

HOUSE BILL 1523

J1, A1

(6lr2655)

ENROLLED BILL

— Health and Judiciary/Finance —

Introduced by ~~Delegate Ross~~ Delegates Ross, Alston, Bagnall, Cullison, Guzzone, Hill, Hutchinson, S. Johnson, Kaufman, Kipke, Lopez, Martinez, M. Morgan, Reilly, Rosenberg, Szeliga, Taveras, White Holland, and Woorman

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Alcohol, Tobacco, and Cannabis Commission – Unauthorized Consumable**
3 **Products – Enforcement and Seizure**

4 FOR the purpose of altering the violations of law with respect to which the Field
5 Enforcement Division of the Alcohol, Tobacco, and Cannabis Commission is
6 authorized to issue a citation or charging document; prohibiting a retailer from
7 distributing, selling, exposing for sale, or advertising for sale unauthorized
8 consumable products; authorizing the Executive Director of the Commission to seize,
9 confiscate, or destroy unauthorized consumable products and certain other products;
10 establishing and ~~repealing~~ altering certain provisions governing the enforcement of
11 certain prohibitions related to unauthorized consumable products; requiring the
12 Maryland Department of Health to report certain changes related to unauthorized
13 consumable products to the Alcohol, Tobacco, and Cannabis Commission within a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 certain time; and generally relating to enforcement and seizure of unauthorized
2 consumable products by the Alcohol, Tobacco, and Cannabis Commission.

3 BY repealing and reenacting, with amendments,
4 Article – Alcoholic Beverages and Cannabis
5 Section 1–313, 6–101, and 6–207
6 Annotated Code of Maryland
7 (2024 Replacement Volume and 2025 Supplement)

8 BY adding to
9 Article – Alcoholic Beverages and Cannabis
10 Section 1–323
11 Annotated Code of Maryland
12 (2024 Replacement Volume and 2025 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Health – General
15 Section 21–2E–02, 21–2E–03, 21–2F–02, and 21–2F–03
16 Annotated Code of Maryland
17 (2023 Replacement Volume and 2025 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That the Laws of Maryland read as follows:

20 **Article – Alcoholic Beverages and Cannabis**

21 1–313.

22 (a) There is a Field Enforcement Division in the Office of the Executive Director.

23 (b) (1) The Field Enforcement Division may employ officers and employees as
24 provided in the State budget.

25 (2) The officers and employees of the Field Enforcement Division:

26 (i) shall be sworn police officers;

27 (ii) shall have the powers, duties, and responsibilities of peace
28 officers to enforce the provisions of this article relating to:

29 1. the unlawful importation of alcoholic beverages, tobacco,
30 and cannabis into the State;

31 2. the unlawful manufacture of alcoholic beverages, tobacco,
32 and cannabis in the State;

1 3. the transportation and distribution throughout the State
2 of alcoholic beverages, tobacco, and cannabis that are manufactured illegally and on which
3 any alcoholic beverages taxes, tobacco taxes, or cannabis taxes imposed by the State are
4 due and unpaid; and

5 4. the manufacture, sale, barter, transportation,
6 distribution, or other form of owning, handling, or dispersing alcoholic beverages, tobacco,
7 or cannabis by any person not licensed or authorized under this article, provisions of the
8 Tax – General Article relating to alcoholic beverages, tobacco, or cannabis, or provisions of
9 the Business Regulation Article relating to alcoholic beverages, tobacco, or cannabis;

10 (iii) may issue a citation or other charging document to a person who
11 has committed a violation of [§ 10–108]:

12 1. **SECTION 10–108** of the Criminal Law Article;

13 2. **TITLE 21, SUBTITLE 2D OF THE HEALTH – GENERAL**
14 **ARTICLE;**

15 3. **TITLE 21, SUBTITLE 2E OF THE HEALTH – GENERAL**
16 **ARTICLE; AND**

17 4. **TITLE 21, SUBTITLE 2F OF THE HEALTH – GENERAL**
18 **ARTICLE; and**

19 (iv) may make cooperative arrangements for and work and cooperate
20 with the Office of the Comptroller, local State’s Attorneys, sheriffs, bailiffs, police, and other
21 prosecuting and peace officers to enforce this article.

22 (c) The Field Enforcement Division:

23 (1) shall consult with and advise the local State’s Attorneys and other law
24 enforcement officials and police officers regarding enforcement problems in their respective
25 jurisdictions; and

26 (2) may recommend changes to improve the administration of this article,
27 provisions of the Tax – General Article relating to alcoholic beverages, tobacco, and
28 cannabis, and provisions of the Business Regulation Article relating to tobacco.

