

# HOUSE BILL 1523

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CF SB 820

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By: **Delegate Ross**

Introduced and read first time: February 13, 2026

Assigned to: Health and Judiciary

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## A BILL ENTITLED

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 certain provisions governing the enforcement of certain  
11 prohibitions related to unauthorized consumable products; requiring the Maryland  
12 Department of Health to report certain changes related to unauthorized consumable  
13 products to the Alcohol, Tobacco, and Cannabis Commission within a certain time;  
14 and generally relating to enforcement and seizure of unauthorized consumable  
15 products by the Alcohol, Tobacco, and Cannabis Commission.

16 BY repealing and reenacting, with amendments,  
17 Article – Alcoholic Beverages and Cannabis  
18 Section 1–313, 6–101, and 6–207  
19 Annotated Code of Maryland  
20 (2024 Replacement Volume and 2025 Supplement)

21 BY adding to  
22 Article – Alcoholic Beverages and Cannabis  
23 Section 1–323  
24 Annotated Code of Maryland  
25 (2024 Replacement Volume and 2025 Supplement)

26 BY repealing and reenacting, with amendments,  
27 Article – Health – General  
28 Section 21–2E–02, 21–2E–03, 21–2F–02, and 21–2F–03

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2023 Replacement Volume and 2025 Supplement)

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

5 **Article – Alcoholic Beverages and Cannabis**

6 1–313.

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

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

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

11 (i) shall be sworn police officers;

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

14 1. the unlawful importation of alcoholic beverages, tobacco,  
15 and cannabis into the State;

16 2. the unlawful manufacture of alcoholic beverages, tobacco,  
17 and cannabis in the State;

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

22 4. the manufacture, sale, barter, transportation,  
23 distribution, or other form of owning, handling, or dispersing alcoholic beverages, tobacco,  
24 or cannabis by any person not licensed or authorized under this article, provisions of the  
25 Tax – General Article relating to alcoholic beverages, tobacco, or cannabis, or provisions of  
26 the Business Regulation Article relating to alcoholic beverages, tobacco, or cannabis;

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

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

30 2. **TITLE 21, SUBTITLE 2D OF THE HEALTH – GENERAL**  
31 **ARTICLE;**



- 1                   3.    A STORE;
- 2                   4.    A RESTAURANT;
- 3                   5.    A HOTEL;
- 4                   6.    A CATERING FACILITY;
- 5                   7.    A CAMP;
- 6                   8.    A BAKERY;
- 7                   9.    A DELICATESSEN;
- 8                   10.   A SUPERMARKET;
- 9                   11.   A GROCERY STORE;
- 10                  12.   A CONVENIENCE STORE;
- 11                  13.   A GAS STATION;
- 12                  14.   A FOOD COMPANY; AND
- 13                  15.   A DRINK COMPANY.

14                   (4)   “UNAUTHORIZED CONSUMABLE PRODUCT” MEANS:

15                   (I)    A TIANEPTINE PRODUCT AS DEFINED IN § 21-2D-01 OF THE  
16   HEALTH – GENERAL ARTICLE;

17                   (II)   A KRATOM PRODUCT, AS DEFINED IN § 21-2E-01 OF THE  
18   HEALTH – GENERAL ARTICLE DESCRIBED IN § 21-2E-02(A)(2) OR § 21-2E-02(B)  
19   OF THE HEALTH – GENERAL ARTICLE THAT IS ADVERTISED, PROMOTED,  
20   PACKAGED, OR LABELED IN A MANNER PROHIBITED UNDER § 21-2E-03 OF THE  
21   HEALTH – GENERAL ARTICLE;

22                   (III)  A PHENIBUT PRODUCT AS DEFINED IN § 21-2F-01 OF THE  
23   HEALTH – GENERAL ARTICLE THAT IS DESCRIBED IN § 21-2F-02(A)(2) OR §  
24   21-2F-02(B) OF THE HEALTH – GENERAL ARTICLE THAT IS ADVERTISED,  
25   PROMOTED, PACKAGED, OR LABELED IN A MANNER PROHIBITED UNDER § 21-2F-03  
26   OF THE HEALTH – GENERAL ARTICLE; AND

1           (IV) A CONSUMABLE PRODUCT THAT CONTAINS A POISONOUS OR  
2 DELETERIOUS SUBSTANCE IN VIOLATION OF A RULE OR REGULATION ADOPTED  
3 UNDER § 21-239(C) OF THE HEALTH – GENERAL ARTICLE.

4           (B) A RETAILER MAY NOT DISTRIBUTE, SELL, EXPOSE FOR SALE, OR  
5 ADVERTISE FOR SALE AN UNAUTHORIZED CONSUMABLE PRODUCT.

