

HOUSE BILL NO. 407

INTRODUCED BY N. NICOL

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE KRATOM CONSUMER PROTECTION ACT;  
PROVIDING DEFINITIONS; PROVIDING KRATOM PRODUCT LIMITATIONS; PROVIDING FOR KRATOM  
PRODUCT REGISTRATION; PROVIDING FOR KRATOM PROCESSOR, DISTRIBUTOR, AND RETAILER  
REGISTRATION; PROVIDING FOR LABELING REQUIREMENTS; PROVIDING FOR ENFORCEMENT BY  
THE DEPARTMENT OF REVENUE; PROVIDING CIVIL PENALTIES; PROVIDING FOR MISDEMEANOR  
AND FELONY CONVICTIONS; PROVIDING FOR FEES AND TAXES; PROVIDING RULEMAKING  
AUTHORITY; ~~AND PROVIDING FOR CONTINGENT FEDERAL PREEMPTION~~ PROVIDING A STATUTORY  
APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING A DELAYED EFFECTIVE  
DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. SECTION 1. SHORT TITLE -- PURPOSE. (1) [SECTIONS 1 THROUGH 7] MAY BE CITED AS THE  
"KRATOM CONSUMER PROTECTION ACT".

(2) IT IS THE PURPOSE OF [SECTIONS 1 THROUGH 7] TO PROHIBIT THE SELLING, GIVING, OR OTHER  
DISTRIBUTION OF KRATOM PRODUCTS TO THE PUBLIC UNLESS SPECIFICALLY AUTHORIZED BY [SECTIONS 1 THROUGH 7]  
OR OTHER STATUTORY ACT OF THE LEGISLATURE. IT IS THE EXPRESS PURPOSE OF [SECTIONS 1 THROUGH 7] TO  
PROHIBIT THE SALE OF KRATOM PRODUCTS TO PERSONS UNDER 21 YEARS OF AGE.

NEW SECTION. SECTION 2. DEFINITIONS. AS USED IN [sections 1 through 7], UNLESS CONTEXT REQUIRES  
OTHERWISE, THE FOLLOWING DEFINITIONS APPLY:

(1) "ATTRACTIVE TO CHILDREN" MEANS KRATOM PRODUCTS MANUFACTURED IN THE SHAPE OF CARTOONS

1 OR ANIMALS OR MANUFACTURED OR PACKAGED IN A FORM THAT BEARS ANY REASONABLE RESEMBLANCE TO AN EXISTING  
2 CANDY PRODUCT THAT IS FAMILIAR TO THE PUBLIC AS A WIDELY DISTRIBUTED, BRANDED FOOD PRODUCT SO THAT A  
3 PRODUCT COULD BE MISTAKEN FOR THE BRANDED PRODUCT, ESPECIALLY BY CHILDREN.

4 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

5 (3) "KRATOM" MEANS THE PLANT MITRAGYNA SPECIOSA OR ANY PART OF THAT PLANT.

6 (4) "KRATOM DISTRIBUTOR" MEANS A PERSON IMPORTING INTO OR PURCHASING IN MONTANA KRATOM  
7 PRODUCTS FOR SALE OR RESALE TO KRATOM RETAILERS REGISTERED IN MONTANA.

8 (5) "KRATOM EXTRACT" MEANS A SUBSTANCE OR COMPOUND OBTAINED BY EXTRACTION OF THE  
9 MITRAGYNA SPECIOSA LEAF THAT IS INTENDED FOR INGESTION AND CONTAINS MORE THAN TRACE AMOUNTS OF  
10 MITRAGYNA SPECIOSA AND CONTAINS OTHER ALKALOIDS OF THE KRATOM PLANT, AND WHICH DOES NOT CONTAIN ANY  
11 CONTROLLED SUBSTANCES OR LEVELS OF RESIDUAL SOLVENTS HIGHER THAN IS ALLOWED IN THE UNITED STATES  
12 PHARMACOPEIA 467.

13 (6) "KRATOM PROCESSOR" MEANS A PERSON WHO MANUFACTURES OR PRODUCES KRATOM PRODUCTS.