29 **1–323.**

30 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
31 **INDICATED.**

1 1. FOR A KRATOM PRODUCT, IS GREATER THAN THE
 2 AMOUNT PERMITTED UNDER § 21-2E-02(B)(1)(III) OF THE HEALTH – GENERAL
 3 ARTICLE; OR

4 2. IS GREATER THAN 1 MILLIGRAM PER SERVING;

5 ~~(III) ANY PART OF THE PLANT MITRAGYNA SPECIOSA;~~

6 ~~(IV) (II) TIANEPTINE SODIUM;~~

7 ~~(V) (III) TIANEPTINE SULFATE; OR~~

8 ~~(VI) PHENIBUT; OR~~

9 ~~(VII) (IV) BETA-PHENYL-GAMMA-AMINO BUTYRIC ACID HCL.~~

10 (D) A PRODUCT SEIZED UNDER SUBSECTION (C) OF THIS SECTION IS
 11 PRESUMED TO BE CONTRABAND AND SUBJECT TO SUMMARY FORFEITURE UNLESS
 12 THE PERSON FROM WHOM THE PRODUCT WAS SEIZED DEMONSTRATES THE
 13 PRODUCT ~~WAS APPROVED~~ IS:

14 (1) IF APPLICABLE, IN COMPLIANCE WITH TITLE 21, SUBTITLE 2E OF
 15 THE HEALTH – GENERAL ARTICLE; OR

16 (2) AUTHORIZED FOR SALE AND DISTRIBUTION FOR THE PURPOSES
 17 OF HUMAN CONSUMPTION BY:

18 ~~(1)~~ (I) THE MARYLAND DEPARTMENT OF HEALTH; OR

19 ~~(2)~~ (II) THE U.S. FOOD AND DRUG ADMINISTRATION.

20 (E) A RETAILER THAT VIOLATES SUBSECTION (B) OF THIS SECTION IS
 21 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
 22 EXCEEDING \$5,000.

23 (F) IN ADDITION TO THE PENALTIES ESTABLISHED UNDER THIS SECTION:

24 (1) THE DISTRICT COURT MAY ORDER THE EXECUTIVE DIRECTOR,
 25 THE COMPTROLLER, OR THE APPLICABLE LOCAL LICENSING BOARD OR
 26 COMMISSION TO:

1 **(I) SUSPEND OR REVOKE A LICENSE ISSUED UNDER THIS**
2 **ARTICLE OR TITLE 16, 16.5, 16.7, OR 17 OF THE BUSINESS REGULATION ARTICLE;**
3 **AND**

4 **(II) DISPOSE OF OR DESTROY AN UNAUTHORIZED CONSUMABLE**
5 **PRODUCT SEIZED UNDER SUBSECTION (C) OF THIS SECTION; AND**

6 **(2) A RETAILER THAT VIOLATES THIS SECTION IS LIABLE FOR CIVIL**
7 **DAMAGES SUSTAINED BY AN INDIVIDUAL THAT RESULT FROM THE VIOLATION.**

8 6–101.

9 (a) Alcoholic beverages, **UNAUTHORIZED CONSUMABLE PRODUCTS, AS**
10 **DEFINED UNDER § 1–323 OF THIS ARTICLE**, and other contraband kept, possessed, used,
11 sold, manufactured, stored, or transported in violation of this article:

12 (1) are subject to seizure and forfeiture; and

13 (2) when seized, may be recovered or disposed of only as provided in this
14 subtitle.

15 (b) Property is forfeited if it:

16 (1) was seized as contraband in the possession or control of a defendant
17 who is found guilty of violating this article; [or]

18 (2) is otherwise found to be contraband or in violation of this article; **OR**

19 **(3) WAS SEIZED IN ACCORDANCE WITH § 1–323 OF THIS ARTICLE.**

20 (c) (1) Except as provided in paragraph (2) of this subsection, property is
21 forfeited if it:

22 (i) is seized as contraband and remains unclaimed for 30 days after
23 seizure; and

24 (ii) has not been destroyed in accordance with this subtitle.

25 (2) (i) A vehicle, a vessel, or an aircraft that is seized as contraband is
26 forfeited unless a protest is filed within 30 days after the publication under subparagraph
27 (ii) of this paragraph.

