
HOUSE BILL 2291

State of Washington

69th Legislature

2026 Regular Session

By Representatives Reeves, Stonier, Parshley, Leavitt, Gregerson, Goodman, Fosse, Pollet, and Bernbaum

Prefiled 01/07/26. Read first time 01/12/26. Referred to Committee on Consumer Protection & Business.

1 AN ACT Relating to the kratom consumer protection act; adding a
2 new chapter to Title 69 RCW; prescribing penalties; and providing an
3 effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires
7 otherwise.

8 (1) "Attractive to children" means a kratom product that is
9 manufactured or packaged in a form that bears a reasonable
10 resemblance to an existing candy product and that could cause a child
11 to mistake the kratom product for an existing candy product.

12 (2) "Board" means the Washington state liquor and cannabis board.

13 (3) "Dangerous nonkratom substance" means a poisonous or
14 otherwise deleterious nonkratom ingredient including, but not limited
15 to, a substance listed as a controlled substance under state or
16 federal law.

17 (4) "Department" means the department of revenue.

18 (5) "Independent testing laboratory" means a laboratory that is
19 accredited by a third-party accrediting body as a competent testing
20 laboratory under ISO/IEC 17025 of the international organization for
21 standardization.

- 1 (6) "Kratom" means the plant *mitragyna speciosa* or any part of
2 such plant.
- 3 (7) "Kratom extract" means a substance or compound obtained by
4 extraction of the *mitragyna speciosa* leaf, intended for ingestion
5 that contains alkaloids, such as mitragynine or 7-hydroxymitragynine,
6 but does not contain any controlled substances or levels of residual
7 solvents higher than is allowed in the United States pharmacopeia 467
8 as it exists on January 1, 2027.
- 9 (8) "Kratom product" means a food, food ingredient, dietary
10 ingredient, dietary supplement, or beverage intended for human
11 consumption that contains kratom or a kratom extract that is
12 manufactured or served as a powder, capsule, pill, beverage, liquid,
13 or other edible form.
- 14 (9) "Licensee" means a person licensed under the authority of
15 this chapter.
- 16 (10) "Person" means any individual, receiver, administrator,
17 executor, assignee, trustee in bankruptcy, trust, estate, firm,
18 copartnership, joint venture, club, company, joint stock company,
19 business trust, municipal corporation, the state and its departments
20 and institutions, political subdivision of the state of Washington,
21 corporation, limited liability company, association, society, and any
22 group of individuals acting as a unit, whether mutual, cooperative,
23 fraternal, nonprofit, or otherwise.
- 24 (11) "Processor" means any person who manufactures, processes, or
25 packages kratom into kratom products for wholesale to retailers.
- 26 (12) "Retail sale" has the same meaning as provided in RCW
27 82.08.010.
- 28 (13) "Retailer" means any person engaged in the business of
29 selling kratom products to ultimate consumers.
- 30 (14) "Sale" means any transfer, exchange, or barter, in any
31 manner or by any means whatsoever, for a consideration, and includes
32 and means all sales made by any person.
- 33 (15) "Selling price" includes "sales price" and has the same
34 meaning as provided in RCW 82.08.010, except that when the product is
35 sold under circumstances where the total amount of consideration paid
36 for the product is not indicative of its true value, "selling price"
37 means the true value of the kratom product sold.
- 38 (16) "Synthesized material" means a kratom alkaloid or kratom
39 alkaloid derivative that has been created by chemical synthesis or
40 biosynthetic means including, but not limited to, fermentation,

1 recombinant techniques, yeast derived techniques, and enzymatic
2 techniques, rather than traditional food preparation techniques, such
3 as heating or extracting.

4 (17) "True value" means market value based on sales at comparable
5 locations in this state of the same or similar product of like
6 quality and character sold under comparable conditions of sale to
7 comparable purchasers. However, in the absence of such sales of the
8 same or similar product, "true value" means the value of the kratom
9 product sold as determined by the seller's direct and indirect costs
10 attributable to the product.