14 (7) "KRATOM PRODUCT" MEANS A FINISHED ARTICLE CONTAINING ANY PART OF A LEAF OF THE PLANT  
15 MITRAGYNA SPECIOSA IN FRESH, DEHYDRATED, OR DRIED FORM, OR A KRATOM EXTRACT, INCLUDING KRATOM  
16 BEVERAGES PREPARED AND SOLD IN FOOD ESTABLISHMENTS.

17 (8) "KRATOM RETAILER" MEANS A PERSON THAT SELLS OR OTHERWISE PROVIDES KRATOM PRODUCTS TO  
18 THE PUBLIC.

19 (9) "PRODUCTION BATCH" MEANS A QUANTITY OF KRATOM PRODUCT FOR INDIVIDUAL USE FROM A  
20 PROCESSED LOT.

21 (10) "SYNTHESIZED MATERIAL" MEANS AN ALKALOID, METABOLITE, OR ALKALOID DERIVATIVE THAT HAS BEEN  
22 CREATED BY CHEMICAL SYNTHESIS OR BIOSYNTHETIC MEANS, INCLUDING BUT NOT LIMITED TO FERMENTATION,  
23 RECOMBINANT TECHNIQUES, OR YEAST-DERIVED, ENZYMATIC TECHNIQUES, RATHER THAN TRADITIONAL FOOD  
24 PREPARATION TECHNIQUES, SUCH AS HEATING OR EXTRACTING, THAT SYNTHETICALLY ALTERS THE COMPOSITION OF  
25 ANY KRATOM ALKALOID OR CONSTITUENT.

26  
27 NEW SECTION. SECTION 3. KRATOM PRODUCT RESTRICTIONS. A KRATOM PROCESSOR MAY NOT PREPARE,  
28 DISTRIBUTE, SELL, OR EXPOSE FOR SALE A KRATOM PRODUCT THAT:

1           (1) CONTAINS A LEVEL OF 7-HYDROXYMITRAGYNINE IN THE ALKALOID FRACTION THAT IS GREATER THAN  
2 2% OF THE ALKALOID COMPOSITION OF THE KRATOM PRODUCT;

3           (2) CONTAINS SYNTHESIZED MATERIAL;

4           (3) CONTAINS OR IS ADULTERATED WITH A DANGEROUS NON-KRATOM SUBSTANCE IF IT CONTAINS A  
5 POISONOUS OR OTHERWISE DELETERIOUS NON-KRATOM INGREDIENT, INCLUDING BUT NOT LIMITED TO THE SUBSTANCES  
6 LISTED AS A CONTROLLED SUBSTANCES UNDER STATE OR FEDERAL LAW;

7           (4) ARE COMBUSTIBLE, INTENDED TO BE USED FOR VAPORIZATION, OR INJECTABLE;

8           (5) ARE MANUFACTURED IN A MANNER THAT IS ATTRACTIVE TO CHILDREN;

9           (6) DOES NOT HAVE PROOF OF APPROPRIATE QUALITY TESTING FOR EACH PRODUCTION BATCH FROM AN  
10 ISO 17025 LABORATORY IN THE FORM OF A CERTIFICATE OF ANALYSIS REPRESENTING THAT:

11           (A) THE KRATOM PRODUCT DOES NOT CONTAIN LEVELS OF RESIDUAL SOLVENTS, BIOLOGICAL  
12 CONTAMINANTS, OR HEAVY METAL CONTAMINANTS THAT MEET THE STANDARD FOR DIETARY SUPPLEMENT PRODUCTS;  
13 AND

14           (B) THE PRODUCTION BATCH AS DEFINED IN [SECTION 2] MEETS CONCENTRATION AND CONTENT LIMITS; OR

15           (7) CONTAINS LEVELS OF RESIDUAL SOLVENTS HIGHER THAN IS ALLOWED IN [SECTION 2(5)].

16  
17           **NEW SECTION. SECTION 4. KRATOM PRODUCT AND ENTITY REGISTRATION -- FEES -- TAX. (1) KRATOM**  
18 **PROCESSORS, KRATOM DISTRIBUTORS, AND KRATOM RETAILERS MUST REGISTER ANNUALLY WITH THE DEPARTMENT.**

19           (2) A KRATOM PROCESSOR MAY NOT PREPARE, DISTRIBUTE, SELL, OR OFFER FOR SALE A KRATOM  
20 PRODUCT THAT IS NOT REGISTERED WITH THE DEPARTMENT.

