



To: Chairwoman Cohen and Assembly Committee on Health and Human Services
From: Rebecca Gasca on Behalf of American Kratom Association
Re: AB303 - Nevada Kratom Consumer Protection Act
Date: April 3, 2019

The Kratom Consumer Protection Act is before your committee today to ensure that Nevada consumers have access to unadulterated kratom products that are used safely by more than 5 million Americans.

Kratom is a tropical evergreen plant formally known as *Mitragyna speciosa* and is native to Southeast Asia. It has been used for centuries as an energy and mood booster, similar to having a cup of coffee in the morning, and for its pain relieving effects. The natural kratom plant is typically consumed by chewing on the leaves, brewing the leaves in hot water to create a tea, or in capsules of powdered kratom leaves. It has shown tremendous promise for acute and chronic pain management patients who choose to use a natural, alternative pain management option instead of chemically formulated prescription drugs.

In 2005, kratom became controversial because the FDA had initially erroneously concluded that as many as 44 deaths were attributable to its use. Based on the mistaken belief that it was kratom that was dangerous, the DEA moved to classify kratom as a Schedule I drug in 2016. Although kratom is neither an opiate nor a synthetic opiate, the FDA has publicly stated that it considers kratom an opioid because the active compound partially attaches to the mu-opioid receptors in the brain. This combination of misinformation has continued, and policy makers in 6 states have been misled into banning kratom.

The National Institute on Drug Abuse (NIDA) investigated the FDA claims regarding 44 related deaths and concluded the deaths were actually the result of polydrug use **or the ingestion of adulterated kratom products laced with toxic concentrations of dangerous drugs.**

The real problem was that unscrupulous vendors had spiked natural kratom products with substances like heroin and fentanyl that produced the same dangerous effects as other opioids – and that was the actual but unnamed problem initially identified by the FDA.

Two new animal studies, one by NIDA, and the other by a group of independent scientists that were respectively published in June and July of 2018, directly refute the claim that kratom is dangerously addictive or that it has the same effects as classic opioids.

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American consumers are now caught in the middle of the attempt by the federal government to expand its regulatory authority over natural botanicals and dietary ingredients, and the unscrupulous bad-actors are selling adulterated kratom products today, including here in Nevada.

The Kratom Consumer Protection Act will protect Nevada consumers from adulterated kratom products and require labeling that allows consumers to know exactly what is in any kratom product they purchase here in Nevada. The bill also bans the sale of kratom products to anyone under the age of 18.

The Kratom Consumer Protection Act, that protects consumers from adulterated kratom, is being currently considered by a dozen states -- and more are being added to that list every week. In our neighboring state of Utah, this legislation was passed and signed by the Governor on March 26, 2019 and is now law. Just last Thursday, the Georgia Legislature passed their version of this legislation on a vote of 164-1 in the House, and a 50-0 vote in the Senate, and it is now being enrolled for the signature of the Governor there.

Other states are also acting on their own versions of this legislation:

Utah	SB 58 was passed by the Senate on a 24-1 vote, passed by the House, and then was signed by the Governor on March 26, 2019.
Georgia	HB 551 was passed by the House on a 164-1 vote; passed by the Senate on a 50-0 vote, and has now is being prepared for the Governor's signature.
Arkansas	The Arkansas Governor's Office issued a specific request to the Department of Health to meet with the lead kratom scientist, Jack Henningfield, Ph.D. to consider the request to withdraw the current ban on kratom.
Rhode Island	Rhode Island, a state that currently has a ban on kratom issued by the Department of Health in response to the FDA's attacks on kratom, is considering the Kratom Consumer Protection Act filed by Speaker Pro Tempore Brian Patrick Kennedy, and the first Hearing was held in the House Health Committee.
Wisconsin	In Wisconsin, another state that has banned kratom, the Kratom Consumer Protection Act has been drafted and will be filed in both the House and the Senate in the next week.

Ohio	The Ohio Board of Pharmacy has placed a recommendation to ban kratom to the Ohio Legislature for review, and the Kratom Consumer Protection Act will be filed as a substitute to that recommendation.
Michigan	The Kratom Consumer Protection Act was filed in the Michigan Legislature in November 2018, and a refiling is expected soon.
Missouri	The Kratom Consumer Protection Act has been filed and is awaiting its first hearing.
Kansas	The Kratom Consumer Protection Act has been filed and is awaiting its first hearing.
Oregon	The Kratom Consumer Protection Act has been filed and the first hearing before the Senate Judiciary Committee will be held on Friday.
Idaho	The Kratom Consumer Protection Act has been filed and is awaiting its first hearing.
Arizona	The Kratom Consumer Protection Act is being considered by the Senate Appropriations Committee.

The right policy on kratom is to stop the dangerous adulteration and allow consumers to safely use unadulterated kratom products. Nevada should be the next state to pass this legislation.

We appreciate the leadership of Minority Leader Wheeler in sponsoring the bill and are grateful that Chairman Yeager has agreed to add his name to the bill. We submit the following amendment to the committee with the support of the sponsors. The amendment removes the Board of Pharmacy as the oversight body, puts the bill into NRS 597, and adds Chairman Yeager as a co-sponsor, while also clarifying the definition of kratom in order to make it clear that vendors cannot skirt the intent of the bill by simply labeling kratom products as “not for human consumption.”

Section 1. Chapter 454 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. As used in sections 2, and 3 and 4 of this act, “kratom product” means any food product or dietary ingredient containing any part of the leaf of the *Mitragyna Speciosa* plant that contains the alkaloid mitragynine, regardless of it being labeled for sale for human consumption.



~~**Sec. 3. The Board shall adopt regulations governing the production, sale, distribution and advertising of kratom products. The regulations shall include, without limitation, requirements for the labeling of any kratom product sold in the State.**~~

Sec. 4~~3~~. 1. It is unlawful for a person to knowingly sell or offer to sell any material, compound, mixture or preparation containing a kratom product to a child under the age of 18 years.

2. Except as otherwise provided in this subsection, it is unlawful for a person to knowingly prepare, distribute, advertise, sell or offer to sell a kratom product that is adulterated with a substance that affects the quality or strength of the kratom product to such a degree as to render the kratom product injurious to a consumer. A person has not violated the provisions of this subsection if he or she can show by a preponderance of evidence that he or she relied in good faith upon the representations of a manufacturer, processor, packer or distributor of the kratom product.

3. A person who violates this section shall be punished by a fine of not more than \$1,000 and a civil penalty of not more than \$1,000.

4. It is unlawful to sell a kratom product without adequate labeling directions necessary for safe and effective use.

5. The Attorney General or any district attorney may bring an action in any court of competent jurisdiction in the name of the State of Nevada to enjoin a violation of this section.

Section 4. Chairman Yeager shall be added as a Primary Co-Sponsor.