11 LICENSING

12 NEW SECTION. **Sec. 2.** (1) The licenses issuable by the board
13 under this chapter are as follows:

14 (a) A kratom retailer's license that authorizes the licensee to
15 sell kratom and kratom products at retail; and

16 (b) A kratom processor's license that authorizes the licensee to
17 process and manufacture kratom into kratom extracts and kratom
18 products, to package and label kratom products, and to distribute and
19 offer kratom products for sale at wholesale to licensed kratom
20 retailers.

21 (2) Application for such licenses must be made through the
22 business licensing system under chapter 19.02 RCW. The board may
23 refuse to issue any license under this chapter if the board has
24 reasonable cause to believe that the applicant has willfully withheld
25 information requested for the purpose of determining the eligibility
26 of the applicant to receive a license, or if the board has reasonable
27 cause to believe that information submitted in the application is
28 false or misleading or is not made in good faith. In addition, for
29 the purpose of reviewing an application for a license, and for
30 considering the denial, suspension, or revocation of any such
31 license, the board may consider criminal conduct of the applicant,
32 including an administrative violation history record with the board
33 and a criminal history record information check within the previous
34 five years, in any state, tribal, or federal jurisdiction in the
35 United States, its territories, or possessions, and the provisions of
36 RCW 9.95.240 and chapter 9.96A RCW do not apply to such cases. The
37 board may, in its discretion, issue or refuse to issue a license
38 subject to the provisions of section 24 of this act.

1 (3) No person may qualify for a retailer's license or processor's
2 license under this chapter without first undergoing a criminal
3 background check. The background check must be performed by the board
4 and must disclose any criminal conduct within the previous five years
5 in any state, tribal, or federal jurisdiction in the United States,
6 its territories, or possessions. If the applicant or licensee also
7 has a license issued under chapter 66.24, 69.50, 82.24, or 82.26 RCW,
8 the background check done under the authority of chapter 66.24,
9 69.50, 82.24, or 82.26 RCW satisfies the requirements of this
10 subsection.

11 (4) Each license issued under this chapter expires on the
12 business license expiration date. The license must be continued
13 annually if the licensee has paid the required fee and complied with
14 all provisions of this chapter and the rules of the board adopted
15 pursuant to this chapter.

16 (5) Each license and any other evidence of the license required
17 under this chapter must be exhibited in each place of business for
18 which it is issued and in the manner required for the display of a
19 business license.

20 (6) The board may adopt rules regarding the regulation of the
21 licenses and licensees.

22 NEW SECTION. **Sec. 3.** (1) (a) No person may engage in or conduct
23 business as a kratom retailer or processor in this state without a
24 valid license issued under this chapter, except as otherwise provided
25 by law. Any person who sells kratom products to consumers must obtain
26 a retailer's license under this chapter. Any person who meets the
27 definition of processor under this chapter must obtain a processor's
28 license under this chapter.

29 (b) A violation of this subsection is punishable as a class C
30 felony according to chapter 9A.20 RCW.

31 (2) (a) No person engaged in or conducting business as a retailer
32 or processor in this state may refuse to allow the enforcement
33 officers of the board, on demand, to make full inspection of any
34 place of business or vehicle where any of the kratom products
35 regulated under this chapter are sold, stored, transported, or
36 handled, or otherwise hinder or prevent such inspection.

37 (b) A person who violates this subsection is guilty of a gross
38 misdemeanor.

1 (3) (a) No person may hold both a kratom retailer's license and a
2 kratom processor's license.

3 (b) A person who violates this subsection is guilty of a
4 misdemeanor.

5 (4) The penalties provided in this section are in addition to any
6 other penalties provided by law for violating the provisions of this
7 chapter or the rules adopted under this chapter.

8 NEW SECTION. **Sec. 4.** A fee of \$1,000 must accompany each kratom
9 retailer license application or license renewal application under
10 section 2 of this act. If a kratom retailer sells or intends to sell
11 kratom products at two or more places of business, whether
12 established or temporary, a separate license with a licensee fee of
13 \$1,000 is required for each additional place of business.

