

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 563
Committee Substitute Favorable 6/21/23
PROPOSED COMMITTEE SUBSTITUTE H563-PCS10495-Safa-34

Short Title: Regulate Hemp-Derived Consumables & Kratom.

(Public)

Sponsors:

Referred to:

April 5, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE THE SALE AND DISTRIBUTION OF HEMP-DERIVED
3 CONSUMABLE PRODUCTS AND KRATOM PRODUCTS, AND TO BAN THOSE
4 PRODUCTS FROM SCHOOL GROUNDS.

5 The General Assembly of North Carolina enacts:

6
7 **PART I. REGULATION OF HEMP-DERIVED CONSUMABLE PRODUCTS AND**
8 **KRATOM PRODUCTS**

9 SECTION 1.(a) The General Statutes are amended by adding a new Chapter to read:

10 **"Chapter 18D.**

11 **"Regulation of Hemp-Derived Consumable Products and Kratom Products.**

12 **"Article 1.**

13 **"Regulation of Hemp-Derived Consumable Products.**

14 **"§ 18D-100. Definitions.**

15 Unless the context requires otherwise, the following definitions apply in this Article:

- 16 (1) ALE Division. – As defined in G.S. 18B-101.
17 (2) Batch. – The hemp-derived consumable product produced during a period of
18 time under similar conditions and identified by a specific code that allows
19 traceability.
20 (3) Cannabinoid. – Any phytocannabinoid found in hemp, including delta-9
21 tetrahydrocannabinol, tetrahydrocannabinolic acid (THCA), cannabidiol
22 (CBD), cannabidiolic acid (CBDA), cannabinol (CBN), cannabigerol (CBG),
23 cannabichromene (CBC), cannabicyclol (CBL), cannabivarin (CBV),
24 tetrahydrocannabivarin (THCV), cannabidivarin (CBDV), cannabicitran
25 (CBT), delta-7 tetrahydrocannabinol, delta-8 tetrahydrocannabinol, delta-10
26 tetrahydrocannabinol, tetrahydrocannabiphorol (THCP), or
27 tetrahydrocannabinol acetate (THCO). This term also includes any synthetic
28 cannabinoid derived from a source other than hemp.
29 (4) Department. – The Department of Revenue.
30 (5) Distributor. – A person or entity that delivers or sells hemp-derived
31 consumable products for the purpose of distribution in commerce.
32 (6) Hemp. – As defined in G.S. 90-87.
33 (7) Hemp-derived consumable product. – A hemp product intended for human
34 ingestion or inhalation that contains a concentration of not more than
35 three-tenths of one percent (0.3%) on a dry weight basis total combined of



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- 1 delta-9 tetrahydrocannabinol, delta-7 tetrahydrocannabinol, delta-8
2 tetrahydrocannabinol, or delta-10 tetrahydrocannabinol, or any amount of
3 another cannabinoid. This term does not include hemp products intended for
4 topical application, or seeds or seed derived ingredients that are generally
5 recognized as safe by the United States Food and Drug Administration (FDA).
6 (8) Hemp product. – As defined in G.S. 90-87.
7 (9) Independent testing laboratory. – A laboratory that meets all of the following
8 conditions:
9 a. Holds an ISO 17025 accreditation or is registered with the Drug
10 Enforcement Administration (DEA) in accordance with 21 C.F.R. §
11 1301.13.
12 b. Does not have a direct or indirect interest in the entity whose product
13 is being tested.
14 c. Does not have a direct or indirect interest in a facility that cultivates,
15 processes, distributes, dispenses, or sells hemp-derived consumable
16 products in this State or any other jurisdiction.
17 d. Has entered into a compliance agreement with the ALE Division to
18 conduct tetrahydrocannabinol concentration sampling and testing
19 using the high-performance chromatography (HPLC) testing method.
20 (10) Ingestion. – The process of consuming hemp through the mouth, by
21 swallowing into the gastrointestinal system or through tissue absorption.
22 (11) Inhalation. – The process of consuming hemp into the respiratory system
23 through the mouth or nasal passages.
24 (12) License. – A license issued in accordance with this Chapter.
25 (13) Manufacture. – To compound, blend, extract, infuse, cook, or otherwise
26 manipulate hemp or a hemp-derived cannabinoid to make, prepare, or package
27 hemp-derived consumable products.
28 (14) Manufacturer. – Any person or entity that engages in the process of
29 manufacturing, preparing, or packaging of hemp-derived consumable
30 products.
31 (15) Seller. – Any person who sells a hemp-derived consumable product to the
32 ultimate consumer of the product, including an online seller.
33 (16) Serving. – A quantity of a hemp-derived consumable product reasonably
34 suitable for a person's use in a single day.

35 **§ 18D-101. Sales restrictions on hemp-derived consumable products.**

- 36 (a) Restrictions. – No person shall do any of the following:
37 (1) Knowingly, or having reason to know, sell a hemp-derived consumable
38 product to a person who is under 18 years of age.
39 (2) Knowingly, or having reason to know, distribute samples of hemp-derived
40 consumable products in or on a public street, sidewalk, or park.
41 (3) Engage in the business of selling a hemp-derived consumable product without
42 a valid license issued in accordance with this Chapter.
43 (4) Knowingly, or having reason to know, sell at retail a hemp-derived
44 consumable product that has a concentration of more than three-tenths of one
45 percent (0.3%) on a dry weight basis total combined of delta-9
46 tetrahydrocannabinol, delta-7 tetrahydrocannabinol, delta-8
47 tetrahydrocannabinol, or delta-10 tetrahydrocannabinol.
48 (b) Civil Penalties. – For any violation of this section, the Department may take any of
49 the following actions against a seller:
50 (1) For the first violation, impose a civil penalty of no more than five hundred
51 dollars (\$500.00).

- 1 (2) For the second violation within three years, impose a civil penalty of no more
2 than seven hundred fifty dollars (\$750.00).
- 3 (3) For the third violation within three years of the first violation, impose a civil
4 penalty of no more than one thousand dollars (\$1,000) and suspend the seller's
5 license for up to 30 days.
- 6 (4) For a fourth or subsequent violation within three years of the first violation,
7 impose a civil penalty of no more than two thousand dollars (\$2,000) and
8 either (i) suspend the seller's license for up to one year or (ii) revoke the seller's
9 license.
- 10 (c) Compromise. – In any case in which the Department is entitled to suspend or revoke
11 a seller's license, the Department may accept from the seller an offer in compromise to pay a
12 penalty of not more than three thousand dollars (\$3,000). The Department may either accept a
13 compromise or revoke a license, but not both. The Department may accept a compromise and
14 suspend the license in the same case.
- 15 (d) Testing Fee. – In any case in which the Department imposes a penalty pursuant to
16 subsection (b) of this section, for a violation of subdivision (4) of subsection (a) of this section,
17 the seller shall also pay to the Department the actual costs paid by the ALE Division for testing
18 of the samples resulting in the violation. Any fee collected pursuant to this subsection shall be
19 remitted to the ALE Division.
- 20 (e) Defenses. – It is a defense to a violation of subdivision (1) of subsection (a) of this
21 section if the seller does any of the following:
- 22 (1) Shows that the purchaser produced a drivers license, a special identification
23 card issued under G.S. 20-37.7 or issued by the state agency of any other state
24 authorized to issue similar official state special identification cards for that
25 state, a tribal enrollment card issued by a State or federally recognized Indian
26 Tribe, a military identification card, or a passport showing the purchaser's age
27 to be at least the required age for purchase and bearing a physical description
28 of the person named on the card reasonably describing the purchaser.
- 29 (2) Produces evidence of other facts that reasonably indicated at the time of sale
30 that the purchaser was at least the required age.
- 31 (3) Shows that at the time of purchase, the purchaser utilized a biometric
32 identification system that demonstrated (i) the purchaser's age to be at least
33 the required age for the purchase and (ii) the purchaser had previously
34 registered with the seller or seller's agent a drivers license, a special
35 identification card issued under G.S. 20-37.7 or issued by the state agency of
36 any other state authorized to issue similar official state special identification
37 cards for that state, a military identification card, or a passport showing the
38 purchaser's date of birth and bearing a physical description of the person
39 named on the document.
- 40 (f) Proceeds of Civil Penalty. – The clear proceeds of any civil penalty imposed under
41 this section, including any penalty received as an offer in compromise, shall be remitted to the
42 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.
- 43 (g) Forfeiture. – Any product sold in violation of subdivision (4) of subsection (a) of this
44 section shall be subject to forfeiture pursuant to the procedures set forth in G.S. 18D-401.
- 45 (h) Criminal Penalty. – Any person against whom a civil penalty has been imposed for
46 violation of subdivision (3) of subsection (a) of this section, who subsequently violates
47 subdivision (3) of subsection (a) of this section, is guilty of a Class A1 misdemeanor.
- 48 **§ 18D-102. Offenses involving the purchase, attempted purchase, or possession of**
49 **hemp-derived consumable products by a person under 18 years of age.**
- 50 (a) It is unlawful for any person to give a hemp-derived consumable product to anyone
51 less than 18 years old without the consent of the underaged person's parent or legal guardian.