21           (3) (A) THE KRATOM PROCESSOR RESPONSIBLE FOR PLACING A KRATOM PRODUCT INTO COMMERCE IN THE  
22 STATE SHALL REGISTER WITH THE DEPARTMENT ANNUALLY TO OFFER FOR SALE KRATOM PRODUCTS MANUFACTURED IN  
23 AN APPROVED KRATOM DELIVERY FORM AND PAY A \$500 FEE.

24           (4) THE REGISTRATION MUST INCLUDE THE FOLLOWING SWORN CERTIFICATIONS FROM THE KRATOM  
25 PROCESSOR:

26           (A) THE KRATOM PRODUCT BEING REGISTERED MEETS ALL OF THE REQUIREMENTS IN [SECTION 3] AND THIS  
27 SECTION;

28           (B) A CERTIFICATION FROM A QUALIFIED INDEPENDENT AUDITOR THAT THE REGISTRANT MEETS OR

1 EXCEEDS GUIDELINES PUBLISHED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION FOR CURRENT GOOD  
2 MANUFACTURING PRACTICES FOR ANY FACILITY THAT MANUFACTURES, PROCESSES, PACKS, OR HOLDS A KRATOM  
3 PRODUCT;  
4 (C) A CURRENT UNITED STATES FOOD AND DRUG ADMINISTRATION FOOD FACILITY REGISTRATION  
5 CERTIFICATE OR A CERTIFICATION FROM THE LOCAL AUTHORITY WHERE THE MANUFACTURING PHYSICALLY TAKES PLACE  
6 THAT THE FACILITY IS REGISTERED AS A FOOD FACILITY FOR ANY PROCESSOR'S FACILITY THAT MANUFACTURES,  
7 PROCESSES, PACKS, OR HOLDS A KRATOM PRODUCT;  
8 (D) A STATEMENT THAT THE PROCESSOR HAS A REASONABLE BASIS THAT THE KRATOM PRODUCT IS SAFE  
9 FOR CONSUMPTION UNDER THE CONDITIONS OF USE SET FORTH ON THE LABEL. THE REGISTRANT ASSUMES  
10 RESPONSIBILITY AND LIABILITY FOR THE KRATOM PRODUCTS OFFERED FOR SALE.  
11 (E) THE SUBMISSION OF A CERTIFICATE OF ANALYSIS FROM A CERTIFIED INDEPENDENT THIRD-PARTY  
12 LABORATORY SHOWING COMPLIANCE WITH THE REQUIREMENTS OF [SECTIONS 1 THROUGH 7] FOR RESIDUAL SOLVENTS,  
13 7-HYDROXYMITRAGYNINE CONTENT, AND HEAVY METAL CONTAMINANTS.  
14 (5) AN ENTITY MUST ANNUALLY RENEW ITS REGISTRATION OR THE REGISTRATION WILL LAPSE  
15 AUTOMATICALLY. AN ENTITY WITH A LAPSED REGISTRATION MUST REREGISTER WITH THE DEPARTMENT AND MAY NOT  
16 SELL KRATOM PRODUCTS UNTIL THE ENTITY HAS REREGISTERED WITH THE DEPARTMENT.  
17 (6) A PRODUCT THAT CONTAINS THE SAME KRATOM INGREDIENTS IN THE SAME KRATOM DELIVERY FORM,  
18 BUT A DIFFERENT CONTAINER, PACKAGE, OR VOLUME, MUST BE INCLUDED IN A SINGLE REGISTRATION.  
19 (7) A KRATOM DISTRIBUTOR WHO DISTRIBUTES KRATOM PRODUCTS IN THE STATE SHALL REGISTER WITH  
20 THE DEPARTMENT ANNUALLY AND PAY A \$400 FEE.  
21 (8) A KRATOM RETAILER WHO SELLS KRATOM PRODUCTS TO THE PUBLIC IN THE STATE SHALL REGISTER  
22 WITH THE DEPARTMENT ANNUALLY AND PAY A \$400 FEE.  
23 (9) THE DEPARTMENT SHALL PUBLISH AND MAINTAIN A KRATOM REGISTRATION PAGE ON ITS OFFICIAL  
24 WEBSITE LISTING ALL CURRENTLY REGISTERED KRATOM PRODUCTS FOR SALE BY KRATOM RETAILERS THAT ALLOWS  
25 RETAILERS TO VERIFY REGISTERED KRATOM PRODUCTS THEY ARE PERMITTED TO SELL TO CONSUMERS.  
26 (10) KRATOM PRODUCTS THAT ARE PREPARED AND SERVED FRESH BY A FOOD SERVICE ESTABLISHMENT  
27 ARE REGULATED UNDER [SECTIONS 1 THROUGH 7] BUT ARE EXEMPT FROM REGISTRATION AND RETAIL PRODUCT  
28 LABELING REQUIREMENTS AS PROVIDED IN [SECTION 5(3)].

