STATE OF NEW YORK

9472

IN ASSEMBLY

January 7, 2026

Introduced by M. of A. McDONALD -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting the sale of kratom to individuals under the age of twenty-one; to repeal certain provisions of the public health law relating thereto; to repeal section 4 of a chapter of the laws of 2025 amending the public health law relating to the prohibition of the sale of kratom to individuals under the age of twenty-one, as proposed in legislative bills numbers S. 4552-A and A. 2340-A, relating to a study on kratom; and to amend a chapter of the laws of 2025 amending the public health law relating to the prohibition of the sale of kratom to individuals under the age of twenty-one, as proposed in legislative bills numbers S. 4552-A and A. 2340-A, in relation to the effectiveness thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The article heading of article 13-F of the public health law, as amended by a chapter of the laws of 2025 amending the public health law relating to the prohibition of the sale of kratom to individuals under the age of twenty-one, as proposed in legislative bills numbers S. 4552-A and A. 2340-A, is amended to read as follows:

REGULATION OF TOBACCO PRODUCTS, HERBAL CIGARETTES[~~, KRATOM~~] AND SMOKING PARAPHERNALIA; DISTRIBUTION TO MINORS

§ 2. Subdivision 19 of section 1399-aa of the public health law, as added by a chapter of the laws of 2025 amending the public health law relating to the prohibition of the sale of kratom to individuals under the age of twenty-one, as proposed in legislative bills numbers S. 4552-A and A. 2340-A, is REPEALED.

§ 3. Section 1399-mmm of the public health law, as added by a chapter of the laws of 2025 amending the public health law relating to the prohibition of the sale of kratom to individuals under the age of twenty-one, as proposed in legislative bills numbers S. 4552-A and A. 2340-A, is REPEALED.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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§ 4. The public health law is amended by adding a new article 13-I to read as follows:

ARTICLE 13-I

REGULATION OF SUPPLEMENTS AND OTHER PRODUCTS; DISTRIBUTION TO MINORS

Section 1399-xx. Sale or distribution of kratom products to minors.

§ 1399-xx. Sale or distribution of kratom products to minors. 1. For purposes of this section the following terms shall have the following meanings:

(a) "A device capable of deciphering any electronically readable format" or "device" shall mean any commercial device or combination of devices used at a point of sale or entry that is capable of reading the information encoded on the bar code or magnetic strip of a driver's license or non-driver identification card issued by the state commissioner of motor vehicles.

(b) "Card holder" means any person presenting a driver's license or nondriver identification card to a licensee, or to the agent or employee of such licensee under this section.

(c) "Enforcement officer" means, in a city with a population of more than one million, the department of health and mental hygiene of such city, which shall have the jurisdiction to enforce the provisions of this section in such city; and in all other counties, shall mean the department, which shall have jurisdiction to enforce the provisions of this article pursuant to rules and regulations which may be promulgated by the commissioner.

(d) "Kratom" means any part of the plant Mitragyna speciosam whether growing or not, and any compound, manufacture, derivative, mixture, salt or preparation of such plant or synthesized or semi-synthesized preparations of mitragynine or 7-hydroxymitragynine, their derivatives, salts, esters, and isomers.

(e) "Kratom business" means a sole proprietorship, corporation, limited liability company, partnership or other enterprise in which one of the activities is the sale, manufacture or promotion of kratom and kratom accessories, either at wholesale or retail, whether such sale, manufacture or promotion is primary or incidental, and including any agent and any employee.

(f) "Person" means a person, firm, company, corporation, partnership, sole proprietor, limited partnership or association.

(g) "Transaction scan" means the process, whether in person, online, or through any other means of communication, involving an automated bar code reader by which a licensee, or agent or employee of a licensee under this section reviews a driver's license or non-driver identification card presented as a precondition for the purchase of kratom under this section.

2. No person or kratom business shall knowingly sell or provide kratom to any other person under twenty-one years of age.

3. (a) Any person or kratom business offering kratom for sale is prohibited from selling such kratom to individuals under twenty-one years of age, and shall post in a conspicuous place a sign upon which there shall be imprinted the following statement, "SALE OF KRATOM TO PERSONS UNDER TWENTY-ONE YEARS OF AGE IS PROHIBITED BY LAW". Such statement shall be posted in the following manner: (i) in any physical location at which such products are offered for sale, it shall be printed on a white card in red letters at least one-half inch in height and displayed as a sign, or (ii) on any website, it shall be posted in red letters in at least twelve-point font on any webpages on which such

products are offered for sale, or (iii) in any mobile application, it shall be posted in red letters in at least twelve-point font on any screens on which such products are offered for sale, or (iv) in any electronic or printed materials, it shall be posted in red letters in at least twelve-point font on any pages on which such products are offered for sale.