1 **(b)** It is unlawful for a person less than 18 years old to purchase or attempt to purchase a
2 hemp-derived consumable product.

3 **(c)** It is unlawful for any person to enter or attempt to enter a place where hemp-derived
4 consumable products are sold or consumed, or to obtain or attempt to obtain hemp-derived
5 consumable products, or to obtain or attempt to obtain permission to purchase hemp-derived
6 consumable products, in violation of subsection (b) of this section, by using or attempting to use
7 any of the following:

8 **(1)** A fraudulent or altered drivers license.

9 **(2)** A fraudulent or altered identification document other than a drivers license.

10 **(3)** A drivers license issued to another person.

11 **(4)** An identification document other than a drivers license issued to another
12 person.

13 **(5)** Any other form or means of identification that indicates or symbolizes that the
14 person is not prohibited from purchasing or possessing a hemp-derived
15 consumable product under this section.

16 **(d)** It is unlawful for any person to permit the use of the person's drivers license or any
17 other form of identification of any kind issued or given to the person by any other person who
18 violates or attempts to violate subsection (b) of this section.

19 **(e)** Penalties. –

20 **(1)** Any person less than 18 years old who violates this section is guilty of a Class
21 2 misdemeanor.

22 **(2)** Any person at least 18 years old who violates this section is guilty of a Class
23 1 misdemeanor.

24 **(3)** Aiding or abetting a violation of this section shall be punished as provided in
25 subdivisions (1) and (2) of this subsection, and all other provisions of this
26 section shall apply to that offense.

27 **(f)** Nothing in this section prohibits an underage person from selling, transporting, or
28 possessing hemp-derived consumable products in the course of employment, if the employment
29 of the person for that purpose is lawful under applicable youth employment statutes.

30 **§ 18D-103. Offenses involving the manufacture and distribution of hemp-derived**
31 **consumable products.**

32 **(a)** Offenses. – It is unlawful for a manufacturer or distributor to do any of the following:

33 **(1)** Knowingly, or having reason to know, distribute samples of a hemp-derived
34 consumable product in or on a public street, sidewalk, or park.

35 **(2)** Engage in the business of manufacturing or distributing a hemp-derived
36 consumable product without a valid license issued in accordance with this
37 Chapter.

38 **(3)** Knowingly, or having reason to know, manufacture or distribute a
39 hemp-derived consumable product that has a concentration of more than
40 three-tenths of one percent (0.3%) on a dry weight basis total combined of
41 delta-9 tetrahydrocannabinol, delta-7 tetrahydrocannabinol, delta-8
42 tetrahydrocannabinol, or delta-10 tetrahydrocannabinol.

43 **(b)** Criminal Penalties. – A violation of this section is a Class A1 misdemeanor.

44 **(c)** Civil Penalties. – In addition to any criminal punishment authorized by this section,
45 for any violation of this section the Department shall take one or more of the following actions
46 against the licensee:

47 **(1)** Suspend the licensee's license for a specified period of time not longer than
48 three years.

49 **(2)** Revoke the licensee's license.

50 **(3)** Impose conditions on the operating hours of the licensee's business.

51 **(4)** Impose civil penalties as follows:

- 1 a. For a first violation, impose a civil penalty of no more than one
2 thousand dollars (\$1,000).
3 b. For a second violation within three years, impose a civil penalty of no
4 more than five thousand dollars (\$5,000).
5 c. For a third violation within three years of the first violation, impose a
6 civil penalty of no more than seven thousand five hundred dollars
7 (\$7,500).

8 (d) Compromise. – In any case in which the Department is entitled to suspend or revoke
9 a manufacturer's or distributor's license, the Department may accept from the manufacturer or
10 distributor an offer in compromise to pay a penalty of not more than eight thousand dollars
11 (\$8,000). The Department may either accept a compromise or revoke a license, but not both. The
12 Department may accept a compromise and suspend the license in the same case.

13 (e) Testing Fee. – In any case in which the Department imposes a penalty pursuant to
14 subsection (b) of this section, for a violation of subdivision (4) of subsection (a) of this section,
15 the manufacturer or distributor shall also pay to the Department the actual costs paid by the
16 Department or the ALE Division for testing of the samples resulting in the violation. Any fee
17 collected pursuant to this subsection shall be remitted to the ALE Division.

18 (f) Proceeds of Civil Penalty. – The clear proceeds of any civil penalty imposed under
19 this section, including any penalty received as an offer in compromise, shall be remitted to the
20 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

21 (g) Defense. – It is a defense to a violation of subdivision (3) of subsection (a) of this
22 section if the manufacturer does all of the following:

- 23 (1) Recalls all hemp-derived consumable products from the same batch as the
24 product on which the violation is based.
25 (2) Has samples of the batch tested by an independent testing laboratory. The
26 sample size required for testing pursuant to this subdivision shall be five times
27 the number of units required pursuant to G.S. 18D-104(e) based on the size of
28 the batch at production, regardless of the number of units that are able to be
29 recalled.
30 (3) Provides certified results from the independent testing laboratory indicating
31 that the sample tested does not contain a concentration of more than
32 three-tenths of one percent (0.3%) on a dry weight basis total combined of
33 delta-9 tetrahydrocannabinol, delta-7 tetrahydrocannabinol, delta-8
34 tetrahydrocannabinol, or delta-10 tetrahydrocannabinol.

35 (h) Forfeiture. – Any product sold in violation of subdivision (3) of subsection (a) of this
36 section shall be subject to forfeiture pursuant to the procedures set forth in G.S. 18D-401.

37 **"§ 18D-104. Testing prior to distribution.**

38 (a) Requirement. – The manufacturer or distributor shall have a hemp-derived
39 consumable product tested prior to distribution. The testing shall determine the presence and
40 amounts of any of the substances listed in subsection (b) of this section. No product that contains
41 more than the maximum amount indicated for any substance in subsection (b) of this section shall
42 be distributed or sold in this State.

43 (b) Substances Tested; Limitations. – Hemp-derived consumable products shall be tested
44 for the presence of and amount of the following substances and shall not exceed the amounts
45 indicated:

- 46 (1) Cannabinoids, not to exceed a concentration of three-tenths of one percent
47 (0.3%) total combined of Delta-9 tetrahydrocannabinol, Delta-7
48 tetrahydrocannabinol, Delta-8 tetrahydrocannabinol, Delta-10
49 tetrahydrocannabinol.
50 (2) 2,3-butanedione (Diacyl).

