

SENATE BILL 820

J1, A1

6lr3047
CF 6lr2655

By: Senator Hayes

Introduced and read first time: February 6, 2026

Assigned to: Finance

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

Article – Alcoholic Beverages and Cannabis

6 1-313.

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

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

(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:

3. the transportation and distribution throughout the State of tobacco, and cannabis that are manufactured illegally and on which taxes, tobacco taxes, or cannabis taxes imposed by the State are

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

1. SECTION 10–108 of the Criminal Law Article:

2. TITLE 21, SUBTITLE 2D OF THE HEALTH – GENERAL

3. TITLE 21, SUBTITLE 2E OF THE HEALTH – GENERAL

2 ARTICLE; AND

4. TITLE 21, SUBTITLE 2F OF THE HEALTH – GENERAL

4 ARTICLE; and

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

8 (c) The Field Enforcement Division:

9 (1) shall consult with and advise the local State's Attorneys and other law
10 enforcement officials and police officers regarding enforcement problems in their respective
11 jurisdictions; and

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

15 1-323.

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

20 (3) (I) "RETAILER" MEANS A PERSON THAT:

28 1 A MANUFACTURER

2 A WHOLESALER: www.2awholesaler.com

- 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.

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

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-AMINOBUTYRIC 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.

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

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

12 6-101.

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.

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

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

10 B. informing interested persons of the seizure and the right
11 to file a protest.

12 6-207.

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

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

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

Article – Health – General

28 21-2E-02.

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

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

(ii) A kratom product that is contaminated with a dangerous 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

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

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:

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:

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

(i) A phenibut product that is adulterated with a dangerous 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

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;**

(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:

(1) In a newspaper, a magazine, a periodical, or any other publication for which individuals under the age of 21 years constitute 15% or more of the total audience, 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

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.