14 NEW SECTION. **Sec. 5.** A fee of \$1,000 must accompany each kratom
15 processor license application or license renewal application under
16 section 2 of this act.

17 **AGE RESTRICTION**

18 NEW SECTION. **Sec. 6.** (1) A person under the age of 21 who
19 purchases or attempts to purchase, possesses, or obtains or attempts
20 to obtain kratom products commits a class 3 civil infraction under
21 chapter 7.80 RCW and is subject to participation in up to four hours
22 of community service. This provision does not apply if a person under
23 the age of 21, with parental authorization if under the age of 18, is
24 participating in a controlled purchase as part of a board, law
25 enforcement, or local health department activity.

26 (2) Municipal and district courts within the state have
27 jurisdiction for enforcement of this section.

28 **RETAIL REQUIREMENTS**

29 NEW SECTION. **Sec. 7.** (1) A person who holds a retailer license
30 issued under this chapter must display a sign concerning the
31 prohibition of kratom product sales to persons under the age of 21.
32 The sign must:

33 (a) Be posted so that it is clearly visible to anyone purchasing
34 kratom products from the licensee;

1 (b) Be designed and produced by the department of health to read:
2 "The sale of kratom products to persons under age 21 is strictly
3 prohibited by state law. Photo ID required upon request."; and

4 (c) Be provided free of charge by the department of health.

5 (2) A person who holds a license issued under this chapter must
6 display the license or a copy in a prominent location at the retail
7 location for which the license is issued.

8 NEW SECTION. **Sec. 8.** (1) When there may be a question of a
9 person's right to purchase or obtain kratom products by reason of
10 age, the retailer or agent thereof, must require the purchaser to
11 present any one of the following officially issued forms of
12 identification that shows the purchaser's age and bears the
13 purchaser's signature and photograph:

14 (a) Liquor control authority card or identification of a state or
15 province of Canada;

16 (b) Driver's license, instruction permit, or identification card
17 of a state or province of Canada;

18 (c) "Identocard" issued by the Washington state department of
19 licensing under chapter 46.20 RCW;

20 (d) United States military identification;

21 (e) Passport;

22 (f) Enrollment card, issued by the governing authority of a
23 federally recognized Indian tribe located in Washington, that
24 incorporates security features comparable to those implemented by the
25 department of licensing for Washington drivers' licenses. At least 90
26 days prior to implementation of an enrollment card under this
27 subsection, the appropriate tribal authority must give notice to the
28 board. The board must publish and communicate to licensees regarding
29 the implementation of each new enrollment card; or

30 (g) Merchant marine identification card issued by the United
31 States coast guard.

32 (2) It is a defense to a prosecution under section 10 of this act
33 that the person making a sale reasonably relied on any of the
34 officially issued identification listed under subsection (1) of this
35 section. The board must waive the suspension or revocation of a
36 license if the licensee clearly establishes that the licensee acted
37 in good faith to prevent violations and a violation occurred despite
38 the licensee's exercise of due diligence.

1 (4) The attorney general may seek an injunction in superior court
2 to restrain a threatened or actual violation of this section and to
3 compel compliance with this section.

4 (5) The legislature finds that the practices covered by this
5 chapter are matters vitally affecting the public interest for the
6 purpose of applying the consumer protection act, chapter 19.86 RCW. A
7 violation of this chapter is not reasonable in relation to the
8 development and preservation of business and is an unfair or
9 deceptive act in trade or commerce and an unfair method of
10 competition for the purpose of applying the consumer protection act,
11 chapter 19.86 RCW. Remedies provided by chapter 19.86 RCW are
12 cumulative and not exclusive.

13 (6) (a) In any action brought under this section, the state is
14 entitled to recover, in addition to other relief, the costs of
15 investigation, expert witness fees, costs of the action, and
16 reasonable attorneys' fees.