- 1 (3) Abamectin, not to exceed 300 parts per billion for ingestion or 100 parts per
2 billion for inhalation.
- 3 (4) Acephate, not to exceed 3,000 parts per billion for ingestion or 100 parts per
4 billion for inhalation.
- 5 (5) Acequinocyl, not to exceed 2,000 parts per billion for ingestion or 100 parts
6 per billion for inhalation.
- 7 (6) Acetamiprid, not to exceed 3,000 parts per billion for ingestion or 100 parts
8 per billion for inhalation.
- 9 (7) Aldicarb, not to exceed 100 parts per billion for ingestion or inhalation.
- 10 (8) Azoxystrobin, not to exceed 3,000 parts per billion for ingestion or 100 parts
11 per billion for inhalation.
- 12 (9) Bifenazate, not to exceed 3,000 parts per billion for ingestion or 100 parts per
13 billion for inhalation.
- 14 (10) Bifenthrin, not to exceed 500 parts per billion for ingestion or 100 parts per
15 billion for inhalation.
- 16 (11) Boscalid, not to exceed 3,000 parts per billion for ingestion or 100 parts per
17 billion for inhalation.
- 18 (12) Captan, not to exceed 3,000 parts per billion for ingestion or 700 parts per
19 billion for inhalation.
- 20 (13) Carbaryl, not to exceed 500 parts per billion for ingestion or 500 parts per
21 billion for inhalation.
- 22 (14) Carbofuran, not to exceed 100 parts per billion for ingestion or inhalation.
- 23 (15) Chlorantraniliprole, not to exceed 3,000 parts per billion for ingestion or 1,000
24 parts per billion for inhalation.
- 25 (16) Chlordane, not to exceed 100 parts per billion for ingestion or inhalation.
- 26 (17) Chlorfenapyr, not to exceed 100 parts per billion for ingestion or inhalation.
- 27 (18) Chlormequat chloride, not to exceed 3,000 parts per billion for ingestion or
28 1,000 parts per billion for inhalation.
- 29 (19) Chlorpyrifos, not to exceed 100 parts per billion for ingestion or inhalation.
- 30 (20) Clofentezine, not to exceed 500 parts per billion for ingestion or 200 parts per
31 billion for inhalation.
- 32 (21) Coumaphos, not to exceed 100 parts per billion for ingestion or inhalation.
- 33 (22) Cyfluthrin, not to exceed 1,000 parts per billion for ingestion or 500 parts per
34 billion for inhalation.
- 35 (23) Cypermethrin, not to exceed 1,000 parts per billion for ingestion or 500 parts
36 per billion for inhalation.
- 37 (24) Daminozide, not to exceed 100 parts per billion for ingestion or inhalation.
- 38 (25) DDVP (Dichlorvos), not to exceed 100 parts per billion for ingestion or
39 inhalation.
- 40 (26) Diazinon, not to exceed 200 parts per billion for ingestion or 100 parts per
41 billion for inhalation.
- 42 (27) Dimethoate, not to exceed 100 parts per billion for ingestion or inhalation.
- 43 (28) Dimethomorph, not to exceed 3,000 parts per billion for ingestion or 200 parts
44 per billion for inhalation.
- 45 (29) Ethoprop(hos), not to exceed 100 parts per billion for ingestion or inhalation.
- 46 (30) Etofenprox, not to exceed 100 parts per billion for ingestion or inhalation.
- 47 (31) Etoxazole, not to exceed 1,500 parts per billion for ingestion or 100 parts per
48 billion for inhalation.
- 49 (32) Fenhexamid, not to exceed 3,000 parts per billion for ingestion or 100 parts
50 per billion for inhalation.
- 51 (33) Fenoxycarb, not to exceed 100 parts per billion for ingestion or inhalation.

- 1 (34) Fenpyroximate, not to exceed 2,000 parts per billion for ingestion or 100 parts
2 per billion for inhalation.
- 3 (35) Fipronil, not to exceed 100 parts per billion for ingestion or inhalation.
- 4 (36) Flonicamid, not to exceed 2,000 parts per billion for ingestion or 100 parts per
5 billion for inhalation.
- 6 (37) Fludioxonil, not to exceed 3,000 parts per billion for ingestion or 100 parts
7 per billion for inhalation.
- 8 (38) Hexythiazox, not to exceed 2,000 parts per billion for ingestion or 100 parts
9 per billion for inhalation.
- 10 (39) Imazalil, not to exceed 100 parts per billion for ingestion or inhalation.
- 11 (40) Imidacloprid, not to exceed 3,000 parts per billion for ingestion or 400 parts
12 per billion for inhalation.
- 13 (41) Kresoxim-methyl, not to exceed 1,000 parts per billion for ingestion or 100
14 parts per billion for inhalation.
- 15 (42) Malathion, not to exceed 2,000 parts per billion for ingestion or 200 parts per
16 billion for inhalation.
- 17 (43) Metalaxyl, not to exceed 3,000 parts per billion for ingestion or 100 parts per
18 billion for inhalation.
- 19 (44) Methiocarb, not to exceed 100 parts per billion for ingestion or inhalation.
- 20 (45) Methomyl, not to exceed 100 parts per billion for ingestion or inhalation.
- 21 (46) Methyl parathion, not to exceed 100 parts per billion for ingestion or
22 inhalation.
- 23 (47) Mevinphos, not to exceed 100 parts per billion for ingestion or inhalation.
- 24 (48) Myclobutanil, not to exceed 3,000 parts per billion for ingestion; prohibited at
25 any concentration for inhalation.
- 26 (49) Naled, not to exceed 500 parts per billion for ingestion or 250 parts per billion
27 for inhalation.
- 28 (50) Oxamyl, not to exceed 500 parts per billion for ingestion or inhalation.
- 29 (51) Paclobutrazol, not to exceed 100 parts per billion for ingestion or inhalation.
- 30 (52) Pentachloronitrobenzene, not to exceed 200 parts per billion for ingestion or
31 150 parts per billion for inhalation.
- 32 (53) Permethrin, not to exceed 1,000 parts per billion for ingestion or 100 parts per
33 billion for inhalation.
- 34 (54) Phosmet, not to exceed 200 parts per billion for ingestion or 100 parts per
35 billion for inhalation.
- 36 (55) Piperonyl butoxide, not to exceed 3,000 parts per billion for ingestion or
37 inhalation.
- 38 (56) Prallethrin, not to exceed 400 parts per billion for ingestion or 100 parts per
39 billion for inhalation.
- 40 (57) Propiconazole, not to exceed 1,000 parts per billion for ingestion or 100 parts
41 per billion for inhalation.
- 42 (58) Propoxur, not to exceed 100 parts per billion for ingestion or inhalation.
- 43 (59) Pyrethrins, not to exceed 1,000 parts per billion for ingestion or 500 parts per
44 billion for inhalation.
- 45 (60) Pyridaben, not to exceed 3,000 parts per billion for ingestion or 200 parts per
46 billion for inhalation.
- 47 (61) Spinetoram, not to exceed 3,000 parts per billion for ingestion or 200 parts per
48 billion for inhalation.
- 49 (62) Spinosad A & D, not to exceed 3,000 parts per billion for ingestion or 100
50 parts per billion for inhalation.

- 1 (63) Spiromesifen, not to exceed 3,000 parts per billion for ingestion or 100 parts
2 per billion for inhalation.
- 3 (64) Spirotetramat, not to exceed 3,000 parts per billion for ingestion or 100 parts
4 per billion for inhalation.
- 5 (65) Spiroxamine, not to exceed 100 parts per billion for ingestion or inhalation.
- 6 (66) Tebuconazole, not to exceed 1,000 parts per billion for ingestion or 100 parts
7 per billion for inhalation.
- 8 (67) Thiacloprid, not to exceed 100 parts per billion for ingestion or 100 parts per
9 billion for inhalation.
- 10 (68) Thiamethoxam, not to exceed 1,000 parts per billion for ingestion or 500 parts
11 per billion for inhalation.
- 12 (69) Trifloxystrobin, not to exceed 3,000 parts per billion for ingestion or 100 parts
13 per billion for inhalation.
- 14 (70) 1,2-Dichloroethane, not to exceed 2 parts per million.
- 15 (71) 1,1-Dichloroethene, not to exceed 8 parts per million.
- 16 (72) Acetone, not to exceed 750 parts per million.
- 17 (73) Acetonitrile, not to exceed 60 parts per million.
- 18 (74) Benzene, not to exceed 1 part per million.
- 19 (75) Butane, not to exceed 5,000 parts per million.
- 20 (76) Chloroform, not to exceed 2 parts per million.
- 21 (77) Ethanol, not to exceed 5,000 parts per million.
- 22 (78) Ethyl Acetate, not to exceed 400 parts per million.
- 23 (79) Ethyl Ether, not to exceed 500 parts per million.
- 24 (80) Ethylene Oxide, not to exceed 5 parts per million.
- 25 (81) Heptane, not to exceed 5,000 parts per million.
- 26 (82) Hexane, not to exceed 250 parts per million.
- 27 (83) Isopropyl Alcohol, not to exceed 500 parts per million.
- 28 (84) Methanol, not to exceed 250 parts per million.
- 29 (85) Methylene Chloride, not to exceed 125 parts per million.
- 30 (86) Pentane, not to exceed 750 parts per million.
- 31 (87) Propane, not to exceed 5,000 parts per million.
- 32 (88) Toluene, not to exceed 150 parts per million.
- 33 (89) Trichloroethylene, not to exceed 25 parts per million.
- 34 (90) Xylenes, Total (ortho-, meta-, para-), not to exceed 150 parts per million
- 35 (91) Cadmium, not to exceed 500 parts per billion for ingestion or 200 parts per
36 billion for inhalation.
- 37 (92) Lead, not to exceed 500 parts per billion for ingestion or inhalation.
- 38 (93) Arsenic, not to exceed 1,500 parts per billion for ingestion or 200 parts per
39 billion for inhalation.
- 40 (94) Mercury, not to exceed 3,000 parts per billion for ingestion or 200 parts per
41 billion for inhalation.
- 42 (95) Shiga toxin-producing Escherichia coli (STEC E. coli) and other pathogenic
43 E. coli, not to exceed 1 CFU per gram.
- 44 (96) Salmonella, not to exceed 1 CFU per gram.
- 45 (97) Aspergillus niger, Aspergillus fumigatus, Aspergillus flavus, Aspergillus
46 terreus, not to exceed 1 CFU per gram.
- 47 (98) Total Aflatoxin (B1, B2, G1, G2), not to exceed 20 parts per billion for
48 ingestion or inhalation.
- 49 (99) Ochratoxin, not to exceed 20 parts per billion for ingestion or inhalation.
- 50 (100) Total combined Yeast and Mold, not to exceed 100,000 CFU per gram for
51 ingestion and inhalation.