1           (11) IF THE DEPARTMENT DETERMINES A KRATOM PRODUCT REGISTRATION FAILS TO MEET THE  
2 REQUIREMENTS FOR REGISTRATION, THE KRATOM PROCESSOR MAY SEEK A REVIEW, AND THE DEPARTMENT SHALL  
3 REQUIRE THE PAYMENT OF ALL ESTIMATED COSTS ASSOCIATED WITH THE REVIEW FROM THE KRATOM PROCESSOR PRIOR  
4 TO THE COMMENCEMENT OF THE REVIEW.

5           (12) THERE IS A 5% EXCISE TAX ON THE WHOLESALE SELLING PRICE OF ALL KRATOM PRODUCTS. THE TAX  
6 IMPOSED PURSUANT TO THIS SUBSECTION ON A KRATOM DISTRIBUTOR IS DUE AT THE END OF A QUARTER FROM THE  
7 KRATOM DISTRIBUTOR ON KRATOM SOLD BY THE KRATOM DISTRIBUTOR DURING THE QUARTER. THE TAX IS PAYABLE TO  
8 THE DEPARTMENT AND MUST BE DEPOSITED INTO THE DEPARTMENT'S FUND AS PROVIDED IN [SECTION 7].

9

10           NEW SECTION. SECTION 5. LABELING. (1) A KRATOM PRODUCT PRODUCED, MANUFACTURED,  
11 DISTRIBUTED, OFFERED, SOLD, OR OFFERED FOR SALE MUST HAVE A LABEL THAT CLEARLY AND CONSPICUOUSLY  
12 PROVIDES ALL OF THE FOLLOWING INFORMATION ON EACH RETAIL PACKAGE:

13           (A) A STATEMENT AGAINST THE USE BY INDIVIDUALS WHO ARE UNDER 21 YEARS OF AGE OR WHO ARE  
14 PREGNANT OR BREASTFEEDING;

15           (B) A RECOMMENDATION TO CONSULT A HEALTH CARE PROFESSIONAL PRIOR TO USE;

16           (C) A STATEMENT THAT KRATOM MAY BE HABIT FORMING;

17           (D) THE FOLLOWING STATEMENT: "THESE STATEMENTS HAVE NOT BEEN EVALUATED BY THE UNITED  
18 STATES FOOD AND DRUG ADMINISTRATION. THIS PRODUCT IS NOT INTENDED TO DIAGNOSE, TREAT, CURE, OR PREVENT  
19 ANY DISEASE.";

20           (E) THE NAME AND THE ADDRESS FOR THE PLACE OF BUSINESS OF THE REGISTRANT; AND

21           (F) DIRECTIONS FOR USE THAT INCLUDE THE FOLLOWING:

22           (I) A RECOMMENDED AMOUNT OF THE KRATOM PRODUCT PER SERVING THAT IS:

23           (A) FOR PRODUCT FORMS SUCH AS CAPSULES, GUMMIES, PREPACKAGED SINGLE SERVING UNITS, AND  
24 SIMILAR PRODUCT FORMS, CLEARLY DESCRIBED ON THE LABEL; OR

25           (B) FOR BEVERAGES, LIQUIDS, OR LOOSE POWDERS, A CLEAR INSTRUCTION OR A MARK ON THE PACKAGE  
26 OR CONTAINER THAT CLEARLY INFORMS THE CONSUMER ON THE RECOMMENDED SERVING SIZE.