17 (b) If a court determines that a person has violated this
18 section, the court shall order any profits, gain, gross receipts, or
19 other benefit from the violation to be disgorged and paid to the
20 state treasurer for deposit in the general fund.

21 (7) Unless otherwise expressly provided, the penalties or
22 remedies, or both, under this section are in addition to any other
23 penalties and remedies available under any other law of this state.

24 (8) A licensee who violates this section is subject to license
25 suspension or revocation by the board.

26 NEW SECTION. **Sec. 13.** No person may offer a tasting or a free
27 sample of a kratom product to the general public. A violation of this
28 section is a misdemeanor.

29 **KRATOM PRODUCT LABELING AND PROCESSING**

30 NEW SECTION. **Sec. 14.** A retailer or processor may not process
31 or sell a kratom product that:

32 (1) Contains a level of 7-hydroxymitragynine in the alkaloid
33 fraction that is greater than two percent of the alkaloid composition
34 of the kratom product;

35 (2) Contains or is adulterated with a dangerous nonkratom
36 substance;

1 (3) Is mixed with another compound that is known to inhibit key
2 cytochrome P450 enzymes, including CYP3A4 and CYP2D6, unless the
3 specific product mixtures are scientifically validated as safe under
4 the intended conditions of use and are specifically permitted by the
5 board;

6 (4) Contains any synthesized material produced under a
7 manufacturing process that synthetically changes the composition of a
8 kratom alkaloid or constituent found in the kratom leaf, or contains
9 alkaloids or other plant constituents that have been isolated or
10 manipulated to increase their potency, other than using a board-
11 approved extraction method;

12 (5) Is combustible, intended to be used for vaporization, or
13 injectable;

14 (6) Is manufactured or packaged in a manner that is attractive to
15 children; or

16 (7) Is not listed in the directory established in section 19 of
17 this act.

18 NEW SECTION. **Sec. 15.** A kratom product sold at retail must
19 contain a label with the following:

20 (1) A statement that kratom is illegal for use by persons under
21 the age of 21;

22 (2) A statement that recommends against the use of kratom for
23 individuals who are pregnant or breastfeeding;

24 (3) A statement that kratom may be habit-forming;

25 (4) A recommendation to consult a health professional before use;

26 (5) The following statement: "These statements have not been
27 evaluated by the United States Food and Drug Administration. This
28 product is not intended to diagnose, treat, cure, or prevent any
29 disease.";

30 (6) The name and place of business of the producer/processor
31 responsible for manufacturing the kratom product;

32 (7) Directions for use that include the following:

33 (a) A recommended amount of the kratom product per serving that
34 is:

35 (i) Clearly described on the label for kratom product forms such
36 as capsules, gummies, and similar product forms; or

37 (ii) A clear instruction or obvious mark on the package or
38 container that clearly informs the consumer of the recommended

1 serving size for kratom product forms such as beverages, liquids, or
2 loose powders;

3 (b) A recommended number of servings that can be safely consumed
4 in a 24-hour period;

5 (8) A listing of the servings per container;

6 (9) A listing of kratom alkaloids and other ingredients in the
7 kratom product, including mitragynine and 7-hydroxymitragynine; and

8 (10) A declaration that any level of 7-hydroxymitragynine does
9 not exceed the alkaloid fraction that is greater than two percent of
10 the overall alkaloid composition of the kratom product.

11 NEW SECTION. **Sec. 16.** (1) Any kratom product sold at retail
12 shall be packaged in accordance with child-resistant effectiveness
13 standards set forth in 16 C.F.R. Sec. 1700.15, as in effect on
14 January 1, 2027, as determined through testing in accordance with the
15 method described in 16 C.F.R. Sec. 1700.20, as in effect on January
16 1, 2027.

17 (2) Any person that engages in retail sales of kratom products in
18 violation of this section is guilty of a gross misdemeanor.