1 (c) Laboratory Qualifications. – A manufacturer or distributor shall contract with an
2 independent testing laboratory to provide the testing required under subsection (a) of this section.

3 (d) Testing Method. – A laboratory providing testing required under subsection (a) of this
4 section shall use high-performance liquid chromatography for any separation and measurement
5 required in the testing.

6 (e) Batch Testing. – A sample of each batch manufactured shall undergo the testing
7 required by subsection (a) of this section and shall obtain a certificate of analysis by a third-party
8 laboratory qualified under subsection (c) of this section. The size of sample required to be tested
9 shall be determined by the size of the batch as follows:

10 (1) For a batch containing 1 to 999 units, the required sample size is one unit.

11 (2) For a batch containing 1,000 to 4,999 units, the required sample size is two
12 units.

13 (3) For a batch containing 5,000 to 9,999 units, the required sample size is three
14 units.

15 (4) For a batch containing 10,000 or more units, the required sample size is five
16 units.

17 (f) Expiration Date. – A hemp-derived consumable product shall have an expiration date
18 on the label that conforms with applicable federal law.

19 (g) Civil Penalties. – A violation of this section shall result in the Department taking one
20 or more of the following actions against the licensee:

21 (1) Suspend the licensee's license for a specified period of time not longer than
22 three years.

23 (2) Revoke the licensee's license.

24 (3) Impose conditions on the operating hours of the licensee's business.

25 (4) Impose civil penalties as follows:

26 a. For a first violation, impose a civil penalty of no more than one
27 thousand dollars (\$1,000).

28 b. For a second violation within three years, impose a civil penalty of no
29 more than five thousand dollars (\$5,000).

30 c. For a third violation within three years of the first violation, impose a
31 civil penalty of no more than seven thousand five hundred dollars
32 (\$7,500).

33 (h) Compromise. – In any case in which the Department is entitled to suspend or revoke
34 a manufacturer's or distributor's license, the Department may accept from the manufacturer or
35 distributor an offer in compromise to pay a penalty of not more than eight thousand dollars
36 (\$8,000). The Department may either accept a compromise or revoke a license, but not both. The
37 Department may accept a compromise and suspend the license in the same case.

38 (i) Proceeds of Civil Penalty. – The clear proceeds of any civil penalty imposed under
39 this section, including any penalty received as an offer in compromise, shall be remitted to the
40 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

41 (j) Department Duties. – The Department shall do all of the following:

42 (1) Maintain and post on its website a registry of testing laboratories that are
43 qualified to test intermediate manufactured material and finished
44 hemp-derived consumable products.

45 (2) Develop an application and process to determine qualifying laboratories to be
46 listed on the Department's website. The application shall require a potentially
47 qualifying laboratory to submit a sample certificate of analysis issued by the
48 applying laboratory.

49 **§ 18D-105. Additional requirements and restrictions for hemp-derived consumable**
50 **products.**

- 1 (a) Packaging Requirements. – A hemp-derived consumable product that is sold in this
2 State shall meet both of the following requirements:
- 3 (1) The product shall satisfy the child-resistant effectiveness standards under 16
4 C.F.R. § 1700.15(b)(1) when tested in accordance with the requirements of 16
5 C.F.R. § 1700.20.
- 6 (2) The product shall be labeled with consumer protection warnings in the form
7 of statements that cover all of the following:
- 8 a. A list of ingredients and possible allergens and a nutritional fact panel
9 or have a code that can be scanned that directs consumers to a website
10 containing the list of ingredients and possible allergens and a
11 nutritional fact panel.
- 12 b. A statement that use while pregnant or breastfeeding may be harmful.
- 13 c. A statement that consumption of certain cannabinoids may impair
14 your ability to drive and operate heavy machinery.
- 15 d. A statement that the product is not approved by the United States Food
16 and Drug Administration for medical use.
- 17 e. A statement to keep out of reach of children.
- 18 f. A statement to consult your physician before use if you are pregnant.
- 19 g. If the product is ingestible, the amount of hemp-derived cannabinoid
20 in each serving of the product, measured in milligrams.
- 21 h. The total amount of hemp-derived cannabinoid in the entire package,
22 measured in milligrams.
- 23 i. The net weight of the product.
- 24 j. A code that can be scanned to access a website providing the product's
25 batch number, date received, date of completion, and method of
26 analysis for the testing required under G.S. 18D-106.
- 27 k. An expiration date in accordance with applicable federal law.
- 28 (b) Advertising Restrictions. – A manufacturer or distributor of a hemp-derived
29 consumable product shall not advertise, market, or offer for sale the product by using, in the
30 labeling or design of the product or product packaging or in advertising or marketing materials
31 for the product trade dress, trademarks, branding, or other related materials, any imagery or
32 scenery that depicts or signifies characters or symbols known to appeal primarily to persons under
33 18 years of age, including, but not limited to, superheroes, comic book characters, video game
34 characters, television show characters, movie characters, mythical creatures, and unicorns.
- 35 (c) Ingestible Product Restrictions. – Any hemp-derived consumable product intended
36 for ingestion shall not do any of the following:
- 37 (1) Be sold in a serving that contains more than 200 milligrams, in the aggregate,
38 of one or more hemp-derived cannabinoids, including any hemp-derived
39 cannabinoids listed in subdivision (2) of this subsection.
- 40 (2) Be sold in a serving that contains more than 10 milligrams, in the aggregate,
41 of one or more of the following hemp-derived cannabinoids:
- 42 a. Delta-9 tetrahydrocannabinol.
- 43 b. Delta-7 tetrahydrocannabinol.
- 44 c. Delta-8 tetrahydrocannabinol.
- 45 d. Delta-10 tetrahydrocannabinol.
- 46 (3) Be formed in the shape of an animal or cartoon character.
- 47 (d) Civil Penalties. – A violation of this section shall result in the Department taking one
48 or more of the following actions against the licensee:
- 49 (1) Suspend the licensee's license for a specified period of time not longer than
50 three years.
- 51 (2) Revoke the licensee's license.

- 1 (3) Impose conditions on the operating hours of the licensee's business.
- 2 (4) Impose civil penalties as follows:
- 3 a. For a first violation, impose a civil penalty of no more than one
- 4 thousand dollars (\$1,000).
- 5 b. For a second violation within three years, impose a civil penalty of no
- 6 more than five thousand dollars (\$5,000).
- 7 c. For a third violation within three years of the first violation, impose a
- 8 civil penalty of no more than seven thousand five hundred dollars
- 9 (\$7,500).

10 (e) Compromise. – In any case in which the Department is entitled to suspend or revoke
 11 a manufacturer's or distributor's license, the Department may accept from the manufacturer or
 12 distributor an offer in compromise to pay a penalty of not more than eight thousand dollars
 13 (\$8,000). The Department may either accept a compromise or revoke a license, but not both. The
 14 Department may accept a compromise and suspend the license in the same case.

15 (f) Proceeds of Civil Penalty. – The clear proceeds of any civil penalty imposed under
 16 this section, including any penalty received as an offer in compromise, shall be remitted to the
 17 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

18 **"§ 18D-106. Construction of Article.**

19 Nothing in this Article shall be construed to do any of the following:

- 20 (1) Permit a person to undertake any task under the influence of a hemp-derived
- 21 consumable product when doing so would constitute negligence or
- 22 professional malpractice.
- 23 (2) Permit a person to operate, navigate, or be in actual physical control of a motor
- 24 vehicle, aircraft, motorized watercraft, or any other vehicle while under the
- 25 influence of a hemp-derived consumable product.
- 26 (3) Require an employer to accommodate the use of a hemp-derived consumable
- 27 product in a workplace or an employee working while under the influence of
- 28 a hemp-derived consumable product.
- 29 (4) Require an individual or establishment in lawful possession of property to
- 30 admit a guest, client, customer, or other visitor who is impaired as a result of
- 31 the person's use of a hemp-derived consumable product.
- 32 (5) Exempt a person from prosecution for a criminal offense related to impairment
- 33 or intoxication resulting from the use of a hemp-derived consumable product
- 34 or relieve a person from any requirement under law to submit to a breath,
- 35 blood, urine, or other test to detect the presence of a controlled substance.
- 36 (6) Limit the ability of an employer to establish, continue, or enforce a drug-free
- 37 workplace program or policy.
- 38 (7) Create a cause of action against an employer for wrongful discharge or
- 39 discrimination.
- 40 (8) Allow the possession, sale, manufacture, or distribution of any substance that
- 41 is otherwise prohibited by Article 5 of Chapter 90 of the General Statutes.

