

AMENDMENTS TO LB901

(Amendments to E&R amendments, ER133)

Introduced by Hallstrom, 1.

1 1. Insert the following new sections:

2 **Sec. 9.** Section 71-3801, Revised Statutes Supplement, 2025, is
3 amended to read:

4 71-3801 Sections 71-3801 to 71-3815 and section 2 of this act shall
5 be known and may be cited as the Kratom Consumer Protection Act.

6 **Sec. 10.** (1) Beginning January 1, 2027, an excise tax shall be
7 levied on the retail sale of kratom products to consumers. The tax shall
8 be at a rate of ten percent of the retail purchase price.

9 (2) The excise tax imposed by this section shall be in addition to
10 all other occupation, privilege sales, or use taxes imposed by this state
11 or by any political subdivision of the state.

12 (3) Each retailer of kratom products shall maintain complete and
13 accurate electronic records of sales of kratom products, in the manner
14 prescribed by the Department of Revenue. Each such retailer shall provide
15 such records to the department upon request.

16 (4)(a) Each retailer of kratom products shall file a return with the
17 department by the twentieth day of the month following the month reported
18 and with the report shall remit the amount of excise tax due.

19 (b) The return, which shall be upon forms prescribed and furnished
20 by the department, shall contain, among other things, the total amount of
21 kratom products sold or transferred during the preceding month and the
22 amount of tax due thereon.

23 (c) The department may require retailers to file tax returns
24 electronically and to remit payments due by electronic funds transfers.

25 (5) The department shall collect the excise tax and shall account
26 for and remit to the State Treasurer at least once each month all money

1 collected pursuant to such tax for credit to the General Fund.

2 **Sec. 11.** Section 71-3809, Revised Statutes Supplement, 2025, is
3 amended to read:

4 71-3809 (1) No person shall sell, offer for sale, provide, or
5 distribute an adulterated kratom product in the State of Nebraska.

6 (2) A product shall be deemed adulterated if:

7 (a) It contains any kratom alkaloid or metabolite, including 7-
8 hydroxymitragynine, and does not meet the definition of a kratom product
9 under section 71-3802; or

10 (b) The kratom product is combined with a dangerous nonkratom
11 substance that contains a poisonous or otherwise deleterious nonkratom
12 ingredient, including, but not limited to, any substance listed as a
13 controlled substance under the laws of this state or federal law.

14 (3) If the department has a reasonable belief that ~~Upon receipt of~~
15 ~~evidence that suggests~~ a product may be an adulterated kratom product,
16 the department may require the person selling, providing, or distributing
17 the product to obtain an independent third-party test of the product by a
18 laboratory of the department's choosing. A person shall not sell,
19 provide, or distribute any product undergoing such testing until the test
20 results verify that such product is not adulterated.

21 **Sec. 12.** Section 71-3810, Revised Statutes Supplement, 2025, is
22 amended to read:

23 71-3810 (1) Any processor or retailer that violates any section of
24 the Kratom Consumer Protection Act, including those related to the
25 application or registration, or any of the rules and regulations adopted
26 and promulgated by the department that apply to processors or kratom
27 products shall be subject to the penalties provided in this section.

28 (2) For the first violation, the department shall impose a civil
29 penalty of up to one thousand dollars. For the second violation, the
30 department shall impose a civil penalty of up to five thousand dollars.
31 For a third violation and any subsequent violations, the department shall

1 impose a civil penalty of at least five thousand dollars and no more than
2 twenty thousand dollars and, if the violator is a processor, the
3 department shall prohibit the sale of any kratom products of such
4 processor within the State of Nebraska for a period of three years.

5 (3) If a processor violates the Kratom Consumer Protection Act by
6 selling, offering for sale, providing, or distributing an adulterated
7 kratom product in the State of Nebraska, the department shall remove any
8 product found to be adulterated from the list of registered kratom
9 products on the department's website.

10 (4) ~~(3)~~ For any processor or retailer that has no violation for a
11 period of four consecutive years, a new violation shall be treated as a
12 first violation.

13 (5) ~~(4)~~ No determination that a violation has occurred shall be made
14 until notice has been given and a hearing has been held by the Tax
15 Commissioner as provided in section 71-3811 if requested by the processor
16 or retailer.

17 (6) ~~(5)~~ A retailer shall not be found to be in violation of the
18 Kratom Consumer Protection Act if it is shown by a preponderance of the
19 evidence that the retailer relied in good faith upon the representation
20 of a processor that a product is not an adulterated kratom product as
21 defined in section 71-3809 or otherwise conformed to the act.

22 **Sec. 13.** Section 71-3812, Revised Statutes Supplement, 2025, is
23 amended to read:

24 71-3812 (1) The Attorney General shall have authority to enforce the
25 Kratom Consumer Protection Act pursuant to the Consumer Protection Act
26 and the Uniform Deceptive Trade Practices Act. This section shall not be
27 construed to allow for a private right of action under the Kratom
28 Consumer Protection Act even though such action is authorized under the
29 Consumer Protection Act and the Uniform Deceptive Trade Practices Act.

30 (2) If a kratom product is found to be adulterated under section
31 71-3809 with ingredients not reflected on the label of the product, such

1 violation of the Kratom Consumer Protection Act is also prima facie
2 evidence of a violation of the Consumer Protection Act.

3 2. Renumber the remaining sections and correct internal references
4 accordingly.

5 3. Correct the operative date and repealer sections so that sections
6 added by this amendment become operative three calendar months after the
7 adjournment of this legislative session.