19 **APPROVED KRATOM PRODUCTS/DIRECTORY**

20 NEW SECTION. **Sec. 17.** (1) By January 1, 2027, and annually
21 thereafter, every kratom processor of a kratom product sold for
22 retail sale in this state shall execute and deliver to the board a
23 certification, under penalty of perjury on a form and in a manner
24 prescribed by the board, that the processor is:

25 (a) In compliance with this chapter;

26 (b) Has submitted a list of each kratom product sold or to be
27 sold in the state, including the product's brand name, product name,
28 type of product, and any other information deemed necessary by the
29 board; and

30 (c) Has submitted a certificate of analysis for each kratom
31 product produced for retail sale in this state in accordance with
32 section 18 of this act.

33 (2) The board shall review the certificates of analysis submitted
34 for each kratom product produced by a processor for compliance and
35 approval.

36 (3) Information submitted by a processor under this section is
37 confidential and exempt from public disclosure under RCW 42.56.270.

1 NEW SECTION. **Sec. 18.** A processor shall submit kratom products
2 to an independent testing laboratory for testing before sale or
3 distribution. The independent testing laboratory shall test for
4 kratom alkaloids, other ingredients in the kratom products, and the
5 level of 7-hydroxymitragynine present in the kratom product. The
6 independent testing laboratory shall provide a certificate of
7 analysis to the kratom processor who shall submit the certificate of
8 analysis to the board.

9 NEW SECTION. **Sec. 19.** (1) Beginning January 1, 2027, the board
10 shall maintain and make publicly available on its website a directory
11 that lists all processors and kratom products, including brand name,
12 product names, and type of kratom product for which certificates of
13 analysis forms have been submitted and approved by the board.

14 (2) The board must update the directory at least monthly to
15 ensure accuracy and establish a process to provide licensed
16 processors, retailers, and other relevant parties notice of the
17 initial publication of the directory and changes made to the
18 directory in the previous month.

19 (3) No processor or the processor's kratom products may be
20 included or retained in the directory if the board determines:

21 (a) The processor did not submit a certification in accordance
22 with section 17 of this act;

23 (b) The processor did not complete a certificate of analysis for
24 a kratom product in accordance with section 18 of this act;

25 (c) The kratom product's certificate of analysis indicates that
26 the product does not comply with section 14 of this act; or

27 (d) The kratom product's labeling and packaging do not comply
28 with the requirements of sections 15 and 16 of this act.

29 (4) Beginning January 1, 2027, or on the date the board first
30 makes the directory available for public inspection on its official
31 website, kratom products not included in the directory may not be
32 sold for retail in this state, either directly or through an
33 importer, processor, or retailer.

34 (5) Kratom products not listed in the directory and intended for
35 retail sale in this state or to a consumer in this state are subject
36 to seizure, forfeiture, and destruction or disposal, and may not be
37 purchased or sold for retail sale in this state or to a consumer of
38 this state. The cost of such seizure, forfeiture, and destruction or

1 disposal shall be borne by the person from whom the kratom products
2 are confiscated.

3 NEW SECTION. **Sec. 20.** (1) A processor that manufactures a
4 kratom product that contains:

5 (a) A controlled substance as defined in RCW 69.50.101 is guilty
6 of a class C felony punishable under chapter 9A.20 RCW; or

7 (b) Synthetic mitragynine, synthetic 7-hydroxymitragynine, or any
8 other synthetically derived compound of the plant *mitragyna speciosa*
9 is guilty of a misdemeanor punishable under chapter 9A.20 RCW.

10 (2) Kratom products found to be in violation of this section are
11 subject to seizure and forfeiture and no property rights exist in
12 them.

13 (3) A processor in violation of this section is subject to
14 license revocation by the board.

15 **ENFORCEMENT AND PENALTIES**

16 NEW SECTION. **Sec. 21.** If the board suspects that a kratom
17 product is being sold or offered for sale in violation of this
18 chapter, the board may require an independent third-party test of the
19 kratom product by an independent testing laboratory of the board's
20 choice. If the kratom product is found to be in violation of this
21 chapter, the board shall seize the kratom product and remove it from
22 sale. The processor of the kratom product is responsible for the
23 costs of the test and any additional costs incurred to remove the
24 product from applicable retailers.