(b) Sales of kratom shall be made only to an individual who demonstrates, through (i) a valid driver's license or non-driver's identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or (ii) a valid passport issued by the United States government or any other country, or (iii) an identification card issued by the armed forces of the United States, or (iv) any other photographic identification card issued by a governmental entity or educational institution indicating that the individual is at least twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty-five years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of kratom to an individual under twenty-one years of age.

(c)(i) Any person or kratom business may perform a transaction scan as a precondition for such purchases.

(ii) In any instance where the information deciphered by the transaction scan fails to match the information printed on the driver's license or non-driver identification card, or if the transaction scan indicates that the information is false or fraudulent, the attempted transaction shall be denied.

(iii) In any proceeding pursuant to subdivision five of this section, it shall be an affirmative defense that such individual had produced a driver's license or non-driver identification card apparently issued by a governmental entity, successfully completed that transaction scan, and that the kratom has been sold, delivered or given to such individual in reasonable reliance upon such identification and transaction scan. In evaluating the applicability of such affirmative defense the commissioner shall take into consideration any written policy adopted and implemented by the seller to effectuate the provisions of this section. Use of a transaction scan shall not excuse any person or kratom business from the exercise of reasonable diligence otherwise required by this article. Notwithstanding the above provisions, any such affirmative defense shall not be applicable in any civil or criminal proceeding, or in any other forum.

(d) A person or kratom business shall only use a device capable of deciphering any electronically readable format, and shall only use the information recorded and maintained through the use of such devices, for the purposes contained in paragraph (c) of this subdivision. No person or kratom business shall resell or disseminate the information recorded during such a scan to any third person. Such prohibited resale or dissemination includes but is not limited to any advertising, marketing or promotional activities. Notwithstanding the restrictions imposed by this subdivision, such records may be released pursuant to a court ordered subpoena or pursuant to any other statute that specifically authorizes the release of such information. Each violation of this paragraph shall be punishable by a civil penalty of not more than one thousand dollars.

(e) A person or kratom business may electronically or mechanically record and maintain only the information from a transaction scan necessary to effectuate this section. Such information shall be limited to the following: (i) name, (ii) date of birth, (iii) driver's license or non-driver identification number, and (iv) expiration date.

4. If the enforcement officer determines after a hearing that a violation of subdivision two, or paragraph (a) of subdivision three, of this section has occurred, a civil penalty may be imposed by the enforcement officer of no more than five hundred dollars, provided that each day that a person or kratom business fails to post signage required by paragraph (a) of subdivision three of this section that is identified by an enforcement officer shall be deemed a separate violation.

5. When the enforcement officer is the commissioner, the hearing shall be conducted pursuant to the provisions of section twelve-a of this chapter. When the enforcement officer is the department of health and mental hygiene, the hearing shall be conducted pursuant to procedures set forth in the county sanitary code, or health code of such city, or in the absence thereof, pursuant to procedures established by the county legislature or board of supervisors. Subsequent to any appeal having been finally determined, the commissioner may bring an action to recover the civil penalty in any court of competent jurisdiction. Nothing herein shall be construed to prohibit an enforcement officer from commencing a proceeding for injunctive relief to compel compliance with this section.

§ 5. Section 4 of a chapter of the laws of 2025 amending the public health law relating to the prohibition of the sale of kratom to individuals under the age of twenty-one, as proposed in legislative bills numbers S. 4552-A and A. 2340-A, is REPEALED.

§ 6. Section 5 of a chapter of the laws of 2025 amending the public health law relating to the prohibition of the sale of kratom to individuals under the age of twenty-one, as proposed in legislative bills numbers S. 4552-A and A. 2340-A, is amended to read as follows:

§ 5. This act shall take effect [~~immediately~~] on the one hundred eightieth day after it shall have become a law.

§ 7. This act shall take effect immediately; provided, however, that sections one, two, three, four and five of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2025 amending the public health law relating to the prohibition of the sale of kratom to individuals under the age of twenty-one, as proposed in legislative bills numbers S. 4552-A and A. 2340-A, takes effect.