28 (ii) The Comptroller or the Executive Director, as appropriate:

1 1. if possible, shall notify the registered owner of the
2 property of the seizure; and

3 2. shall publish a notice:

4 A. in a newspaper of general circulation in the county where
5 the vehicle, vessel, or aircraft was seized; and

6 B. informing interested persons of the seizure and the right
7 to file a protest.

8 6–207.

9 (a) In this section, “tetrahydrocannabinol” has the meaning stated in § 36–1102
10 of this article.

11 (b) In a prosecution for selling alcoholic beverages or tetrahydrocannabinol
12 without an appropriate license, proof that the defendant displayed or offered alcoholic
13 beverages or tetrahydrocannabinol for sale, or kept a place of business where alcoholic
14 beverages or tetrahydrocannabinol were displayed or offered for sale, is prima facie
15 evidence that the defendant sold alcoholic beverages or tetrahydrocannabinol.

16 **(C) IN A PROSECUTION FOR A VIOLATION OF § 1–323(B) OF THIS ARTICLE**
17 **OR A VIOLATION LISTED IN § 1–313(B)(2)(III)2, 3, OR 4 OF THIS ARTICLE, PROOF**
18 **THAT THE DEFENDANT DISPLAYED OR OFFERED FOR SALE AN UNAUTHORIZED**
19 **CONSUMABLE PRODUCT, OR KEPT A PLACE OF BUSINESS WHERE AN UNAUTHORIZED**
20 **CONSUMABLE PRODUCT WAS DISPLAYED, ADVERTISED, OR OFFERED FOR SALE, IS**
21 **PRIMA FACIE EVIDENCE THAT THE DEFENDANT SOLD AN UNAUTHORIZED**
22 **CONSUMABLE PRODUCT.**

23 **Article – Health – General**

24 21–2E–02.

25 (a) (1) A retailer that prepares, distributes, sells, or exposes for sale a kratom
26 product shall disclose on the product label the factual basis on which the representation is
27 made.

28 (2) A retailer may not prepare, distribute, sell, or expose for sale a kratom
29 product that:

30 (i) Does not comply with the disclosure requirement established
31 under paragraph (1) of this subsection; or

32 (ii) Has not been recognized as a dietary ingredient or approved drug
33 by the U.S. Food and Drug Administration.

1 (b) (1) Subject to paragraph (2) of this subsection, a retailer may not prepare,
2 distribute, sell, or expose for sale any of the following:

3 (i) A kratom product that is adulterated with a dangerous substance
4 other than kratom;

5 (ii) A kratom product that is contaminated with a dangerous
6 substance other than kratom;

7 (iii) A kratom product containing a level of 7-hydroxymitragynine in
8 the alkaloid fraction that is greater than 2% of the alkaloid composition of the product;

9 (iv) A kratom product containing a synthetic alkaloid, including
10 synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived
11 compound of the kratom plant; or

12 (v) A product containing kratom that does not include on its package
13 or label the amount of mitragynine and 7-hydroxymitragynine contained in the product.

14 (2) (i) For the purpose of paragraph (1)(i) of this subsection, a kratom
15 product is adulterated with a dangerous substance other than kratom if:

16 1. The kratom product is mixed or packed with a substance
17 other than kratom; and

18 2. That substance affects the quality or strength of the
19 kratom product to a degree as to render the kratom product injurious to a consumer.

20 (ii) For the purpose of paragraph (1)(ii) of this subsection, a kratom
21 product is contaminated with a dangerous substance other than kratom if the kratom
22 product contains a poisonous or otherwise deleterious ingredient other than kratom,
23 including a drug that is designated as a controlled dangerous substance under Title 5 of
24 the Criminal Law Article.

25 (c) A retailer may not distribute, sell, or expose for sale a kratom product to an
26 individual under the age of 21 years.

27 (d) ~~In a prosecution for a violation of this section, it is a~~ **REBUTTABLE** defense
28 that the defendant relied in good faith on the representations ~~of a manufacturer, processor,~~
29 ~~packer, or distributor of~~ **ON THE MANUFACTURER'S LABEL ON** a kratom product.

30 (e) ~~A~~ A retailer that violates subsection (a)(1) of this section is subject to a civil
31 penalty not exceeding:

32 (1) \$1,000 for a first violation; and

1 (2) \$2,000 for each subsequent violation.

2 ~~[(f)]~~ ~~(F)~~ A retailer that violates subsection (a)(2), (b), or (c) of this section is
3 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000,
4 imprisonment for not more than 90 days, or both.

