



2026 South Dakota Legislature

Senate Bill 77

Introduced by: **Senator** Carley

1 **An Act to ban kratom and kratom products and to provide a penalty therefor.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That a NEW SECTION be added to chapter 34-20B:**

4 A person who sells, distributes, purchases, consumes, or possesses kratom, a
5 kratom product, or a product containing synthetic mitragynine or 7-hydroxymitragynine,
6 is guilty of a Class 2 misdemeanor.

7 **Section 2. That § 34-20B-115 be REPEALED.**

8 ~~Any of the following actions are unlawful:~~

9 ~~(1) To knowingly sell or distribute a kratom product to a person under the age of~~
10 ~~twenty-one;~~

11 ~~(2) The purchase or attempt to purchase, the receipt or attempt to receive, the~~
12 ~~possession, or the consumption of a kratom product by a person under the age of~~
13 ~~twenty-one; or~~

14 ~~(3) To purchase a kratom product on behalf of, or to give a kratom product to, any~~
15 ~~person under the age of twenty-one, unless the purchaser is a parent or guardian~~
16 ~~of the person under the age of twenty-one.~~

17 ~~A violation of this section is a Class 2 misdemeanor.~~

18 **Section 3. That § 34-20B-115.1 be REPEALED.**

19 ~~No person may prepare, sell, or distribute a kratom product that:~~

20 ~~(1) Contains a level of 7-hydroxymitragynine in the alkaloid fraction that is greater~~
21 ~~than two percent of the alkaloid composition of the product;~~

22 ~~(2) Contains synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other~~
23 ~~synthetic alkaloid or synthetically derived compound from the *Mitragyna speciosa*~~
24 ~~plant;~~

- 1 ~~(3) — Contains a poisonous or otherwise deleterious non-kratom substance, including~~
2 ~~any substance designated as a controlled substance by this chapter;~~
3 ~~(4) — Is mixed or packed with a non-kratom substance that affects the quality or strength~~
4 ~~of the kratom product, rendering the product injurious to a customer;~~
5 ~~(5) — Does not include on its package or label the recommended serving size of the~~
6 ~~kratom product, a recommended number of servings that can be safely consumed~~
7 ~~in a twenty-four-hour period, and a list of servings per container;~~
8 ~~(6) — Does not include on its package or label the amount of mitragynine and 7-~~
9 ~~hydroxymitragynine contained in the kratom product; or~~
10 ~~(7) — Does not include on its package or label the following warning statement: "Consult~~
11 ~~a licensed, qualified healthcare professional before consuming this product. Not for~~
12 ~~use by women who are pregnant, nursing, or trying to become pregnant."~~
13 ~~A violation of this section is a Class 2 misdemeanor.~~