

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 747  
Committee Substitute Favorable 4/27/15  
Senate Health Care Committee Substitute Adopted 6/15/16  
PROPOSED SENATE COMMITTEE SUBSTITUTE H747-PCS30529-TG-68

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

(Public)

Sponsors:

Referred to:

April 15, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO REGULATE THE SALE OF MITRAGYNINE AND  
3 7-HYDROXYMITRAGYNINE, ALSO KNOWN AS KRATOM, TO MINORS AND TO  
4 STUDY THE ABUSE OF KRATOM AND NITROUS OXIDE.

5 The General Assembly of North Carolina enacts:

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

8 "**§ 14-313.1. Youth access to kratom.**

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

10 (1) Distribute. – To sell, furnish, give, or provide any product containing kratom to  
11 the ultimate consumer.

12 (2) Proof of age. – A drivers license or other photographic identification that  
13 includes the bearer's date of birth that purports to establish that the person is 18  
14 years of age or older.

15 (3) Kratom product. – Any product containing any part of the plant *Mitragyna*  
16 *speciosa*, whether growing or not, and any compound, manufacture, salt,  
17 derivative, mixture, or preparation of that plant, including, but not limited to,  
18 mitragynine or 7-hydroxymitragynine.

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

25 A person engaged in the sale of kratom products shall demand proof of age from a prospective  
26 purchaser if the person has reasonable grounds to believe that the prospective purchaser is under  
27 18 years of age. Retail distributors of kratom products shall train their sales employees in the  
28 requirements of this law. Proof of any of the following shall be a defense to any action brought  
29 under this subsection:

30 (1) The defendant demanded, was shown, and reasonably relied upon proof of age  
31 in the case of a retailer or any other documentary or written evidence of age in  
32 the case of a nonretailer.

33 (2) The defendant relied on the electronic system established and operated by the  
34 Division of Motor Vehicles pursuant to G.S. 20-37.02.



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

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

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

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

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

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

40                **"§ 15A-150. Notification requirements.**

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

44                ...

45                (6)    Persons granted a dismissal upon completion of a conditional discharge under  
46                G.S. 14-50.29, 14-204, 14-313(f), 14-313.1(f), 15A-1341(a4), 90-96, or  
47                90-113.14."

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

1 Administrative Office of the Courts, the Office of the Chief Medical Examiner, and the Divisions  
2 of Public Health and Mental Health, Developmental Disabilities, and Substance Abuse within the  
3 Department of Health and Human Services. The Legislative Research Commission shall report its  
4 findings, together with any proposed legislation, to the 2017 Regular Session of the 2017 General  
5 Assembly upon its convening.

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