

By: _____

S.B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the classification of kratom, synthetic kratom compounds, and kratom analogs as controlled substances; requiring toxicology testing and reporting of certain overdose deaths; providing for the designation of kratom poisoning on a death certificate; creating criminal offenses; providing civil penalties and injunctive remedies; repealing the Kratom Consumer Health and Safety Protection Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.002, Health and Safety Code, is amended by adding Subdivisions (56), (57), and (58) to read as follows:

(56) “Kratom” means the plant *Mitragyna speciosa* Korth., whether growing or not; any part of that plant, including the leaf and the seeds; and every compound, manufacture, salt, derivative, mixture, extract, or preparation of that plant or of any part of that plant.

(57) “Synthetic kratom compound” means any alkaloid of the plant *Mitragyna speciosa*, including mitragynine and 7-hydroxymitragynine, that is produced, derived, concentrated, converted, or enhanced by artificial, synthetic, or semi-synthetic means, in any amount.

(58) “Kratom analog” means a substance, however produced, that: (A) is a synthetic, semi-synthetic, or artificially derived form of mitragynine, 7-hydroxymitragynine, or another alkaloid of the plant *Mitragyna speciosa*, including any positional isomer, ester, ether, salt, or salt of an isomer, ester, or ether of such a substance; (B) has a chemical structure substantially similar to such an alkaloid; (C) is metabolized, converted, or otherwise transformed within the human body into 7-hydroxymitragynine or a substance that acts on the human opioid receptor system; or (D) is specifically designed or intended to produce an effect on the human opioid receptor system substantially similar to or greater than the effect of mitragynine or 7-hydroxymitragynine. The term includes mitragynine pseudoindoxyl, dihydro-7-hydroxymitragynine (MGM-15), and 9-fluoro-7-hydroxymitragynine (MGM-16).

SECTION 2. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1023 to read as follows:

Sec. 481.1023. PENALTY GROUP 1-C. Penalty Group 1-C consists of:

- (1) kratom, as defined by Section 481.002;
- (2) mitragynine and 7-hydroxymitragynine, whether naturally occurring or produced by any means, and any positional isomer, ester, ether, salt, or salt of an isomer, ester, or ether of either substance;
- (3) any synthetic kratom compound, as defined by Section 481.002, including synthetic or semi-synthetic mitragynine and 7-hydroxymitragynine;

(4) mitragynine pseudoindoxyl, dihydro-7-hydroxymitragynine (MGM-15), and 9-fluoro-7-hydroxymitragynine (MGM-16); and

(5) any kratom analog, as defined by Section 481.002, and any salt, isomer, ester, ether, or salt of an isomer, ester, or ether of a substance described by this section with similar pharmacological activity.

SECTION 3. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1126 to read as follows:

Sec. 481.1126. OFFENSE: MANUFACTURE OR DELIVERY OF SUBSTANCE IN PENALTY GROUP 1-C. (a) A person commits an offense if the person knowingly manufactures, delivers, or possesses with intent to deliver a controlled substance listed in Penalty Group 1-C.

(b) For purposes of this section, the quantity of a controlled substance is measured by the number of abuse units. An “abuse unit” means a single dose, tablet, capsule, gummy, unit of a beverage or liquid, or other single item intended for individual consumption. If the substance is in bulk form and is not divided into discrete units intended for individual consumption, an abuse unit is:

(1) each two grams of plant material of the plant *Mitragyna speciosa* in leaf, crushed, or powdered form; or

(2) each 10 milligrams of any other controlled substance listed in Penalty Group 1-C.

(c) The weight or volume of any adulterant, dilutant, carrier medium, packaging, or delivery device, including a vape or other apparatus, is not counted in determining the number of abuse units under this section.

(d) An offense under this section is:

(1) a felony of the third degree if the offense involves fewer than 25 abuse units;

(2) a felony of the second degree if the offense involves 25 or more but fewer than 400 abuse units; and

(3) a felony of the first degree if the offense involves 400 or more abuse units or if the person delivered a substance in Penalty Group 1-C to an individual younger than 18 years of age.

SECTION 4. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1181 to read as follows:

Sec. 481.1181. OFFENSE: POSSESSION OF SUBSTANCE IN PENALTY GROUP 1-C. (a) A person commits an offense if the person knowingly possesses a controlled substance listed in Penalty Group 1-C.

(b) The quantity of a controlled substance under this section is measured in abuse units as provided by Section 481.1126(b), and the weight or volume of any adulterant, dilutant, carrier medium, packaging, or delivery device is not counted.

(c) An offense under this section is:

(1) a Class B misdemeanor if the offense involves fewer than 10 abuse units;

- (2) a Class A misdemeanor if the offense involves 10 or more but fewer than 50 abuse units; and
- (3) a state jail felony if the offense involves 50 or more abuse units.

SECTION 5. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1025 to read as follows:

Sec. 481.1025. EXCEPTION FOR ANALYTICAL, FORENSIC, AND RESEARCH ACTIVITIES.