42 "Article 2.

43 "Regulation of Kratom Products

44 **"§ 18D-200. Definitions.**

45 Unless the context requires otherwise, the following definitions apply in this Article:

- 46 (1) Department. – The Department of Revenue.
- 47 (2) Distributor. – Any person that delivers or sells kratom products for the purpose
- 48 of distribution in commerce.
- 49 (3) Kratom product. – Any consumer commodity containing any quantity of
- 50 mitragynine or 7-hydroxymitragynine or both, extracted from the leaf of the
- 51 plant mitragyna speciosa.

1 (4) Manufacturer. – Any person that prepares or manufactures kratom products in
2 the State, or advertises, represents, or holds itself out as preparing or
3 manufacturing kratom products in the State.

4 (5) Seller. – Any person who sells a kratom product to consumers, including an
5 online seller.

6 **"§ 18D-201. Sales restrictions on kratom products.**

7 (a) Restriction. – No person shall do any of the following:

8 (1) Knowingly, or having reason to know, sell a kratom product to a person under
9 18 years of age.

10 (2) Knowingly, or having reason to know, distribute samples of kratom products
11 in or on a public street, sidewalk, or park.

12 (3) Engage in the business of selling a kratom product without a valid license
13 issued in accordance with this Chapter.

14 (4) Knowingly, or having reason to know, sell at retail a kratom product that
15 violates the provisions of G.S. 18D-204.

16 (b) Civil Penalties. – For any violation of this section, the Department may take any of
17 the following actions against a seller:

18 (1) For the first violation, impose a civil penalty of no more than five hundred
19 dollars (\$500.00).

20 (2) For the second violation within three years, impose a civil penalty of no more
21 than seven hundred fifty dollars (\$750.00).

22 (3) For the third violation within three years of the first violation, impose a civil
23 penalty of no more than one thousand dollars (\$1,000) and suspend the seller's
24 license for up to 30 days.

25 (4) For a fourth or subsequent violation within three years of the first violation,
26 impose a civil penalty of no more than two thousand dollars (\$2,000) and
27 either (i) suspend the seller's license for up to one year or (ii) revoke the seller's
28 license.

29 (c) In any case in which the Department is entitled to suspend or revoke a seller's license,
30 the Department may accept from the seller an offer in compromise to pay a penalty of not more
31 than three thousand dollars (\$3,000). The Department may either accept a compromise or revoke
32 a license, but not both. The Department may accept a compromise and suspend the license in the
33 same case.

34 (d) Testing Fee. – In any case in which the Department imposes a penalty pursuant to
35 subsection (b) of this section, for a violation of subdivision (4) of subsection (a) of this section,
36 the seller shall also pay to the Department the actual costs paid by the Department or the ALE
37 Division for testing of the samples resulting in the violation. Any fee collected pursuant to this
38 subsection shall be remitted to the ALE Division.

39 (e) Defenses. – It is a defense to a violation of subdivision (1) of subsection (a) of this
40 section if the seller does any of the following:

41 (1) Shows that the purchaser produced a drivers license, a special identification
42 card issued under G.S. 20-37.7 or issued by the state agency of any other state
43 authorized to issue similar official state special identification cards for that
44 state, a tribal enrollment card issued by a State or federally recognized Indian
45 Tribe, a military identification card, or a passport showing the purchaser's age
46 to be at least the required age for purchase and bearing a physical description
47 of the person named on the card reasonably describing the purchaser.

48 (2) Produces evidence of other facts that reasonably indicated at the time of sale
49 that the purchaser was at least the required age.

50 (3) Shows that at the time of purchase, the purchaser utilized a biometric
51 identification system that demonstrated (i) the purchaser's age to be at least

1 the required age for the purchase and (ii) the purchaser had previously
2 registered with the seller or seller's agent a drivers license, a special
3 identification card issued under G.S. 20-37.7 or issued by the state agency of
4 any other state authorized to issue similar official state special identification
5 cards for that state, a military identification card, or a passport showing the
6 purchaser's date of birth and bearing a physical description of the person
7 named on the document.

8 (f) Proceeds of Civil Penalty. – The clear proceeds of any civil penalty imposed under
9 this section, including any penalty received as an offer in compromise, shall be remitted to the
10 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

11 (g) Forfeiture. – Any product sold in violation of subdivision (4) of subsection (a) of this
12 section shall be subject to forfeiture pursuant to the procedures set forth in G.S. 18D-401.

13 (h) Criminal Penalty. – Any person against whom a civil penalty has been imposed for
14 violation of subdivision (3) of subsection (a) of this section, who subsequently violates
15 subdivision (3) of subsection (a) of this section, is guilty of a Class A1 misdemeanor.

16 **"§ 18D-202. Offenses involving the purchase, attempted purchase, or possession of kratom**
17 **products by a person under 18 years of age.**

18 (a) It is unlawful for any person to give a kratom product to anyone less than 18 years
19 old without the consent of the underaged person's parent or legal guardian.

20 (b) It is unlawful for a person less than 18 years old to purchase or attempt to purchase a
21 kratom product.

22 (c) It is unlawful for any person to enter or attempt to enter a place where kratom products
23 are sold or consumed, or to obtain or attempt to obtain kratom products, or to obtain or attempt
24 to obtain permission to purchase kratom products, in violation of subsection (b) of this section,
25 by using or attempting to use any of the following:

26 (1) A fraudulent or altered drivers license.

27 (2) A fraudulent or altered identification document other than a drivers license.

28 (3) A drivers license issued to another person.

29 (4) An identification document other than a drivers license issued to another
30 person.

31 (5) Any other form or means of identification that indicates or symbolizes that the
32 person is not prohibited from purchasing or possessing a kratom product under
33 this section.

34 (d) It is unlawful for any person to permit the use of the person's drivers license or any
35 other form of identification of any kind issued or given to the person by any other person who
36 violates or attempts to violate subsection (b) of this section.

37 (e) Penalties. –

38 (1) Any person less than 18 years old who violates this section is guilty of a Class
39 2 misdemeanor.

40 (2) Any person at least 18 years old who violates this section is guilty of a Class
41 1 misdemeanor.

42 (3) Aiding or abetting a violation of this section shall be punished as provided in
43 subdivisions (1) and (2) of this subsection, and all other provisions of this
44 section shall apply to that offense.

45 (f) Nothing in this section prohibits an underage person from selling, transporting, or
46 possessing kratom products in the course of employment, if the employment of the person for
47 that purpose is lawful under applicable youth employment statutes.

48 **"§ 18D-203. Offenses involving the manufacture and distribution of kratom products.**

49 (a) Offenses. – It is unlawful for a manufacturer or distributor to do any of the following:

50 (1) Knowingly, or having reason to know, distribute samples of a kratom product
51 in or on a public street, sidewalk, or park.