5 ~~[(g)]~~ ~~(G)~~ In addition to any other penalties specified in this section, a retailer
6 who violates this section is liable for any civil damages sustained by the individual resulting
7 from the violation.

8 21-2E-03.

9 (a) A retailer may not directly or indirectly advertise a therapeutic benefit of
10 kratom.

11 (b) A retailer may not directly or indirectly advertise or market kratom products
12 to minors.

13 (c) It is a violation of subsection (b) of this section for a retailer to use any of the
14 following in the advertising, promotion, packaging, or labeling of a kratom product:

15 (1) A cartoon;

16 (2) A superhero;

17 (3) A video game reference;

18 (4) An image of a food product primarily intended for minors;

19 (5) A trademark that imitates or mimics the trademark of a product that
20 has been advertised or marketed primarily to minors;

21 (6) A symbol or celebrity that is primarily associated with minors or media
22 primarily directed to minors; [and]

23 (7) An image of an individual who appears to be under the age of 27 years;

24 AND

25 **(8) OTHER IMAGES, GRAPHICS, OR FEATURES OR LIKENESSES TO**
26 **IMAGES, GRAPHICS, OR FEATURES THAT ARE POPULARLY USED TO ADVERTISE TO**
27 **CHILDREN, INCLUDING:**

28 **(I) NEON COLORS, SIGNS, OR OTHER BRIGHTLY COLORED**
29 **DISPLAYS;**

1 (II) ANIMALS;

2 (III) MASCOTS; OR

3 (IV) STATEMENTS, ARTWORK, OR DESIGNS THAT COULD
4 REASONABLY MISLEAD AN INDIVIDUAL TO BELIEVE THAT THE PACKAGE CONTAINS
5 ANYTHING OTHER THAN A KRATOM PRODUCT.

6 (d) It is a violation of subsection (b) of this section for a retailer to advertise or
7 promote a kratom product:

8 (1) In a newspaper, a magazine, a periodical, or any other publication for
9 which individuals under the age of 21 years constitute 15% or more of the total audience,
10 as measured by competent and reliable survey evidence;

11 (2) At a concert, a stadium, a sporting event, or any other public event for
12 which individuals under the age of 21 years constitute 15% or more of the total audience,
13 as measured by competent and reliable survey evidence; or

14 (3) [On an outdoor billboard or sign board that is within 500 feet of a
15 school] **BY PLACING AN ADVERTISEMENT FOR KRATOM ON THE SIDE OF A BUILDING
16 OR ANOTHER PUBLICLY VISIBLE LOCATION OF ANY FORM, INCLUDING A SIGN, A
17 POSTER, A PLACARD, A DEVICE, A GRAPHIC DISPLAY, AN OUTDOOR BILLBOARD, OR
18 A FREESTANDING SIGNBOARD.**

19 **(E) A RETAILER THAT VIOLATES THIS SECTION IS GUILTY OF A
20 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000,
21 IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR BOTH.**

22 21-2F-02.

23 (a) (1) A retailer that prepares, distributes, sells, or exposes for sale a
24 phenibut product shall disclose on the product label the factual basis on which any
25 representations regarding the phenibut product are made.

26 (2) A retailer may not prepare, distribute, sell, or expose for sale a phenibut
27 product that:

28 (i) Does not comply with the disclosure requirement established
29 under paragraph (1) of this subsection; or

30 (ii) Has not been recognized as a dietary ingredient or approved drug
31 by the U.S. Food and Drug Administration.

1 (b) (1) Subject to paragraph (2) of this subsection, a retailer may not prepare,
2 distribute, sell, or expose for sale any of the following:

3 (i) A phenibut product that is adulterated with a dangerous
4 substance other than phenibut;

5 (ii) A phenibut product that is contaminated with a dangerous
6 substance other than phenibut; or

7 (iii) A product containing phenibut that does not include on its
8 package or label the amount of beta-phenyl-gamma-aminobutyric acid HCl contained in
9 the product.

10 (2) (i) For the purpose of paragraph (1)(i) of this subsection, a phenibut
11 product is adulterated with a dangerous substance other than phenibut if:

12 1. The phenibut product is mixed or packed with a substance
13 other than phenibut; and

14 2. That substance affects the quality or strength of the
15 phenibut product to a degree as to render the phenibut product injurious to a consumer.