(a) Sections 481.1126 and 481.1181 do not apply to a person who manufactures, possesses, delivers, or otherwise handles a controlled substance listed in Penalty Group 1-C for the purpose of:

- (1) chemical analysis, method development, quality control, or the preparation, distribution, or use of a reference standard by a laboratory accredited under Article 38.01, Code of Criminal Procedure, or by a laboratory operated by or under contract with a medical examiner, a justice of the peace acting as coroner, the department, or a law enforcement agency;
- (2) an autopsy, inquest, or toxicology examination conducted under Chapter 49, Code of Criminal Procedure, including an examination required by Section 481.1024;
- (3) scientific, clinical, or medical research conducted by an institution of higher education or other research facility, if the research is approved by the institution or facility; or
- (4) an activity authorized by a registration or other authorization issued under this chapter or under federal law.

(b) A person described by Subsection (a) shall maintain records sufficient to account for the receipt, use, and disposition of the controlled substance and shall make those records available to the department on request.

SECTION 6. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1026 to read as follows:

Sec. 481.1026. CIVIL ENFORCEMENT; INJUNCTION; EMBARGO. (a) The attorney general, a district attorney, a criminal district attorney, or a county attorney with felony responsibility may institute an action in a district court of Travis County or of a county in which any part of the violation occurs to restrain a violation or threatened violation of Section 481.1126.

(b) On application, the court may grant a temporary restraining order, a temporary injunction, or a permanent injunction, and may order a person to remove from sale, recall, surrender, or destroy a controlled substance listed in Penalty Group 1-C.

(c) The department may detain or embargo a product the department has reasonable cause to believe contains a controlled substance listed in Penalty Group 1-C, in the manner provided by Sections 431.048, 431.049, and 431.0495 for an adulterated or misbranded food or drug.

(d) A person who violates an injunction issued under this section is liable to the state for a civil penalty of not more than \$25,000 for each violation. Each day a violation continues is a separate violation.

(e) A civil penalty recovered in an action instituted by the attorney general shall be deposited to the credit of the general revenue fund. A civil penalty recovered in an action instituted by a district attorney, criminal district attorney, or county attorney shall be paid to the county in which the action was brought.

(f) A controlled substance listed in Penalty Group 1-C is contraband subject to seizure and forfeiture under Chapter 59, Code of Criminal Procedure.

(g) The remedies provided by this section are in addition to any other remedy provided by law.

SECTION 7. Subchapter B, Chapter 481, Health and Safety Code, is amended by adding Section 481.0355 to read as follows:

Sec. 481.0355. EMERGENCY DESIGNATION OF KRATOM ANALOGS. (a) The commissioner may, by emergency action, designate a substance as a kratom analog subject to Penalty Group 1-C if the commissioner finds the substance meets the definition of kratom analog under Section 481.002 and poses an imminent hazard to public safety.

(b) A designation under this section takes effect on publication in the Texas Register, expires on the second anniversary of the effective date unless adopted by rule or by the legislature, and is subject to objection as provided by Section 481.034.

SECTION 8. Section 161.042(a), Health and Safety Code, is amended to read as follows:

(a) A physician who attends or treats, or who is requested to attend or treat, an overdose of a controlled substance listed in Penalty Group 1 under Section 481.102 or a controlled substance listed in Penalty Group 1-B under Section 481.1022, or a controlled substance listed in Penalty Group 1-C under Section 481.1023, or the administrator, superintendent, or other person in charge of a hospital, sanatorium, or other institution in which an overdose of a controlled substance listed in Penalty Group 1 under Section 481.102 or a controlled substance listed in Penalty Group 1-B under Section 481.1022 or a controlled substance listed in Penalty Group 1-C under Section 481.1023 is attended or treated or in which the attention or treatment is requested, shall report the case at once to the department.

SECTION 9. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1024 to read as follows:

Sec. 481.1024. TOXICOLOGY TESTING IN CERTAIN DEATHS. (a) In investigating a death reasonably suspected to have resulted from a drug overdose under Chapter 49, Code of Criminal Procedure, the medical examiner or justice of the peace acting as coroner shall ensure that any toxicology examination performed includes testing for mitragynine, 7-hydroxymitragynine, any kratom analog, and other substances listed in Penalty Group 1-C under Section 481.1023.

(b) The department shall include a death in which a substance listed in Penalty Group 1-C is detected in the repository maintained under Section 161.044.

SECTION 10. Section 193.005, Health and Safety Code, is amended by adding Subsection (e-2) to read as follows:

(e-2) The medical certification on a death certificate must include either the term “Kratom Poisoning” or the term “Kratom Toxicity” if:

- (1) a toxicology examination reveals a controlled substance listed in Penalty Group 1-C under Section 481.1023 present in the body of the decedent in an amount or concentration that is considered to be lethal by generally accepted scientific standards; and

(2) the results of an autopsy performed on the decedent are consistent with an opioid overdose as the cause of death.

SECTION 11. Chapter 445, Health and Safety Code, is repealed.

SECTION 12. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. Sections 9 and 10 of this Act apply only to a death occurring or discovered on or after the effective date of this Act.

SECTION 13. To the extent of any conflict, this Act prevails over another Act of the 90th Legislature, Regular Session, 2027, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 14. This Act takes effect September 1, 2027.