laboratory Qualifications. – A manufacturer or distributor shall contract with an
2 independent testing laboratory to provide the testing required under subsection (a) of this section.

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

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

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

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

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

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

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

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

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

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

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

29 **"§ 18D-107. Additional requirements and restrictions for hemp-derived consumable**
30 **products.**

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

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

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

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

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

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

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

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

50 f. The total amount of hemp-derived cannabinoid in the entire package,
51 measured in milligrams.

1 g. The net weight of the product.

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

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

6 (b) Advertising Restrictions. – A manufacturer or distributor of a hemp-derived
7 consumable product shall not advertise, market, or offer for sale the product by using, in the
8 labeling or design of the product or product packaging or in advertising or marketing materials
9 for the product trade dress, trademarks, branding, or other related materials, any imagery or
10 scenery that depicts or signifies characters or symbols known to appeal primarily to persons under
11 18 years of age, including, but not limited to, superheroes, comic book characters, video game
12 characters, television show characters, movie characters, mythical creatures, and unicorns.

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

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

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

18 **§ 18D-108. Forfeiture of property.**

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

25 **§ 18D-109. Construction of Chapter.**

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

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

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

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

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

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

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

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

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

49 **SECTION 1.(b)** G.S. 18B-500(b) reads as rewritten:

1 ~~administrative public school~~ unit. The policy shall further prohibit the use of all tobacco products
2 by persons attending a school-sponsored event at a location not listed in this subsection when in
3 the presence of students or school personnel or in an area where smoking is otherwise prohibited
4 by law.

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

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

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

10 (3) Requirements that school personnel enforce the policy.

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

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

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

25 **"§ 115C-407.1. Policy prohibiting use of hemp-derived consumable products in school**
26 **buildings, grounds, and at school-sponsored events.**

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

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

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

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

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

41 (3) Requirements that school personnel enforce the policy.

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

47 (e) Nothing in this section, G.S. 143-595 through G.S. 143-601, or any other section
48 prohibits a governing body of a public school unit from adopting and enforcing a more restrictive
49 policy on the use of hemp-derived consumable products in school buildings, in school facilities,
50 on school campuses, or at school-related or school-sponsored events, and in or on other school
51 property."

- 1 (3) Engage in the business of selling a kratom product without a valid license
2 issued in accordance with G.S. 18E-105.
3 (4) Knowingly, or having reason to know, sell at retail a kratom product that
4 violates the provisions of G.S. 18E-106.

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

- 7 (1) For the first violation, impose a civil penalty of no more than five hundred
8 dollars (\$500.00).
9 (2) For the second violation within three years, impose a civil penalty of no more
10 than seven hundred fifty dollars (\$750.00).
11 (3) For the third violation within three years of the first violation, impose a civil
12 penalty of no more than one thousand dollars (\$1,000) and suspend the seller's
13 license for up to 30 days.
14 (4) For a fourth or subsequent violation within three years of the first violation,
15 impose a civil penalty of no more than two thousand dollars (\$2,000) and
16 either (i) suspend the seller's license for up to one year or (ii) revoke the seller's
17 license.

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

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

- 25 (1) Shows that the purchaser produced a drivers license, a special identification
26 card issued under G.S. 20-37.7 or issued by the state agency of any other state
27 authorized to issue similar official state special identification cards for that
28 state, a tribal enrollment card issued by a State or federally recognized Indian
29 Tribe, a military identification card, or a passport showing the purchaser's age
30 to be at least the required age for purchase and bearing a physical description
31 of the person named on the card reasonably describing the purchaser.
32 (2) Produces evidence of other facts that reasonably indicated at the time of sale
33 that the purchaser was at least the required age.
34 (3) Shows that at the time of purchase, the purchaser utilized a biometric
35 identification system that demonstrated (i) the purchaser's age to be at least
36 the required age for the purchase and (ii) the purchaser had previously
37 registered with the seller or seller's agent a drivers license, a special
38 identification card issued under G.S. 20-37.7 or issued by the state agency of
39 any other state authorized to issue similar official state special identification
40 cards for that state, a military identification card, or a passport showing the
41 purchaser's date of birth and bearing a physical description of the person
42 named on the document.

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

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

48 **§ 18E-102. Offenses involving the purchase, attempted purchase, or possession of kratom**
49 **products by a person under 18 years of age.**