- 1 (2) Engage in the business of manufacturing or distributing a kratom product
2 without a valid license issued in accordance with this Chapter.
- 3 (3) Knowingly, or having reason to know, manufacture or distribute a kratom
4 product that violates the provisions of G.S. 18D-204.
- 5 (b) Criminal Penalties. – A violation of this section is a Class A1 misdemeanor.
- 6 (c) Civil Penalties. – In addition to any criminal punishment authorized by this section,
7 for any violation of this section the Department shall take one or more of the following actions
8 against the licensee:
- 9 (1) Suspend the licensee's license for a specified period of time not longer than
10 three years.
- 11 (2) Revoke the licensee's license.
- 12 (3) Impose conditions on the operating hours of the licensee's business.
- 13 (4) Impose civil penalties as follows:
- 14 a. For a first violation, impose a civil penalty of no more than one
15 thousand dollars (\$1,000).
- 16 b. For a second violation within three years, impose a civil penalty of no
17 more than five thousand dollars (\$5,000).
- 18 c. For a third violation within three years of the first violation, impose a
19 civil penalty of no more than seven thousand five hundred dollars
20 (\$7,500).
- 21 (d) Compromise. – In any case in which the Department is entitled to suspend or revoke
22 a manufacturer's or distributor's license, the Department may accept from the manufacturer or
23 distributor an offer in compromise to pay a penalty of not more than eight thousand dollars
24 (\$8,000). The Department may either accept a compromise or revoke a license, but not both. The
25 Department may accept a compromise and suspend the license in the same case.
- 26 (e) Testing Fee. – In any case in which the Department imposes a penalty pursuant to
27 subsection (c) of this section, for a violation of subdivision (3) of subsection (a) of this section,
28 the manufacturer or distributor shall also pay to the Department the actual costs paid by the
29 Department or the ALE Division for testing of the samples resulting in the violation. Any fee
30 collected pursuant to this subsection shall be remitted to the ALE Division.
- 31 (f) Proceeds of Civil Penalty. – The clear proceeds of any civil penalty imposed under
32 this section, including any penalty received as an offer in compromise, shall be remitted to the
33 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.
- 34 (g) Forfeiture. – Any product sold in violation of subdivision (3) of subsection (a) of this
35 section shall be subject to forfeiture pursuant to the procedures set forth in G.S. 18D-401.
- 36 **§ 18D-204. Kratom product limitations.**
- 37 A kratom manufacturer, distributor, or seller shall not prepare, manufacture, distribute, or
38 offer for sale any of the following:
- 39 (1) A kratom product that is adulterated with a dangerous non-kratom substance.
40 A kratom product is adulterated with a dangerous non-kratom substance if the
41 kratom product is mixed or packed with a non-kratom substance and that
42 substance affects the quality or strength of the kratom product to such a degree
43 as to render the kratom product injurious to a consumer.
- 44 (2) A kratom product that is contaminated with a dangerous non-kratom
45 substance. A kratom product is contaminated with a dangerous non-kratom
46 substance if the kratom product contains a poisonous or otherwise deleterious
47 non-kratom ingredient, including any controlled substance regulated by
48 Article 5 of Chapter 90 of the General Statutes.
- 49 (3) A kratom extract that contains levels of residual solvents higher than is
50 allowed in the U.S. Pharmacopeia 467.

- 1 (4) A kratom product containing a level of 7-hydroxymitragynine in the alkaloid
2 fraction that is greater than one percent (1%) of the overall alkaloid
3 composition of the product.
- 4 (5) A kratom product containing any synthetic alkaloids, including synthetic
5 mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically
6 derived compounds of the kratom plant.
- 7 (6) A kratom product that does not provide adequate labeling directions necessary
8 for safe use by consumers, including a recommended serving size, the
9 recommended number of servings per day, and the number of servings in the
10 package that is sold.

11 **"§ 18D-205. Additional requirements for manufacturers and distributors.**

12 (a) Registration of Products. – All manufacturers and distributors shall register with the
13 Department all kratom products offered for sale in this State by the manufacturer or distributor.
14 The registration shall include any information that the Department deems necessary to ensure
15 compliance with the provisions of this Chapter.

16 (b) Adverse Event Reports. – A manufacturer or distributor, upon receipt of any adverse
17 event report related to a product manufactured or distributed by that manufacturer or distributor,
18 shall submit a copy of the adverse event report, as required under 21 U.S.C. § 379aa-1, to the
19 Department within 30 days. If the manufacturer or distributor does not submit a copy of the
20 adverse event report within the time allotted, the registration for that product shall be revoked
21 and the license for that manufacturer or distributor shall be suspended or revoked, at the
22 discretion of the Department.

23 **"§ 18D-206. Construction of Article.**

24 Nothing in this Article shall be construed to do any of the following:

- 25 (1) Permit a person to undertake any task under the influence of a kratom product
26 when doing so would constitute negligence or professional malpractice.
- 27 (2) Permit a person to operate, navigate, or be in actual physical control of a motor
28 vehicle, aircraft, motorized watercraft, or any other vehicle while under the
29 influence of a kratom product.
- 30 (3) Require an employer to accommodate the use of a kratom product in a
31 workplace or an employee working while under the influence of a kratom
32 product.
- 33 (4) Require an individual or establishment in lawful possession of property to
34 admit a guest, client, customer, or other visitor who is impaired as a result of
35 the person's use of a kratom product.
- 36 (5) Exempt a person from prosecution for a criminal offense related to impairment
37 or intoxication resulting from the use of a kratom product or relieve a person
38 from any requirement under law to submit to a breath, blood, urine, or other
39 test to detect the presence of a controlled substance.
- 40 (6) Limit the ability of an employer to establish, continue, or enforce a drug-free
41 workplace program or policy.
- 42 (7) Create a cause of action against an employer for wrongful discharge or
43 discrimination.
- 44 (8) Allow the possession, sale, manufacture, or distribution of any substance that
45 is otherwise prohibited by Article 5 of Chapter 90 of the General Statutes."

46 "Article 3.

47 "Licensing.

48 **"§ 18D-300. Definitions.**

49 The definitions contained in Articles 1 and 2 of this Chapter apply to this Article as
50 appropriate.

51 **"§ 18D-301. Licensing requirements; qualifications; duration.**

1 (a) Requirement. – Prior to the commencement of business or by July 1, 2024, whichever
2 is later, a person or entity engaged in this State in any business regulated by this Chapter and
3 listed in this subsection shall obtain a license to engage in that business from the Department.
4 Businesses engaging in one or more of the following are required to obtain a license pursuant to
5 this section:

- 6 (1) Manufacturing hemp-derived consumable products.
- 7 (2) Distributing hemp-derived consumable products.
- 8 (3) Selling hemp-derived consumable products.
- 9 (4) Manufacturing kratom products.
- 10 (5) Distributing kratom products.
- 11 (6) Selling kratom products.

12 (b) Qualifications. – In order to obtain and maintain a license under subsection (a) of this
13 section, a person shall meet all of the following criteria:

- 14 (1) Be at least 18 years old.
- 15 (2) Submit to the Department any information determined by the Department to
16 be necessary for the efficient enforcement of this Chapter.
- 17 (3) Have not been convicted of a felony relating to a controlled substance within
18 10 years in any state or federal jurisdiction.
- 19 (4) Consent to reasonable inspection and the taking of reasonable samples by the
20 ALE Division of the person's inventory of products regulated by this Chapter.
- 21 (5) Be current in filing all applicable tax returns to the State and in payment of all
22 taxes, interest, and penalties collectable pursuant to G.S. 105-241.22.

23 (c) Single License Required. – A person or entity engaged in more than one of the
24 businesses listed in subsection (a) of this section shall only be required to obtain a single license.
25 Upon application for a license, the person or entity engaged in more than one type of business
26 regulated by this Chapter must indicate on the license application all of the businesses listed in
27 subsection (a) of this section in which the business engages, or intends to engage. A person or
28 entity applying for a license for more than one type of business listed in subsection (a) of this
29 section shall pay a single fee as provided in G.S. 18D-302(c).

30 (d) Duration. – A license issued pursuant to this Article is valid for a period of one year
31 and may be renewed annually.

32 **"§ 18D-302. Fees.**

33 (a) Application Fee. – The application fee for a license required pursuant to this Article
34 shall be as follows:

- 35 (1) For a license to manufacture hemp-derived consumable products or
36 manufacture kratom products, a fee of five thousand dollars (\$5,000).
37 However, if an applicant submits proof that the applicant's gross income for
38 the calendar year prior to application was less than one hundred thousand
39 dollars (\$100,000), the fee shall be one thousand dollars (\$1,000).
- 40 (2) For a license to distribute hemp-derived consumable products or kratom
41 products, a fee of two thousand five hundred dollars (\$2,500). However, if an
42 applicant submits proof that the applicant's gross income for the calendar year
43 prior to application was less than one hundred thousand dollars (\$100,000),
44 the fee shall be seven hundred fifty dollars (\$750.00).
- 45 (3) For a license to sell hemp-derived consumable products or kratom products at
46 a retail location, or online for delivery to a person within this State, a fee of
47 one hundred dollars (\$100.00) for each location or each internet website
48 offering delivery in this State. However, a single entity with more than 25
49 locations, internet websites offering delivery in this State, or combination of
50 the two shall not pay more than two thousand five hundred dollars (\$2,500)

1 and shall submit a list of all locations and all internet websites offering
2 delivery in this State to the Department.

3 (b) Renewal Fee. – The renewal fee for a license issued pursuant to this Article shall be
4 as follows:

5 (1) For a license to manufacture hemp-derived consumable products or
6 manufacture kratom products, a renewal fee of one thousand dollars (\$1,000).

7 (2) For a license to distribute hemp-derived consumable products or kratom
8 products, a renewal fee of seven hundred fifty dollars (\$750.00).

9 (3) For a license to sell hemp-derived consumable products or kratom products at
10 a retail location or online for delivery to a person within this State, a renewal
11 fee in the same amount as the initial licensing fees established under
12 subsection (a) of this section.

13 (c) For an application for or renewal of a license to engage in more than one business
14 listed in subsection (a) of G.S. 18D-301, the fee shall be the highest fee of those prescribed for
15 the types of business indicated on the application or renewal, as applied to that applicant or
16 licensee.

