

SB0147/618874/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 147
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Prohibition” and substitute “Prohibited Purchase, Distribution, or Sale”; strike beginning with “listing” in line 3 down through “substances” in line 5 and substitute “prohibiting a person from purchasing for, distributing, or selling kratom to an individual under the age of 21 years, except under certain circumstances; providing a certain defense in a prosecution for a violation of this Act; establishing that a violation of this Act is a civil penalty; providing for the issuance and prosecution of a civil citation issued under this Act; providing for the applicability of this Act; defining a certain term; and generally relating to kratom”; and strike in their entirety lines 6 through 10, inclusive, and substitute:

“BY adding to

Article - Criminal Law

Section 10-108

Annotated Code of Maryland

(2012 Replacement Volume and 2019 Supplement)”.

AMENDMENT NO. 2

On pages 1 and 2, strike in their entirety the lines beginning with line 14 on page 1 through line 16 on page 2, inclusive.

On page 2, after line 16 insert:

“10-108.

(A) IN THIS SECTION, “KRATOM” MEANS THE PLANT MITRAGYNA SPECIOSA OR ANY PART OF THE PLANT, INCLUDING ALL DERIVATIVES,

(Over)

EXTRACTS, ISOMERS, ACIDS, SALTS, AND SALTS OF ISOMERS, WHETHER GROWING OR NOT, CONTAINING MITRAGYNINE OR 7-HYDROXYMITRACYNINE.

(B) (1) THIS SUBSECTION DOES NOT APPLY TO THE DISTRIBUTION OF KRATOM TO AN INDIVIDUAL UNDER THE AGE OF 18 YEARS WHO IS ACTING SOLELY AS THE AGENT OF THE INDIVIDUAL'S EMPLOYER IF THE EMPLOYER DISTRIBUTES KRATOM FOR COMMERCIAL PURPOSES.

(2) A PERSON MAY NOT PURCHASE FOR OR DISTRIBUTE OR SELL KRATOM TO AN INDIVIDUAL UNDER THE AGE OF 18 YEARS.

(C) IN A PROSECUTION FOR A VIOLATION OF THIS SECTION, IT IS A DEFENSE THAT THE DEFENDANT EXAMINED THE PURCHASER'S OR RECIPIENT'S DRIVER'S LICENSE OR OTHER VALID IDENTIFICATION ISSUED BY A GOVERNMENTAL UNIT THAT POSITIVELY IDENTIFIED THE PURCHASER OR RECIPIENT AS AT LEAST 18 YEARS OF AGE.

(D) (1) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING:

(I) \$300 FOR A FIRST VIOLATION;

(II) \$1,000 FOR A SECOND VIOLATION OCCURRING WITHIN 24 MONTHS AFTER THE FIRST VIOLATION; AND

(III) \$3,000 FOR EACH SUBSEQUENT VIOLATION OCCURRING WITHIN 24 MONTHS AFTER THE PRECEDING VIOLATION.

(2) IF A VIOLATION IS COMMITTED BY A PERSON ACTING ON BEHALF OF A RETAILER, THE CIVIL PENALTY IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PAID BY THE RETAILER.

(E) (1) IN THIS SUBSECTION, "DESIGNEE" MEANS A RETIRED SWORN LAW ENFORCEMENT OFFICER EMPLOYED BY A COUNTY HEALTH OFFICER OR AN EMPLOYEE OF A LOCAL HEALTH DEPARTMENT TRAINED IN CIVIL ENFORCEMENT.

(2) A SWORN LAW ENFORCEMENT OFFICER, A COUNTY HEALTH OFFICER, OR A DESIGNEE OF A COUNTY HEALTH OFFICER MAY ISSUE A CIVIL CITATION FOR A VIOLATION OF SUBSECTION (B) OF THIS SECTION.

(3) A CITATION ISSUED UNDER THIS SUBSECTION SHALL INCLUDE:

(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(II) THE NATURE OF THE VIOLATION;

(III) THE LOCATION AND TIME OF THE VIOLATION;

(IV) THE AMOUNT OF THE CIVIL PENALTY;

(V) THE MANNER, LOCATION, AND TIME IN WHICH THE CIVIL PENALTY MAY BE PAID;

(VI) A NOTICE STATING THE PERSON'S RIGHT TO ELECT TO STAND TRIAL FOR THE VIOLATION; AND

(VII) A WARNING THAT FAILURE TO PAY THE CIVIL PENALTY OR TO CONTEST LIABILITY IN A TIMELY MANNER IN ACCORDANCE WITH THE CITATION:

1. IS AN ADMISSION OF LIABILITY; AND

2. MAY RESULT IN ENTRY OF A DEFAULT JUDGMENT THAT MAY INCLUDE THE CIVIL PENALTY, COURT COSTS, AND ADMINISTRATIVE EXPENSES.

(4) THE COUNTY HEALTH OFFICER OR DESIGNEE SHALL RETAIN A COPY OF THE CITATION ISSUED UNDER THIS SUBSECTION.

(5) (I) A PERSON WHO RECEIVES A CITATION FROM A COUNTY HEALTH OFFICER OR DESIGNEE UNDER THIS SUBSECTION MAY ELECT TO STAND TRIAL FOR THE VIOLATION BY FILING A NOTICE OF INTENTION TO STAND TRIAL WITH THE COUNTY HEALTH OFFICER OR DESIGNEE AT LEAST 5 DAYS BEFORE THE DATE SET IN THE CITATION FOR THE PAYMENT OF THE CIVIL PENALTY.

(II) AFTER RECEIVING A NOTICE OF INTENTION TO STAND TRIAL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COUNTY HEALTH OFFICER OR DESIGNEE SHALL FORWARD THE NOTICE AND A COPY OF THE CITATION TO THE DISTRICT COURT.

(6) (I) AFTER RECEIVING A CITATION AND NOTICE UNDER THIS SUBSECTION, THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE DEFENDANT OF THE TRIAL DATE.

(II) IN A PROCEEDING BEFORE THE DISTRICT COURT, A VIOLATION OF SUBSECTION (B) OF THIS SECTION SHALL BE HANDLED IN THE SAME MANNER AS A MUNICIPAL INFRACTION UNDER §§ 6-108 THROUGH 6-115 OF THE LOCAL GOVERNMENT ARTICLE.

(7) THE DISTRICT COURT SHALL REMIT ANY PENALTIES COLLECTED FOR A VIOLATION OF SUBSECTION (B) OF THIS SECTION TO THE COUNTY IN WHICH THE VIOLATION OCCURRED.

(8) ADJUDICATION OF A VIOLATION OF SUBSECTION (B) OF THIS SECTION IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE.”.