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

- 1 **(b)** It is unlawful for a person less than 18 years old to purchase or attempt to purchase a
2 kratom product.
- 3 **(c)** It is unlawful for any person to enter or attempt to enter a place where kratom products
4 are sold or consumed, or to obtain or attempt to obtain kratom products, or to obtain or attempt
5 to obtain permission to purchase kratom products, in violation of subsection (b) of this section,
6 by using or attempting to use any of the following:
- 7 **(1)** A fraudulent or altered drivers license.
8 **(2)** A fraudulent or altered identification document other than a drivers license.
9 **(3)** A drivers license issued to another person.
10 **(4)** An identification document other than a drivers license issued to another
11 person.
12 **(5)** Any other form or means of identification that indicates or symbolizes that the
13 person is not prohibited from purchasing or possessing a kratom product under
14 this section.
- 15 **(d)** It is unlawful for any person to permit the use of the person's drivers license or any
16 other form of identification of any kind issued or given to the person by any other person who
17 violates or attempts to violate subsection (b) of this section.
- 18 **(e)** Penalties. –
- 19 **(1)** Any person less than 18 years old who violates this section is guilty of a Class
20 2 misdemeanor.
21 **(2)** Any person at least 18 years old who violates this section is guilty of a Class
22 1 misdemeanor.
23 **(3)** Aiding or abetting a violation of this section shall be punished as provided in
24 subdivisions (1) and (2) of this subsection, and all other provisions of this
25 section shall apply to that offense.
- 26 **(f)** Nothing in this section prohibits an underage person from selling, transporting, or
27 possessing kratom products in the course of employment, if the employment of the person for
28 that purpose is lawful under applicable youth employment statutes.
- 29 **§ 18E-103. Offenses involving the manufacture and distribution of kratom products.**
- 30 **(a)** Offenses. – It is unlawful for a manufacturer or distributor to do any of the following:
- 31 **(1)** Knowingly, or having reason to know, distribute samples of a kratom product
32 in or on a public street, sidewalk, or park.
33 **(2)** Engage in the business of manufacturing or distributing a kratom product
34 without a valid license issued in accordance with G.S. 18E-105.
35 **(3)** Knowingly, or having reason to know, manufacture or distribute a kratom
36 product that violates the provisions of G.S. 18E-106.
- 37 **(b)** Criminal Penalties. – A violation of this section is a Class A1 misdemeanor.
- 38 **(c)** Civil Penalties. – In addition to any criminal punishment authorized by this section, a
39 violation of this section shall result in the Department taking one or more of the following actions
40 against the licensee:
- 41 **(1)** Suspend the licensee's license for a specified period of time not longer than
42 three years.
43 **(2)** Revoke the licensee's license.
44 **(3)** Impose conditions on the operating hours of the licensee's business.
45 **(4)** Impose civil penalties as follows:
- 46 **a.** For a first violation, impose a civil penalty of no more than one
47 thousand dollars (\$1,000).
48 **b.** For a second violation within three years, impose a civil penalty of no
49 more than five thousand dollars (\$5,000).

1 c. For a third violation within three years of the first violation, impose a
2 civil penalty of no more than seven thousand five hundred dollars
3 (\$7,500).

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

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

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

14 **"§ 18E-104. Enforcement.**

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

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

24 **"§ 18E-105. Licensing for manufacturers, distributors, and sellers of kratom products.**

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

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

31 (1) Be at least 18 years old.

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

34 (3) Have not been convicted of a felony relating to a controlled substance within
35 10 years in any state or federal jurisdiction.

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

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

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

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

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

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

50 d. For a license to sell kratom products online, to be delivered to a person
51 within this State, a fee of one hundred dollars (\$100.00) for each

1 internet website offering delivery in this State. However, a single
2 entity with more than 25 internet websites shall not pay more than two
3 thousand five hundred dollars (\$2,500) and shall submit a list of all
4 internet websites to the Department.

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

8 (1) For a license to manufacture kratom products, a renewal fee of one thousand
9 dollars (\$1,000).

10 (2) For a license to distribute kratom products, a renewal fee of seven hundred
11 fifty dollars (\$750.00).

12 (3) For a license to sell kratom products at a retail location, a renewal fee in the
13 same amount as the initial licensing fees established under subsection (b) of
14 this section.

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

20 (e) Adverse Event Reports. – The Department shall require a processor or distributor,
21 upon receipt of any adverse event report related to a product manufactured or distributed by that
22 processor or distributor, to submit a copy of the adverse event report, as required under 21 U.S.C.
23 § 379aa-1, to the Department within 30 days. If the processor or distributor does not submit a
24 copy of the adverse event report within the time allotted, the registration for that product shall be
25 revoked and the license for that processor or distributor shall be suspended or revoked, at the
26 discretion of the Department.

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

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

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

41 **"§ 18E-106. Kratom product limitations.**

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

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

49 (2) A kratom product that is contaminated with a dangerous non-kratom
50 substance. A kratom product is contaminated with a dangerous non-kratom
51 substance if the kratom product contains a poisonous or otherwise deleterious

1 non-kratom ingredient, including any controlled substance regulated by
2 Article 5 of Chapter 90 of the General Statutes.

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

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

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

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

15 **"§ 18E-107. Forfeiture of property.**

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

22 **"§ 18E-108. Construction of Chapter.**

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

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

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

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

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

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

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

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

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

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

46 rewritten:

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

50 (1) Occurring, encountered, or otherwise discovered on the premises of, or
51 elsewhere when the conduct relates to, a location under application for or

1 holding a permit issued by the North Carolina Alcoholic Beverage Control
2 Commission or the North Carolina Education Lottery Commission.

3 (1a) Occurring, encountered, or otherwise discovered on the premises of, or
4 elsewhere when the conduct relates to a location holding a license issued
5 pursuant to Chapter 18D or Chapter 18E of the General Statutes.

6"

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

10
11 **PART VI. MISCELLANEOUS**

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

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

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

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

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