

Chapter 355

(Senate Bill 820)

AN ACT concerning

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

FOR the purpose of altering the violations of law with respect to which the Field Enforcement Division of the Alcohol, Tobacco, and Cannabis Commission is authorized to issue a citation or charging document; prohibiting a retailer from distributing, selling, exposing for sale, or advertising for sale unauthorized consumable products; authorizing the Executive Director of the Commission to seize, confiscate, or destroy unauthorized consumable products and certain other products; establishing and ~~repealing~~ *altering* certain provisions governing the enforcement of certain prohibitions related to unauthorized consumable products; requiring the Maryland Department of Health to report certain changes related to unauthorized consumable products to the Alcohol, Tobacco, and Cannabis Commission within a certain time; and generally relating to enforcement and seizure of unauthorized consumable products by the Alcohol, Tobacco, and Cannabis Commission.

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

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

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

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

Article – Alcoholic Beverages and Cannabis

1–313.

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

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

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

(i) shall be sworn police officers;

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

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

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

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

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

(iii) may issue a citation or other charging document to a person who 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 ARTICLE;**

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

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

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

(c) The Field Enforcement Division:

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

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

1-323.

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

(2) “ADVERTISE” INCLUDES PACKAGING, LABELING, OR ELECTRONIC COMMUNICATION.

(3) (I) “RETAILER” MEANS A PERSON THAT:

1. SELLS, PREPARES, OR MAINTAINS UNAUTHORIZED CONSUMABLE PRODUCTS; OR

2. ADVERTISES, REPRESENTS, OR HOLDS ITSELF OUT AS SELLING, PREPARING, OR MAINTAINING UNAUTHORIZED CONSUMABLE PRODUCTS.

(II) “RETAILER” INCLUDES THE FOLLOWING PERSONS, IF THE PERSON OTHERWISE MEETS THE DEFINITION ESTABLISHED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. A MANUFACTURER;

2. A WHOLESALER;

3. A STORE;

4. A RESTAURANT;

5. A HOTEL;

6. A CATERING FACILITY;
7. A CAMP;
8. A BAKERY;
9. A DELICATESSEN;
10. A SUPERMARKET;
11. A GROCERY STORE;
12. A CONVENIENCE STORE;
13. A GAS STATION;
14. A FOOD COMPANY; AND
15. A DRINK COMPANY.

(4) “UNAUTHORIZED CONSUMABLE PRODUCT” MEANS:

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

(II) A KRATOM PRODUCT, AS DEFINED IN § 21-2E-01 OF THE HEALTH – GENERAL ARTICLE ~~DESCRIBED IN § 21-2E-02(A)(2) OR § 21-2E-02(B) OF THE HEALTH – GENERAL ARTICLE THAT IS ADVERTISED, PROMOTED, PACKAGED, OR LABELED IN A MANNER PROHIBITED UNDER § 21-2E-03 OF THE HEALTH – GENERAL ARTICLE~~, THAT DOES NOT COMPLY WITH TITLE 21, SUBTITLE 2E OF THE HEALTH – GENERAL ARTICLE;

(III) A PHENIBUT PRODUCT, AS DEFINED IN § 21-2F-01 OF THE HEALTH – GENERAL ARTICLE ~~THAT IS DESCRIBED IN § 21-2F-02(A)(2) OR § 21-2F-02(B) OF THE HEALTH – GENERAL ARTICLE THAT IS ADVERTISED, PROMOTED, PACKAGED, OR LABELED IN A MANNER PROHIBITED UNDER § 21-2F-03 OF THE HEALTH – GENERAL ARTICLE~~, THAT DOES NOT COMPLY WITH TITLE 21, SUBTITLE 2F OF THE HEALTH – GENERAL ARTICLE; AND

(IV) A CONSUMABLE PRODUCT THAT CONTAINS A POISONOUS OR DELETERIOUS SUBSTANCE IN VIOLATION OF A RULE OR REGULATION ADOPTED

UNDER § 21-239(C) OF THE HEALTH – GENERAL ARTICLE AND IS DESIGNATED BY THE SECRETARY OF HEALTH FOR ENFORCEMENT BY THE EXECUTIVE DIRECTOR.

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

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

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

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

(I) 7-HYDROXYMITRAGYNINE IN AN AMOUNT THAT:

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

2. IS GREATER THAN 1 MILLIGRAM PER SERVING;

~~(I) KRATOM;~~

~~(II) 7-HYDROXYMITRAGYNINE;~~

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

~~(IV) (I) TIANEPTINE SODIUM;~~

~~(V) (II) TIANEPTINE SULFATE; OR~~

~~(VI) (III) PHENIBUT; OR~~

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

AND

~~(3) A PRODUCT REPRESENTED TO CONTAIN KRATOM, 7-HYDROXYMITRAGYNINE, OR ANY PART OF THE PLANT MITRAGYNA SPECIOSA THAT IS:~~

~~(I) LABELED OR ADVERTISED IN VIOLATION OF § 21-2E-02 OR § 21-2E-03 OF THE HEALTH – GENERAL ARTICLE; OR~~

~~(H) LABELED, ADVERTISED, OR OTHERWISE REPRESENTED TO CONTAIN MORE THAN ONE MILLIGRAM PER SERVING OF 7-HYDROXYMITRACYNINE.~~

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

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

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

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

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

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

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

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

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

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

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

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

(1) are subject to seizure and forfeiture; and

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

(b) Property is forfeited if it:

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

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

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

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

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

(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.

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

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

2. shall publish a notice:

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

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

6-207.

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

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

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

Article – Health – General

21–2E–02.

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

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

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

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

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

(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;

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

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

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

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

~~1.~~ ~~The~~ ~~THE:~~

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

2. That substance affects the quality or strength of the kratom product to a degree as to render the kratom product injurious to a consumer; ~~and~~

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

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

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

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

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

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

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

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

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

21-2E-03.

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

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

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

(1) A cartoon;

(2) A superhero;

(3) A video game reference;

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

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

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

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

AND

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

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

(II) ANIMALS;

(III) MASCOTS; OR

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

(d) It is a violation of subsection (b) of this section for a retailer to advertise or promote a kratom 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;

(2) At a concert, a stadium, a sporting event, or any other public event 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; or

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

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

21-2F-02.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A cartoon;

(2) A superhero;

(3) A video game reference;

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

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

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

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

AND

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

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

(II) ANIMALS;

(III) MASCOTS; OR

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

(d) It is a violation of subsection (b) of this section for a retailer to advertise or 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;

(2) At a concert, a stadium, a sporting event, or any other public event 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; or

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

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

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

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

Approved by the Governor, May 12, 2026.