25 NEW SECTION. **Sec. 22.** (1) The board, or its enforcement
26 officers, may enforce the provisions of this chapter.

27 (2) The board may revoke or suspend a retailer's or processor's
28 license issued under this chapter upon sufficient cause showing a
29 violation of this chapter.

30 (3) A license may not be suspended or revoked except upon notice
31 to the licensee and after a hearing as prescribed by the board.

32 (4) Any person whose license or licenses have been revoked under
33 this section may reapply to the board at the expiration of two years
34 of the license or licenses, unless the license was revoked under
35 section 24(2)(e) of this act. The license or licenses may be approved

1 by the board if it appears to the satisfaction of the board that the
2 licensee will comply with the provisions of this chapter.

3 (5) A person whose license has been suspended or revoked may not
4 sell kratom products or permit kratom products to be sold during the
5 period of suspension or revocation on the premises occupied by the
6 person or upon other premises controlled by the person or others or
7 in any other manner or form.

8 (6) Any determination and order by the board, and any other order
9 of suspension or revocation by the board of the license or licenses
10 issued under this chapter, or refusal to reinstate a license or
11 licenses after revocation is reviewable by an appeal to the superior
12 court of Thurston county. The superior court must review the order or
13 ruling of the board and may hear the matter de novo, having due
14 regard to this chapter and the duties imposed upon the board.

15 (7) If the board makes an initial decision to deny a license or
16 renewal, or suspend or revoke a license, the applicant may request a
17 hearing subject to Title 34 RCW.

18 NEW SECTION. **Sec. 23.** (1) The board and the board's authorized
19 agents or employees may enter any place of business where kratom
20 products are sold for the purpose of enforcing this chapter.

21 (2) (a) For the purpose of enforcing this chapter, an enforcement
22 officer of the board who has reasonable grounds to believe a person
23 observed by the officer in proximity to a retailer licensee under
24 this chapter who is purchasing, attempting to purchase, or in
25 possession of kratom products is under 21 years of age, may detain
26 such person in proximity to such retailer for a reasonable period of
27 time and in such a reasonable manner as is necessary to determine the
28 person's true identity and date of birth. Further, kratom products
29 possessed by persons under 21 years of age are considered contraband
30 and may be seized by an enforcement officer of the board.

31 (b) Any enforcement officer who detains a person for the purpose
32 of enforcing the provisions of this chapter must collect the
33 following information for each fiscal year:

34 (i) The total number of interactions where an enforcement officer
35 detained a person;

36 (ii) Information on the nature of each interaction, including the
37 duration of the interaction, the justification for the interaction,
38 the number of such persons who were under 21 years of age, and
39 whether any citation or warning was issued;

1 (iii) How many interactions converted to administrative violation
2 notices; and

3 (iv) How many of the interactions and administrative violation
4 notices converted to retailer education and violations.

5 (c) The board must compile the information collected under (b) of
6 this subsection, along with associated demographic data in the
7 possession of the board, and conduct a comparative analysis that is
8 added to the annual report required under RCW 70.345.160.

9 (d) All enforcement officers of the board who enforce the
10 provisions of this section and will have interactions with persons
11 under the age of 21 must begin receiving training from the United
12 States department of justice office of juvenile justice and
13 delinquency prevention before January 1, 2027.

14 (e) For the purposes of this subsection, "proximity" means 100
15 feet or less.

16 (3) The board may work with local county health departments or
17 districts and local law enforcement agencies to conduct random,
18 unannounced inspections to assure compliance.

19 (4) The board, law enforcement, or a local health department may,
20 with parental authorization for persons under 18 years of age,
21 include persons under the age of 21 in compliance activities.

22 NEW SECTION. **Sec. 24.** (1) The board may impose a monetary
23 penalty as set forth in subsection (2) of this section, if the board
24 finds that the licensee has violated any provision of this chapter.

