



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 That § 34-20B-115 be REPEALED.**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 That § 34-20B-115.1 be REPEALED.**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.