17 **"§ 18D-303. Department authority to deny or revoke.**

18 The Department may revoke or refuse to issue any license for any of the following:

19 (1) Failure to comply with or meet any of the qualifications required by
20 G.S. 18D-301(b).

21 (2) Submission of false or misleading information in an application for licensure
22 or renewal.

23 (3) Submission of false or misleading information in any report or information
24 required by this Chapter to be submitted to the Department.

25 (4) Failure to comply with civil penalties authorized by this Chapter.

26 **"§ 18D-304. Civil penalties; procedure.**

27 Proceedings for the assessment of civil penalties authorized in Articles 1 and 2 of this Chapter
28 shall be governed by Chapter 150B of the General Statutes. If the person or entity assessed a civil
29 penalty fails to pay the penalty to the Department, the Department may institute an action in the
30 superior court of the county in which the person resides or has their principal place of business
31 to recover the unpaid amount of the penalty. An action to recover a civil penalty under this
32 Chapter shall not relieve any party from any other penalty prescribed by law.

33 **"§ 18D-305. Department to develop application, adopt rules, remit revenue.**

34 (a) License application. – The Department shall develop and make available online an
35 application for the license required by this Article.

36 (b) Rules. – The Department shall have authority to adopt, amend, and repeal rules to
37 carry out the provisions of this Chapter.

38 (c) Distribution of Revenue. – The revenue collected from fees established under this
39 Chapter shall be remitted to the ALE Division, on a monthly basis, to be used to cover costs
40 incurred by the ALE Division in enforcing the provisions of this Chapter. To the extent the funds
41 described in this subsection are deemed unappropriated, the funds are hereby appropriated for
42 the purpose set forth in this subsection.

43 "Article 4.

44 "Enforcement.

45 **"§ 18D-400. ALE Division.**

46 (a) Authority. – The Alcohol Law Enforcement Division of the Department of Public
47 Safety (ALE Division) shall enforce the provisions of this Chapter in a manner that may
48 reasonably be expected to reduce the extent to which hemp-derived consumable products and
49 kratom products are sold or distributed to persons under 18 years of age and shall conduct
50 random, unannounced inspections at locations where hemp-derived consumable products or
51 kratom products are sold or distributed to ensure compliance with the provisions of this Chapter.

1 The Division is authorized to take reasonable samples of a licensee's inventory of hemp-derived
2 consumable products and kratom products to be submitted for testing in order to determine
3 compliance with the provisions of this Chapter.

4 (b) The ALE Division shall report to the Department of Revenue any violation of this
5 Chapter for which civil penalties are authorized, regardless of whether criminal charges have
6 been filed.

7 (c) Report. – Beginning January 1, 2025, the ALE Division shall submit an annual report
8 to the General Assembly describing in detail the ALE Division's enforcement efforts under this
9 Chapter. The ALE Division shall also make the report required under this subsection available
10 on the ALE Division's website.

11 **"§ 18D-401. Forfeiture of property.**

12 (a) Seizure of Product. – For any hemp-derived consumable product or kratom product
13 subject to forfeiture that has not previously been seized pursuant to an arrest or search, a law
14 enforcement officer may apply to the court for an order authorizing seizure of that product. An
15 order for seizure may be issued only after criminal process has been issued for a violation of
16 G.S. 18D-101(a)(4), 18D-103(a)(3), 18D-201(a)(4), or 18D-203(a)(3), in connection with that
17 product. The order shall describe the product to be seized and shall state the facts establishing
18 probable cause to believe that the product is subject to forfeiture.

19 (b) Custody until Trial. – A law enforcement officer seizing a product subject to forfeiture
20 shall provide for its safe storage until trial.

21 (c) Disposition after Trial. – The presiding judge in a criminal proceeding for violation
22 of G.S. 18D-101(a)(4) or G.S. 18D-103(a)(3) may take the following actions after resolution of
23 a charge against the owner or possessor of products subject to forfeiture under this section:

24 (1) If the owner or possessor of the product is found guilty of a violation of
25 G.S. 18D-101(a)(4), 18D-103(a)(3), 18D-201(a)(4), or 18D-203(a)(3), the
26 judge shall order the product forfeited.

27 (2) If the owner or possessor of the product is found not guilty, or if the charge is
28 dismissed or otherwise resolved in favor of the owner or possessor, the judge
29 shall order the product returned to the owner or possessor.

30 (3) If the product is also needed as evidence at an administrative hearing, the
31 judge shall provide that the order does not go into effect until the Department
32 determines that the product is no longer needed for the administrative
33 proceeding.

34 (d) Disposition of Forfeited Product. – A judge ordering forfeiture of property shall order
35 the product destroyed.

36 (e) When No Charge is Made. – Any owner of products seized for forfeiture may apply
37 to a judge to have the products returned to the owner if no criminal charge has been made in
38 connection with that product within a reasonable time after seizure. The judge may not order the
39 return of the product if possession by the owner would be unlawful."

40 **SECTION 1.(b)** G.S. 18B-500(b) reads as rewritten:

41 "(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an
42 alcohol law-enforcement agent shall have authority to arrest and take other investigatory and
43 enforcement actions for any criminal offense:

44 (1) Occurring, encountered, or otherwise discovered on the premises of, or
45 elsewhere when the conduct relates to, a location under application for or
46 holding a permit issued by the North Carolina Alcoholic Beverage Control
47 Commission or the North Carolina Education Lottery Commission.

48 (1a) Occurring, encountered, or otherwise discovered on the premises of, or
49 elsewhere when the conduct relates to, a location holding a license issued
50 pursuant to Chapter 18D of the General Statutes.

51"

1 **SECTION 1.(c)** G.S. 7A-304(a) reads as rewritten:

2 "(a) In every criminal case in the superior or district court, wherein the defendant is
3 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
4 prosecuting witness, the following costs shall be assessed and collected. No costs may be
5 assessed when a case is dismissed. Only upon entry of a written order, supported by findings of
6 fact and conclusions of law, determining that there is just cause, the court may (i) waive costs
7 assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a),
8 (11), (12), or (13) of this section. No court may waive or remit all or part of any court fines or
9 costs without providing notice and opportunity to be heard by all government entities directly
10 affected. The court shall provide notice to the government entities directly affected of (i) the date
11 and time of the hearing and (ii) the right to be heard and make an objection to the remission or
12 waiver of all or part of the order of court costs at least 15 days prior to hearing. Notice shall be
13 made to the government entities affected by first-class mail to the address provided for receipt of
14 court costs paid pursuant to the order. The costs referenced in this subsection are listed below:

15 ...

16 (14) For the services of any laboratory facility, the district or superior court judge
17 shall, upon conviction, order payment of the sum of six hundred dollars
18 (\$600.00) to be remitted to the Alcohol Law Enforcement Division of the
19 Department of Public Safety (ALE Division) or agency that paid for the
20 laboratory services. The cost shall be assessed only in cases in which (i) the
21 defendant is convicted of a violation of G.S. 18D-103(a)(3) or
22 G.S. 18D-203(a)(3), and (ii), as part of the investigation leading to the
23 defendant's conviction, testing was conducted at a laboratory on products
24 regulated under Chapter 18D of the General Statutes."

25 **SECTION 1.(d)** This section becomes effective July 1, 2024, and applies to all
26 hemp-derived consumable products possessed, sold, distributed, or manufactured on or after that
27 date, to all kratom products possessed, sold, distributed, or manufactured on or after that date,
28 and to all offenses committed on or after that date.

29 **PART II. TECHNICAL CHANGES**

30 **SECTION 2.(a)** G.S. 90-94.1 is repealed.

31 **SECTION 2.(b)** This section becomes effective December 1, 2023, and applies to
32 offenses committed on or after that date.

33 **PART III. APPROPRIATION**

34 **SECTION 3.(a)** The following sums are appropriated from the General Fund to the
35 Department of Public Safety in nonrecurring funds for the 2023-2024 fiscal year:

- 36 (1) Two million dollars (\$2,000,000) to be used to hire 20 full-time equivalent
37 positions in the Alcohol Law Enforcement Division of the Department of
38 Public Safety (ALE Division) to serve as Special Agents and assist in
39 implementing the provisions of this act. Upon exhaustion of these funds, the
40 fees remitted to the ALE Division pursuant to Chapter 18D of the General
41 Statutes, as enacted by this act, shall be used to support the positions on a
42 recurring basis.
- 43 (2) Three hundred seventy-five thousand dollars (\$375,000) to be used for any
44 other costs incurred by the Department of Revenue in implementing the
45 provisions of this act.
- 46 (3) One hundred twenty-five thousand dollars (\$125,000) to be used for any other
47 costs incurred by the ALE Division in implementing the provisions of this act.