27           (II) A RECOMMENDED NUMBER OF SERVINGS THAT CAN BE SAFELY CONSUMED IN A 24-HOUR PERIOD;

28           (III) A LISTING OF THE SERVINGS PER CONTAINER; AND

1            (IV) A LISTING OF KRATOM ALKALOIDS AND OTHER INGREDIENTS IN THE PRODUCT, INCLUDING QUANTITATIVE  
2 NOT-TO-EXCEED DECLARATIONS OF THE AMOUNT PER SERVING OF EACH OF THE FOLLOWING:

3            (A) MITRAGYNINE; AND

4            (B) 7-HYDROXYMITRAGYNINE.

5            (2) The department shall approve labels for kratom products once by kratom processors. If a  
6 kratom processor changes a kratom product, the department shall withdraw approval and the kratom processor  
7 must seek reapproval of the kratom product. The department may charge a fee in connection with the  
8 reapproval.

9            (3) (A) THIS SECTION DOES NOT APPLY TO KRATOM PRODUCTS THAT ARE PREPARED AND SERVED FRESH  
10 BY A FOOD SERVICE ESTABLISHMENT, INCLUDING BUT NOT LIMITED TO KRATOM TEA HOUSES THAT BREW TEA FOR  
11 CONSUMPTION ON THE PREMISES. ENTITIES THAT PREPARE AND SERVE FRESH KRATOM PRODUCTS THAT ARE SERVED  
12 FRESH BY A FOOD SERVICE ESTABLISHMENT SHALL PURCHASE DIRECTLY FROM THE KRATOM DISTRIBUTOR AND ARE NOT  
13 SUBJECT TO LABELING AND PRODUCT REGISTRATION REQUIREMENTS.

14            (B) A FOOD SERVICE ESTABLISHMENT UNDER TITLE 50, CHAPTER 31, MAY PREPARE AND SERVE FRESH  
15 KRATOM PRODUCTS IF IT IS A LICENSED KRATOM RETAILER UNDER [SECTIONS 1 THROUGH 7].

16  
17            **NEW SECTION. SECTION 6. DEPARTMENT -- ENFORCEMENT. (1) KRATOM PROCESSORS, KRATOM**  
18 **DISTRIBUTORS, AND KRATOM RETAILERS ARE PROHIBITED FROM SELLING ANY KRATOM PRODUCT THAT DOES NOT HAVE A**  
19 **CURRENT REGISTRATION WITH THE DEPARTMENT. A KRATOM PROCESSOR MAY ONLY SELL PRODUCTS TO A KRATOM**  
20 **DISTRIBUTOR. A KRATOM DISTRIBUTOR MAY ONLY SELL KRATOM PRODUCTS TO A KRATOM RETAILER.**

21            (2) PROCESSORS, DISTRIBUTORS, AND RETAILERS OF KRATOM PRODUCTS ARE SUBJECT TO THE  
22 FOLLOWING PENALTIES:

23            (A) A FINE OF \$10,000 ON THE PROCESSOR, DISTRIBUTOR, OR RETAILER FOR THE SALE OF EACH  
24 UNREGISTERED PRODUCT OR FOR SALES TO PERSONS UNDER 21 YEARS OF AGE;

25            (B) A FINE OF \$15,000 ON THE PROCESSOR, DISTRIBUTOR, OR THE RETAILER FOR A SECOND VIOLATION OF  
26 THE SALE OF THE SAME UNREGISTERED PRODUCT OR FOR SALES TO PERSONS UNDER 21 YEARS OF AGE; OR

27            (C) FOR A THIRD VIOLATION FOR THE SALE OF AN UNREGISTERED PRODUCT OR THE SALE TO A PERSON  
28 UNDER 21 YEARS OF AGE, THE PROCESSOR, DISTRIBUTOR, OR RETAILER MUST BE PROHIBITED FROM THE SALE OF ANY

1 KRATOM PRODUCT IN THE STATE FOR A PERIOD OF 2 YEARS.

2 (3) KRATOM PRODUCTS THAT ARE INTENDED FOR HUMAN INGESTION MAY NOT BE SOLD IN THIS STATE TO A  
3 PERSON WHO IS UNDER 21 YEARS OF AGE.