25 (2) Subject to subsection (3) of this section, the sanctions that
26 the board may impose against a person licensed under this chapter
27 based upon one or more findings under subsection (1) of this section
28 may not exceed the following:

29 (a) A monetary penalty of \$1,000 for the first violation within
30 any three-year period;

31 (b) A monetary penalty of \$2,500 for the second violation within
32 any three-year period;

33 (c) A monetary penalty of \$5,000 for the third violation within
34 any three-year period and suspension of the license for a period of
35 six months for the third violation of section 10 of this act within
36 any three-year period;

37 (d) A monetary penalty of \$10,000 for the fourth or subsequent
38 violation within any three-year period and suspension of the license

1 for a period of 12 months for the fourth violation of section 10 of
2 this act within any three-year period;

3 (e) Revocation of the license with no possibility of
4 reinstatement for a period of five years for the fifth or more
5 violation within any three-year period.

6 (3) If the board finds that a person licensed under this chapter
7 and chapter 82.24 or 82.26 RCW has violated section 10 of this act,
8 each subsequent violation of either of the person's licenses counts
9 as an additional violation within that three-year period.

10 (4) Any retailer's licenses issued under chapter 82.24 or 82.26
11 RCW to a person whose retailer's license or licenses have been
12 suspended or revoked for violating section 10 of this act must also
13 be suspended or revoked during the period of suspension or revocation
14 under this section.

15 (5) The board may impose a monetary penalty upon any person other
16 than a licensed retailer if the board finds that the person has
17 violated section 10 of this act.

18 (6) The monetary penalty that the board may impose based upon one
19 or more findings under subsection (5) of this section may not exceed
20 \$50 for the first violation and \$100 for each subsequent violation.

21 (7) The board may develop and offer a class for retail clerks and
22 use this class in lieu of a monetary penalty for the clerk's first
23 violation.

24 (8) The board may issue a cease and desist order to any person
25 who is found by the board to have violated or intends to violate the
26 provisions of this chapter or section 10 of this act, requiring such
27 persons to cease specified conduct that is in violation. The issuance
28 of a cease and desist order does not preclude the imposition of other
29 sanctions authorized by this chapter or any other provision of law.

30 (9) The board may seek injunctive relief to enforce the
31 provisions of section 10 of this act. The board may initiate legal
32 action to collect civil penalties imposed under this chapter if the
33 same have not been paid within 30 days after imposition of such
34 penalties. In any action filed by the board under this chapter, the
35 court may, in addition to any other relief, award the board
36 reasonable attorneys' fees and costs.

37 (10) All proceedings under subsections (1) through (8) of this
38 section must be conducted in accordance with chapter 34.05 RCW.

39 (11) The board may reduce or waive either the penalties or the
40 suspension or revocation of a license, or both, as set forth in this

1 chapter where the elements of proof are inadequate or where there are
2 mitigating circumstances. Mitigating circumstances may include, but
3 are not limited to, an exercise of due diligence by a retailer.
4 Further, the board may exceed penalties set forth in this chapter
5 based on aggravating circumstances.

6 NEW SECTION. **Sec. 25.** All license fees collected and funds
7 collected by the board from the imposition of monetary penalties
8 under this chapter must be deposited into the youth regulated
9 substance prevention account created in section 30 of this act.

10 NEW SECTION. **Sec. 26.** (1) Upon a determination by the secretary
11 of health or a local health jurisdiction that a kratom product may be
12 injurious to human health or poses a significant risk to public
13 health:

14 (a) The board, in consultation with the department of health and
15 local county health jurisdiction, may cause a kratom product
16 substance or solution sample, purchased or obtained from any kratom
17 retailer or processor licensee, to be analyzed by an analyst
18 appointed or designated by the board;

19 (b) If the analyzed kratom product contains an ingredient,
20 substance, or solution present in quantities injurious to human
21 health or posing a significant risk to public health, as determined
22 by the secretary of health or a local health jurisdiction, the board
23 may suspend the license of the retailer unless the retailer licensee
24 agrees to remove the product from sale; and

25 (c) If upon a finding from the secretary of health or local
26 health jurisdiction that the kratom product poses an injurious risk
27 to public health or significant public health risk, the retailer does
28 not remove the kratom product from sale, the secretary of health or
29 local health officer may file an injunction in superior court
30 prohibiting the sale or distribution of that specific kratom product
31 substance or solution.

