

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 873

Introduced by Hallstrom, 1.

Read first time January 08, 2026

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 71-3801, 71-3809, 71-3810, and 71-3812, Revised Statutes Supplement,
3 2025; to provide an excise tax for certain kratom products; to
4 change provisions relating to adulterated products under the Kratom
5 Consumer Protection Act; to harmonize provisions; and to repeal the
6 original sections.

7 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 71-3801, Revised Statutes Supplement, 2025, is
2 amended to read:

3 71-3801 Sections 71-3801 to 71-3815 and section 2 of this act shall
4 be known and may be cited as the Kratom Consumer Protection Act.

5 **Sec. 2.** (1) Beginning July 1, 2027, an excise tax shall be levied
6 on the retail sale of kratom products to consumers. The tax shall be at a
7 rate of ten percent of the retail purchase price.

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

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

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

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

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

24 (5) The department shall collect the excise tax and shall account
25 for and remit to the State Treasurer at least once each month all money
26 collected pursuant to such tax for credit to the Property Tax Credit Cash
27 Fund.

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

30 71-3809 (1) No person shall sell, offer for sale, provide, or
31 distribute an adulterated kratom product in the State of Nebraska.

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

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

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

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

16 Sec. 4. Section 71-3810, Revised Statutes Supplement, 2025, is
17 amended to read:

18 71-3810 (1) Any processor or retailer that violates any section of
19 the Kratom Consumer Protection Act, including those related to the
20 application or registration, or any of the rules and regulations adopted
21 and promulgated by the department that apply to processors or kratom
22 products shall be subject to the penalties provided in this section.

23 (2) For the first violation, the department shall impose a civil
24 penalty of up to one thousand dollars. For the second violation, the
25 department shall impose a civil penalty of up to five thousand dollars.
26 For a third violation and any subsequent violations, the department shall
27 impose a civil penalty of at least five thousand dollars and no more than
28 twenty thousand dollars and, if the violator is a processor, the
29 department shall prohibit the sale of any kratom products of such
30 processor within the State of Nebraska for a period of three years.

31 (3) If a processor violates the Kratom Consumer Protection Act by

1 selling, offering for sale, providing, or distributing an adulterated
2 kratom product in the State of Nebraska, the department shall remove any
3 product found to be adulterated from the list of registered kratom
4 products on the department's website.

5 (4) (3) For any processor or retailer that has no violation for a
6 period of four consecutive years, a new violation shall be treated as a
7 first violation.

8 (5) (4) No determination that a violation has occurred shall be made
9 until notice has been given and a hearing has been held by the Tax
10 Commissioner as provided in section 71-3811 if requested by the processor
11 or retailer.

12 (6) (5) A retailer shall not be found to be in violation of the
13 Kratom Consumer Protection Act if it is shown by a preponderance of the
14 evidence that the retailer relied in good faith upon the representation
15 of a processor that a product is not an adulterated kratom product as
16 defined in section 71-3809 or otherwise conformed to the act.

17 **Sec. 5.** Section 71-3812, Revised Statutes Supplement, 2025, is
18 amended to read:

19 71-3812 (1) The Attorney General shall have authority to enforce the
20 Kratom Consumer Protection Act pursuant to the Consumer Protection Act
21 and the Uniform Deceptive Trade Practices Act. This section shall not be
22 construed to allow for a private right of action under the Kratom
23 Consumer Protection Act even though such action is authorized under the
24 Consumer Protection Act and the Uniform Deceptive Trade Practices Act.

25 (2) If a kratom product is found to be adulterated under section
26 71-3809 with ingredients not reflected on the label of the product, such
27 violation of the Kratom Consumer Protection Act is also *prima facie*
28 evidence of a violation of the Consumer Protection Act.

29 **Sec. 6.** Original sections 71-3801, 71-3809, 71-3810, and 71-3812,
30 Revised Statutes Supplement, 2025, are repealed.