6           (C) THE EXECUTIVE DIRECTOR MAY SEIZE, CONFISCATE, OR DESTROY:

7           (1) AN UNAUTHORIZED CONSUMABLE PRODUCT THAT IS OFFERED,  
8 ADVERTISED, OR DISPLAYED FOR SALE TO A CONSUMER IN THE STATE; AND

9           (2) A PRODUCT THAT IS LABELED, ADVERTISED, REPRESENTED, OR  
10 OFFERED FOR SALE AS CONTAINING:

11                   (I) KRATOM;

12                   (II) 7-HYDROXYMITRAGYNINE;

13                   (III) ANY PART OF THE PLANT MITRAGYNA SPECIOSA;

14                   (IV) TIANEPTINE SODIUM;

15                   (V) TIANEPTINE SULFATE;

16                   (VI) PHENIBUT; OR

17                   (VII) BETA-PHENYL-GAMMA-AMINO BUTYRIC ACID HCL.

18           (D) A PRODUCT SEIZED UNDER SUBSECTION (C) OF THIS SECTION IS  
19 PRESUMED TO BE CONTRABAND AND SUBJECT TO SUMMARY FORFEITURE UNLESS  
20 THE PERSON FROM WHOM THE PRODUCT WAS SEIZED DEMONSTRATES THE  
21 PRODUCT WAS APPROVED FOR SALE AND DISTRIBUTION FOR THE PURPOSES OF  
22 HUMAN CONSUMPTION BY:

23                   (1) THE MARYLAND DEPARTMENT OF HEALTH; OR

24                   (2) THE U.S. FOOD AND DRUG ADMINISTRATION.

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

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

2 (1) THE DISTRICT COURT MAY ORDER THE EXECUTIVE DIRECTOR,  
3 THE COMPTROLLER, OR THE APPLICABLE LOCAL LICENSING BOARD OR  
4 COMMISSION TO:

5 (I) SUSPEND OR REVOKE A LICENSE ISSUED UNDER THIS  
6 ARTICLE OR TITLE 16, 16.5, 16.7, OR 17 OF THE BUSINESS REGULATION ARTICLE;  
7 AND

8 (II) DISPOSE OF OR DESTROY AN UNAUTHORIZED CONSUMABLE  
9 PRODUCT SEIZED UNDER SUBSECTION (C) OF THIS SECTION; AND

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

12 6–101.

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

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

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

19 (b) Property is forfeited if it:

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

31 (d) [In a prosecution for a violation of this section, it is a defense that the  
32 defendant relied in good faith on the representations of a manufacturer, processor, packer,  
33 or distributor of a kratom product.

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

3 (1) \$1,000 for a first violation; and

4 (2) \$2,000 for each subsequent violation.

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

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

11 21-2E-03.

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

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

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

18 (1) A cartoon;

19 (2) A superhero;

20 (3) A video game reference;

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

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

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

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

27 AND

1           **(8) OTHER IMAGES, GRAPHICS, OR FEATURES OR LIKENESSES TO**  
2 **IMAGES, GRAPHICS, OR FEATURES THAT ARE POPULARLY USED TO ADVERTISE TO**  
3 **CHILDREN, INCLUDING:**

4                   **(I) NEON COLORS, SIGNS, OR OTHER BRIGHTLY COLORED**  
5 **DISPLAYS;**

6                   **(II) ANIMALS;**

7                   **(III) MASCOTS; OR**

8                   **(IV) STATEMENTS, ARTWORK, OR DESIGNS THAT COULD**  
9 **REASONABLY MISLEAD AN INDIVIDUAL TO BELIEVE THAT THE PACKAGE CONTAINS**  
10 **ANYTHING OTHER THAN A KRATOM PRODUCT.**

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

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

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

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

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

27 21-2F-02.

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

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

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

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

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

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

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

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

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

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

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

20 (ii) For the purpose of paragraph (1)(ii) of this subsection, a phenibut  
21 product is contaminated with a dangerous substance other than phenibut if the phenibut  
22 product contains a poisonous or otherwise deleterious ingredient other than phenibut,  
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 phenibut 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 defense that the  
28 defendant relied in good faith on the representations of a manufacturer, processor, packer,  
29 or distributor of a phenibut product.

30 (e)] 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

33 (2) \$2,000 for each subsequent violation.

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

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

7 21-2F-03.

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

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

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

14                    (1)        A cartoon;

15                    (2)        A superhero;

16                    (3)        A video game reference;

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

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

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

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

23 **AND**

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

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

29                            **(II)       ANIMALS;**

1                   **(III) MASCOTS; OR**

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

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

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

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

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

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

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

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