16 (ii) For the purpose of paragraph (1)(ii) of this subsection, a phenibut
17 product is contaminated with a dangerous substance other than phenibut if the phenibut
18 product contains a poisonous or otherwise deleterious ingredient other than phenibut,
19 including a drug that is designated as a controlled dangerous substance under Title 5 of
20 the Criminal Law Article.

21 (c) A retailer may not distribute, sell, or expose for sale a phenibut product to an
22 individual under the age of 21 years.

23 (d) ~~In~~ In a prosecution for a violation of this section, it is a **REBUTTABLE** defense
24 that the defendant relied in good faith on the representations ~~of a manufacturer, processor,~~
25 ~~packer, or distributor of~~ **ON THE MANUFACTURER'S LABEL ON** a phenibut product.

26 (e) ~~A~~ A retailer that violates subsection (a)(1) of this section is subject to a civil
27 penalty not exceeding:

28 (1) \$1,000 for a first violation; and

29 (2) \$2,000 for each subsequent violation.

30 ~~(f)~~ ~~(e)~~ A retailer that violates subsection (a)(2), (b), or (c) of this section is
31 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000,
32 imprisonment for not more than 90 days, or both.

1 ~~[(g)] (F)~~ In addition to any other penalties specified in this section, a retailer
2 who violates this section is liable for any civil damages sustained by the individual resulting
3 from the violation.

4 21-2F-03.

5 (a) A retailer may not directly or indirectly advertise a therapeutic benefit of
6 phenibut.

7 (b) A retailer may not directly or indirectly advertise or market phenibut products
8 to minors.

9 (c) It is a violation of subsection (b) of this section for a retailer to use any of the
10 following in the advertising, promotion, packaging, or labeling of a phenibut product:

11 (1) A cartoon;

12 (2) A superhero;

13 (3) A video game reference;

14 (4) An image of a food product primarily intended for minors;

15 (5) A trademark that imitates or mimics the trademark of a product that
16 has been advertised or marketed primarily to minors;

17 (6) A symbol or celebrity that is primarily associated with minors or media
18 primarily directed to minors; [and]

19 (7) An image of an individual who appears to be under the age of 27 years;

20 **AND**

21 **(8) OTHER IMAGES, GRAPHICS, OR FEATURES OR LIKENESSES TO**
22 **IMAGES, GRAPHICS, OR FEATURES THAT ARE POPULARLY USED TO ADVERTISE TO**
23 **CHILDREN, INCLUDING:**

24 **(I) NEON COLORS, SIGNS, OR OTHER BRIGHTLY COLORED**
25 **DISPLAYS;**

26 **(II) ANIMALS;**

27 **(III) MASCOTS; OR**

1 **(IV) STATEMENTS, ARTWORK, OR DESIGNS THAT COULD**
2 **REASONABLY MISLEAD AN INDIVIDUAL TO BELIEVE THAT THE PACKAGE CONTAINS**
3 **ANYTHING OTHER THAN A PHENIBUT PRODUCT.**

4 (d) It is a violation of subsection (b) of this section for a retailer to advertise or
5 promote a phenibut product:

6 (1) In a newspaper, a magazine, a periodical, or any other publication for
7 which individuals under the age of 21 years constitute 15% or more of the total audience,
8 as measured by competent and reliable survey evidence;

9 (2) At a concert, a stadium, a sporting event, or any other public event for
10 which individuals under the age of 21 years constitute 15% or more of the total audience,
11 as measured by competent and reliable survey evidence; or

12 (3) [On an outdoor billboard or sign board that is within 500 feet of a
13 school] **BY PLACING AN ADVERTISEMENT FOR ~~KRATOM~~ PHENIBUT ON THE SIDE OF A**
14 **BUILDING OR ANOTHER PUBLICLY VISIBLE LOCATION OF ANY FORM, INCLUDING A**
15 **SIGN, A POSTER, A PLACARD, A DEVICE, A GRAPHIC DISPLAY, AN OUTDOOR**
16 **BILLBOARD, OR A FREESTANDING SIGNBOARD.**

17 **(E) A RETAILER THAT VIOLATES THIS SECTION IS GUILTY OF A**
18 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000,**
19 **IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR BOTH.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Department of
21 Health shall notify the Alcohol, Tobacco, and Cannabis Commission within 30 days after a
22 change is made in the regulatory or approval status of kratom products, tianeptine
23 products, phenibut products, or any other product designated by the Secretary of Health as
24 an unauthorized consumable product *for enforcement by the Executive Director of the*
25 *Alcohol, Tobacco, and Cannabis Commission.*

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
27 1, 2026.