4 (4) A PERSON WHO PURPOSELY OR KNOWINGLY VIOLATES [SECTIONS 1 THROUGH 7] COMMITS A  
5 MISDEMEANOR, PUNISHABLE AS PROVIDED UNDER TITLE 45.

6 (5) A PERSON WHO PURPOSELY OR KNOWINGLY COMMITS A SECOND OR SUBSEQUENT VIOLATION OF  
7 [SECTIONS 1 THROUGH 7] WITHIN 1 YEAR AFTER THE INITIAL VIOLATION COMMITS A MISDEMEANOR, PUNISHABLE AS  
8 PROVIDED IN TITLE 45.

9 (6) A REGISTRANT THAT PURPOSELY OR KNOWINGLY MANUFACTURES, DELIVERS, HOLDS, OFFERS FOR  
10 SALE, DISTRIBUTES, OR SELLS A KRATOM PRODUCT THAT CONTAINS ANY CONTROLLED SUBSTANCE LISTED IN STATE OR  
11 FEDERAL LAW IS GUILTY OF A FELONY AS PROVIDED IN IN TITLE 45.

12 (7) A REGISTRANT THAT PURPOSELY OR KNOWINGLY MANUFACTURES, DELIVERS, HOLDS, OFFERS FOR  
13 SALE, DISTRIBUTES, OR SELLS A KRATOM PRODUCT THAT CONTAINS SYNTHETIC MITRAGYNINE, SYNTHETIC 7-  
14 HYDROXYMITRAGYNINE, OR ANY OTHER SYNTHETICALLY DERIVED COMPOUND OF THE PLANT MITRAGYNA SPECIOSA  
15 COMMITS A MISDEMEANOR, PUNISHABLE AS PROVIDED IN TITLE 45.

16 (8) UPON RECEIPT OF A VIOLATION REPORT ON ANY KRATOM PRODUCT OFFERED FOR SALE, THE  
17 DEPARTMENT SHALL REQUIRE THE REGISTRANT TO PRODUCE AN UPDATED AND CURRENT CERTIFICATE OF ANALYSIS IN A  
18 REASONABLE TIMEFRAME FROM A CERTIFIED INDEPENDENT THIRD-PARTY LABORATORY SHOWING COMPLIANCE WITH THE  
19 REQUIREMENTS OF [SECTIONS 1 THROUGH 7] FOR SAFE KRATOM PRODUCTS. IF THE REGISTRANT DOES NOT PROVIDE  
20 THE CERTIFICATE OF ANALYSIS AND COPIES OF ALL PRODUCT LABELS IN THE SPECIFIED TIMEFRAME, THE REGISTRATION  
21 FOR THAT KRATOM PRODUCT MUST BE REVOKED AND A STOP SALE ORDER MUST BE ISSUED FOR PRODUCTS COVERED BY  
22 THIS REGISTRATION.

23 (9) IF THE DEPARTMENT HAS A REASONABLE BASIS TO REQUIRE AN INDEPENDENT THIRD-PARTY TEST OF A  
24 REGISTERED KRATOM PRODUCT BY A LABORATORY OF THE DEPARTMENT'S CHOICE, THE REGISTRANT MUST BE  
25 REQUIRED TO SUBMIT PAYMENT FOR THE TEST WITHIN A REASONABLE TIMEFRAME. IF THE REGISTRANT DOES NOT  
26 TENDER PAYMENT TO THE DEPARTMENT WITHIN 30 DAYS OF RECEIPT OF THE INVOICE FOR THE TESTING, THE  
27 DEPARTMENT SHALL REVOKE THE REGISTRATION FOR THAT KRATOM PRODUCT AND A STOP SALE ORDER WILL BE ISSUED  
28 FOR PRODUCTS COVERED BY THIS REGISTRATION.

1           (10) THE DEPARTMENT MAY SEIZE OR DESTROY ANY KRATOM PRODUCT THAT DOES NOT COMPLY WITH THE  
2 REQUIREMENTS OF [SECTIONS 1 THROUGH 7]. THE DEPARTMENT MAY ACT ON ANY COMPLAINT AND HAS THE AUTHORITY  
3 TO REASONABLY INSPECT THE BOOKS AND RECORDS OF ANY ENTITY REQUIRED TO REGISTER UNDER [SECTIONS 1  
4 THROUGH 7].