32 (2) Nothing in this section permits a total ban on the sale or
33 use of kratom products.

34 NEW SECTION. **Sec. 27.** The board may adopt rules necessary to
35 implement, administer, and enforce this chapter.

1 NEW SECTION. **Sec. 28.** (1) There is levied and collected a
2 kratom excise tax equal to 11 percent of the retail sales price on
3 kratom products. This tax is separate and in addition to general
4 state and local sales and use taxes that apply to retail sales of
5 tangible personal property, and is not part of the total retail price
6 to which general state and local sales and use taxes apply. The tax
7 must be separately itemized from the state and local retail sales tax
8 and use taxes on the sales receipt provided to the buyer.

9 (2) The tax levied in this section must be reflected in the price
10 list or quoted shelf price in the licensed retailer and in any
11 advertising that includes prices for all kratom products.

12 (3) All revenues collected from the kratom excise tax imposed
13 under this section must be deposited in the youth regulated substance
14 prevention account under section 30 of this act.

15 (4) The tax imposed in this section must be paid by the buyer to
16 the seller. Each seller must collect from the buyer the full amount
17 of the tax payable on each taxable sale. The tax collected as
18 required by this section is deemed to be held in trust by the seller
19 until paid to the department. If any seller fails to collect the tax
20 imposed by this section or, having collected the tax, fails to pay it
21 as prescribed by the department, whether such failure is the result
22 of the seller's own actions or the result of actions or conditions
23 beyond the seller's control, the seller is personally liable to the
24 state for the amount of the tax.

25 (5) The legislature does not intend and does not authorize any
26 person or entity to engage in activities or to conspire to engage in
27 activities that would constitute per se violations of state and
28 federal antitrust laws including, but not limited to, agreements
29 among retailers as to the selling price of any goods sold.

30 NEW SECTION. **Sec. 29.** All the provisions contained in chapter
31 82.32 RCW not inconsistent with the provisions of this chapter have
32 full force and application with respect to taxes imposed under this
33 chapter.

34 **YOUTH REGULATED SUBSTANCE PREVENTION ACCOUNT**

35 NEW SECTION. **Sec. 30.** The youth regulated substance prevention
36 account is created in the state treasury. All receipts from the
37 kratom excise tax established in section 28 of this act must be

1 deposited in the account. Moneys in the account may be spent only
2 after appropriation. The legislature must annually appropriate
3 amounts from the account as follows:

- 4 (1) Twenty-five percent for administration of this chapter; and
- 5 (2) Seventy-five percent for public health education, awareness,
6 and interventions regarding regulated substances.

7 **PREEMPTION**

8 NEW SECTION. **Sec. 31.** This chapter preempts political
9 subdivisions from adopting or enforcing requirements for the
10 licensure and regulation of kratom product promotions and sales at
11 retail. No political subdivision may impose fees or license
12 requirements on retail outlets for possessing or selling kratom
13 products, other than general business taxes or license fees not
14 primarily levied on such products.

15 NEW SECTION. **Sec. 32.** If the federal government or any
16 department or agency of the federal government regulates kratom,
17 kratom extracts, including 7-hydroxymitragynine, or any derivative of
18 the plant *mitragyna speciosa*, those federal regulations shall
19 supersede and take precedence over any provision of this chapter and
20 any rule adopted under this chapter that is contrary to the federal
21 action.

22 **MISCELLANEOUS**

23 NEW SECTION. **Sec. 33.** Sections 1 through 32 and 34 of this act
24 constitute a new chapter in Title 69 RCW.

25 NEW SECTION. **Sec. 34.** This act takes effect January 1, 2027.

--- END ---