48 **SECTION 3.(b)** Any nonrecurring funds appropriated by this section for the
49 2023-2024 fiscal year that remain unexpended at the end of the 2023-2024 fiscal year shall not
50
51

1 revert at the end of the 2023-2024 fiscal year and shall remain available for expenditure for the
2 purpose for which the funds were appropriated until the funds are expended.

3 **SECTION 3.(c)** This section is effective July 1, 2023.
4

5 **PART IV. PROHIBIT USE OF HEMP-DERIVED CONSUMABLE PRODUCTS AND**
6 **KRATOM PRODUCTS ON SCHOOL GROUNDS**

7 **SECTION 4.(a)** The title of Article 29A of Chapter 115C of the General Statutes
8 reads as rewritten:

9 "Article 29A.

10 "Policy Prohibiting Use Of ~~Tobacco~~ Tobacco, Hemp-Derived Consumable, and Kratom
11 Products."

12 **SECTION 4.(b)** G.S. 115C-407 reads as rewritten:

13 **"§ 115C-407. Policy prohibiting tobacco use in school buildings, grounds, and at**
14 **school-sponsored events.**

15 (a) ~~Not later than August 1, 2008, local boards of education~~ Governing bodies of public
16 school units shall adopt, implement, and enforce ~~adopt~~ a written policy prohibiting at all times
17 the use of any tobacco product by any person in school buildings, in school facilities, on school
18 campuses, and in or on any other school property owned or operated by the ~~local school~~
19 ~~administrative~~ public school unit. The policy shall further prohibit the use of all tobacco products
20 by persons attending a school-sponsored event at a location not listed in this subsection when in
21 the presence of students or school personnel or in an area where smoking is otherwise prohibited
22 by law.

23 (b) The policy shall include at least all of the following elements:

- 24 (1) Adequate notice to students, parents, the public, and school personnel of the
25 policy.
26 (2) Posting of signs prohibiting at all times the use of tobacco products by any
27 person in and on school property.
28 (3) Requirements that school personnel enforce the policy.

29 (c) The policy may permit tobacco products to be included in instructional or research
30 activities in public school buildings if the activity is conducted or supervised by the faculty
31 member overseeing the instruction or research and the activity does not include smoking,
32 chewing, or otherwise ingesting the tobacco product.

33 (d) ~~The North Carolina Health and Wellness Trust Fund Commission shall work with~~
34 ~~local boards of education to provide assistance with the implementation of this policy including~~
35 ~~providing information regarding smoking cessation and prevention resources.~~ Nothing in this
36 section, G.S. 143-595 through G.S. 143-601, or any other section prohibits a ~~local board of~~
37 ~~education~~ governing body of a public school unit from adopting and enforcing a more restrictive
38 policy on the use of tobacco in school buildings, in school facilities, on school campuses, or at
39 school-related or school-sponsored events, and in or on other school property."

40 **SECTION 4.(c)** Article 29A of Chapter 115C of the General Statutes is amended by
41 adding a new section to read:

42 **"§ 115C-407.1. Policy prohibiting use of hemp-derived consumable products and kratom**
43 **products in school buildings, grounds, and at school-sponsored events.**

44 (a) For purposes of this section, the following definitions apply:

- 45 (1) Hemp-derived consumable product. – As defined in G.S. 18D-100.
46 (2) Kratom product. – As defined in G.S. 18D-200.

47 (b) Governing bodies of public school units shall adopt a written policy prohibiting at all
48 times the use of any hemp-derived consumable product or any kratom product by any person in
49 school buildings, in school facilities, on school campuses, and in or on any other school property
50 owned or operated by the public school unit. The policy shall further prohibit the use of all
51 hemp-derived consumable products and kratom products by persons attending a

1 school-sponsored event at a location not listed in this subsection when in the presence of students
2 or school personnel or in an area where the use of hemp-derived consumable products or kratom
3 products is otherwise prohibited by law.

4 (c) The policy shall include at least all of the following elements:

5 (1) Adequate notice to students, parents, the public, and school personnel of the
6 policy.

7 (2) Posting of signs prohibiting at all times the use of hemp-derived consumable
8 products and kratom products by any person in and on school property.

9 (3) Requirements that school personnel enforce the policy.

10 (d) The policy may permit hemp-derived consumable products and kratom products to
11 be included in instructional or research activities in public school buildings if the activity is
12 conducted or supervised by the faculty member overseeing the instruction or research and the
13 activity does not include smoking, chewing, or otherwise ingesting or inhaling the hemp-derived
14 consumable product or kratom product.

15 (e) Nothing in this section, G.S. 143-595 through G.S. 143-601, or any other section
16 prohibits a governing body of a public school unit from adopting and enforcing a more restrictive
17 policy on the use of hemp-derived consumable products and kratom products in school buildings,
18 in school facilities, on school campuses, or at school-related or school-sponsored events, and in
19 or on other school property."

20 **SECTION 4.(d)** G.S. 115C-218.75 is amended by adding a new subsection to read:

21 "(a1) Policies Prohibiting Use of Tobacco, Hemp-Derived Consumable, and Kratom
22 Products. – A charter school shall adopt policies prohibiting use of tobacco, hemp-derived
23 consumable, and kratom products in school buildings, grounds, and at school-sponsored events
24 in accordance with Article 29A of this Chapter."

25 **SECTION 4.(e)** G.S. 115C-238.66 is amended by adding a new subdivision to read:

26 "(7h) Policies prohibiting use of tobacco, hemp-derived consumable, and kratom
27 products. – A regional school shall adopt policies prohibiting use of tobacco,
28 hemp-derived consumable, and kratom products in school buildings, grounds,
29 and at school-sponsored events in accordance with Article 29A of this
30 Chapter."

31 **SECTION 4.(f)** G.S. 115C-150.12C is amended by adding a new subdivision to

32 read:

33 "(15a) Policies prohibiting use of tobacco, hemp-derived consumable, and kratom
34 products. – The board of trustees shall adopt policies prohibiting use of
35 tobacco, hemp-derived consumable, and kratom products in school buildings,
36 grounds, and at school-sponsored events in accordance with Article 29A of
37 this Chapter."

38 **SECTION 4.(g)** G.S. 116-239.8(b) is amended by adding a new subdivision to read:

39 "(9a) Policies prohibiting use of tobacco, hemp-derived consumable, and kratom
40 products. – The chancellor shall adopt policies prohibiting use of tobacco,
41 hemp-derived consumable, and kratom products in school buildings, grounds,
42 and at school-sponsored events in accordance with Article 29A of Chapter
43 115C of the General Statutes."

44 **SECTION 4.(h)** Subdivision (21) of Section 6(d) of S.L. 2018-32 reads as rewritten:

45 "(21) Article 29A, Policy Prohibiting Use of ~~Tobacco~~-Tobacco, Hemp-Derived
46 Consumable, and Kratom Products."

47 **SECTION 4.(i)** This section is effective when it becomes law and applies beginning
48 with the 2024-2025 school year.

49
50 **PART V. MISCELLANEOUS**

1 **SECTION 5.(a)** The Department of Revenue shall establish guidance to parties
2 regulated by the provisions of Chapter 18D of the General Statutes, as enacted by this act. The
3 Department shall adopt and amend rules prior to July 1, 2024, however, no rule may become
4 effective until on or after that date. The Department shall provide and accept applications for
5 licensure, and issue licenses in accordance with Chapter 18D of the General Statutes, as enacted
6 by this act, prior to July 1, 2024, in order that licensees may be in compliance with the provisions
7 of Chapter 18D of the General Statutes on July 1, 2024. No license issued by the Department
8 shall become effective prior to July 1, 2024. The Department of Revenue may use the procedure
9 set forth in G.S. 150B-21.1 to adopt or amend any rules as required under this section.

10 **SECTION 5.(b)** The Department of Public Safety shall adopt rules, or amend their
11 rules, consistent with the provisions of this act. The Department of Public Safety may use the
12 procedure set forth in G.S. 150B-21.1 to adopt or amend any rules as required under this section.

13 **SECTION 5.(c)** Prosecutions for offenses committed before the effective date of this
14 act are not abated or affected by this act, and the statutes that would be applicable but for this act
15 remain applicable to those prosecutions.

16 **SECTION 5.(d)** If any provision of this act or its application is held invalid, the
17 invalidity does not affect other provisions or applications of this act that can be given effect
18 without the invalid provisions or application and, to this end, the provisions of this act are
19 severable.

20 **SECTION 5.(e)** Except as otherwise provided, this act is effective when it becomes
21 law.