5           (11) A RETAILER DOES NOT VIOLATE THIS SECTION IF IT IS SHOWN BY A PREPONDERANCE OF THE EVIDENCE  
6 THAT THE RETAILER RELIED IN GOOD FAITH UPON THE REPRESENTATIONS OF A MANUFACTURER, PROCESSOR, PACKER,  
7 OR DISTRIBUTOR OF FOOD REPRESENTED TO BE A KRATOM PRODUCT.

8           (12) DEPARTMENT PROCEEDINGS UNDER [SECTIONS 1 THROUGH 7] ARE SUBJECT TO THE MONTANA  
9 ADMINISTRATIVE PROCEDURE ACT, TITLE 2, CHAPTER 4.

10  
11           NEW SECTION. SECTION 7. RULEMAKING -- DEPARTMENT FUND. (1) THE DEPARTMENT SHALL ADOPT  
12 RULES TO ADMINISTER PROVISIONS OF [SECTIONS 1 THROUGH 7]. THE RULES MUST PROVIDE FOR:

13           (A) THE PROCESS FOR A REGISTRATION OF A KRATOM PRODUCT BY A KRATOM PROCESSOR;

14           (B) THE PROCESS FOR REGISTRATION OF A KRATOM PROCESSOR, KRATOM DISTRIBUTOR, OR KRATOM  
15 RETAILER UNDER [SECTION 4];

16           (C) THE REQUIREMENTS FOR ENFORCING THE RESTRICTION ON THE SALE OF ANY KRATOM PRODUCT TO A  
17 PERSON UNDER 21 YEARS OF AGE;

18           (D) ANY FEES OR INFORMATION REQUIRED FOR REGISTRATION AS PROVIDED IN [SECTION 4], INCLUDING  
19 BUT NOT LIMITED TO INFORMATION REQUIRED, CONTACT INFORMATION, AND CERTIFICATIONS FROM QUALIFIED  
20 INDEPENDENT AUDITORS;

21           (E) ANY TAXES COLLECTED PURSUANT TO [SECTIONS 1 THROUGH 7];

22           (F) THE REQUIREMENTS OF PAYMENT OF ANY FEES TO THE DEPARTMENT ASSOCIATED WITH ENFORCEMENT  
23 ON ANY NONCOMPLIANT OR NONREGISTERED KRATOM PRODUCTS;

24           (G) PROOF OF APPROPRIATE QUALITY TESTING AS PROVIDED IN [SECTION 3];

25           (H) PROCEDURES FOR ELECTRONIC APPLICATIONS FOR REGISTRATION AND PAYMENTS OF FEES OR TAXES;

26           (I) THE DEPARTMENT'S WEBSITE LISTING PRODUCTS AND ENTITIES REGISTERED UNDER [SECTIONS 1  
27 THROUGH 7]; AND

28           (J) ANYTHING DEEMED REASONABLY NECESSARY TO ADMINISTER [SECTIONS 1 THROUGH 7].

1           (2)       (A) THERE IS A DEDICATED KRATOM STATE SPECIAL REVENUE ACCOUNT WITHIN THE STATE SPECIAL  
2 REVENUE FUND ESTABLISHED IN 17-2-102, TO BE ADMINISTERED BY THE DEPARTMENT.

3           (B)       THE ACCOUNT CONSISTS OF:

4           (I)       MONEY DEPOSITED INTO THE ACCOUNT PURSUANT TO [SECTIONS 1 THROUGH 7];

5           (II)       THE TAXES COLLECTED PURSUANT TO [SECTION 4];

6           (III)       LICENSE FEES DEPOSITED INTO THE ACCOUNT PURSUANT TO [SECTION 4]; AND

7           (IV)       CIVIL PENALTIES COLLECTED UNDER [SECTIONS 1 THROUGH 7].

8           (C)       EXCEPT AS PROVIDED IN SUBSECTION (2)(D), MONEY IN THE ACCOUNT IS STATUTORILY APPROPRIATED,  
9 AS PROVIDED IN 17-7-502, TO THE DEPARTMENT AND MAY BE USED ONLY FOR THE PURPOSES OF THIS ADMINISTERING  
10 [SECTIONS 1 THROUGH 7].

11          (D)       AT THE END OF EACH FISCAL YEAR, THE DEPARTMENT SHALL TRANSFER FUNDS IN EXCESS OF A 3-  
12 MONTH OPERATING RESERVE NECESSARY TO FUND OPERATING COSTS AT THE BEGINNING OF THE NEXT FISCAL YEAR  
13 INTO THE GENERAL FUND.

14  
15          **SECTION 8.** SECTION 17-7-502, MCA, IS AMENDED TO READ:

16          **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
17 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without  
18 the need for a biennial legislative appropriation or budget amendment.

19          (2)       Except as provided in subsection (4), to be effective, a statutory appropriation must comply with  
20 both of the following provisions:

21          (a)       The law containing the statutory authority must be listed in subsection (3).

22          (b)       The law or portion of the law making a statutory appropriation must specifically state that a  
23 statutory appropriation is made as provided in this section.

24          (3)       The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-  
25 11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-  
26 807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-316; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121;  
27 15-1-142; 15-1-143; 15-1-218; 15-1-2302; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-  
28 117; 15-39-110; 15-65-121; 15-70-128; 15-70-131; 15-70-132; 15-70-433; 16-11-119; 16-11-509; [section 7];

1 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-6-214; 17-7-133; 17-7-215; 18-11-112; 19-3-319; 19-3-  
2 320; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-  
3 21-203; 20-3-369; 20-7-1709; 20-8-107; 20-9-250; 20-9-534; 20-9-622; [ 20-15-328]; 20-26-617; 20-26-1503;  
4 22-1-327; 22-3-116; 22-3-117; [ 22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-  
5 10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-4-1506; 44-12-  
6 213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-  
7 321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-  
8 150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-  
9 112; 81-1-113; 81-2-203; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [ 85-25-102];  
10 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

11 (4) There is a statutory appropriation to pay the principal, interest, premiums, and any costs or fees  
12 associated with issuing, paying, securing, redeeming, or defeasing all bonds, notes, or other obligations, as due  
13 in the ordinary course or when earlier called for redemption or defeased, that have been authorized and issued  
14 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
15 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined  
16 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have  
17 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the  
18 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement  
19 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410  
20 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental  
21 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on  
22 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117  
23 terminates June 30, 2025; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates  
24 September 30, 2025; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027;  
25 pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to secs.  
26 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 1, Ch.  
27 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021,  
28 the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-

1 310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates  
2 June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30, 2025;  
3 pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; pursuant to  
4 sec. 1, Ch. 20, L. 2023, sec. 2, Ch. 20, L. 2023, and sec. 3, Ch. 20, L. 2023, the inclusion of 81-1-112, 81-1-  
5 113, and 81-7-106 terminates June 30, 2029; pursuant to sec. 9, Ch. 44, L. 2023, the inclusion of 15-1-142  
6 terminates December 31, 2025; pursuant to sec. 10, Ch. 47, L. 2023, the inclusion of 15-1-2302 terminates  
7 June 30, 2025; pursuant to sec. 2, Ch. 374, L. 2023, the inclusion of 10-3-802 terminates June 30, 2031;  
8 pursuant to sec. 12, Ch. 558, L. 2023, the inclusion of 20-9-250 terminates December 31, 2029; pursuant to  
9 sec. 4, Ch. 621, L. 2023, the inclusion of 22-1-327 terminates July 1, 2029; pursuant to sec. 24, Ch. 722, L.  
10 2023, the inclusion of 17-7-133 terminates June 30, 2027; pursuant to sec. 10, Ch. 758, L. 2023, the inclusion  
11 of 44-4-1506 terminates June 30, 2027; and pursuant to sec. 10, Ch. 764, L. 2023, the inclusion of 15-1-143  
12 terminates December 31, 2025.)"

13

14 NEW SECTION. SECTION 9. CODIFICATION INSTRUCTION. [SECTIONS 1 THROUGH 7] ARE INTENDED TO BE  
15 CODIFIED AS A NEW CHAPTER IN TITLE 16, AND THE PROVISIONS OF TITLE 16 APPLY TO [SECTIONS 1 THROUGH 7].

16

17 NEW SECTION. SECTION 10. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JANUARY 1, 2026.

18

- END -