

**BILL ANALYSIS**

Senate Research Center  
89R23043 LHC-D

C.S.S.B. 1868  
By: Perry  
State Affairs  
4/10/2025  
Committee Report (Substituted)

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In recent years there has been an explosion of dangerous drugs being sold at gas stations across this state to unsuspecting customers.

Kratom is a plant from Southeast Asia that is often synthetically altered and sold as a highly potent drug. The 88th Legislature was concerned about synthetic Kratom products in 2023 and successfully passed S.B. 497, to regulate Kratom products. Unfortunately, some stores continue to sell high potency synthetic Kratom products.

Additionally, Tianeptine, also known as "gas station heroin," is another highly concerning drug that is widely available in this state. Tianeptine is a European pharmaceutical that was originally designed to treat depression. However, Tianeptine has never been approved by the Food and Drug Administration for use in the United States. Unfortunately, stores have begun selling extremely high doses of Tianeptine as a "supplement." These products have been shown to activate the same brain receptors as opioids do, like morphine, oxycodone, and fentanyl.

Texas has banned Psilocybin (magic mushrooms) for many years. However, clever chemists have identified additional mushroom varieties that produce similar hallucinogenic effects to Psilocybin. These mushrooms varieties are unregulated and widely available in this state.

This proposed legislation seeks to add synthetic Kratom and Tianeptine to Penalty Group 1 of the Texas Controlled Substances Act. Additionally, the bill adds Ibotenic acid and Muscimol to Penalty Group 2.

C.S.S.B. 1868 amends current law relating to adding certain substances to the Texas Controlled Substances Act and regulating kratom and kratom products, increases civil penalties, creates criminal offenses, and increases a criminal penalty.

**RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Redesignates Chapter 444, Health and Safety Code, as added by Chapter 2 (S.B. 497), Acts of the 88th Legislature, Regular Session, 2023, as Chapter 445, Health and Safety Code, and amends it, as follows:

**CHAPTER 445. MANUFACTURE, DISTRIBUTION, AND SALE OF KRATOM PRODUCTS**

Sec. 445.001. DEFINITIONS. Redesignates existing Section 444.001 as Section 445.001. Redefines "kratom," "kratom processor," "kratom product," and "kratom retailer," and defines "manufacture."

Sec. 445.002. New heading: TESTING AND LABELING REQUIRED. Redesignates existing Section 444.002 as Section 445.002. (a) Requires that a sample representing a

kratom product, before the kratom product is sold at retail or otherwise introduced into commerce in this state, be tested:

(1) by a laboratory that is located in this state and accredited by an accreditation body in accordance with International Organization for Standardization ISO/IEC 17025 or a comparable or successor standard; and

(2) to determine the concentration and identity of the alkaloids in the product and the presence or quantity of heavy metals, pesticides, microbial contamination, and any other substances in the product as prescribed by the executive commissioner of the Health and Human Services Commission.

(b) Creates this subsection from existing text and makes no further changes.

(c) Redesignates existing Subsection (b) as Subsection (c). Authorizes a kratom retailer to only sell a kratom product that is properly tested and labeled in accordance with this section.

(d) Provides that a person commits an offense if the person sells or offers for sale a kratom product that is not tested or labeled as required by this section.

(e) Provides that an offense under this section is a Class A misdemeanor.

Sec. 445.003. ADULTERATED, CONTAMINATED, AND PROHIBITED KRATOM PRODUCTS. Redesignates existing Section 444.003 as Section 445.003. Prohibits a person, rather than a kratom processor or kratom retailer, from manufacturing, preparing, distributing, selling, or offering for sale, rather than offering to sell, a kratom product that:

(1)-(2) makes no changes to these subsections;

(3) contains a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than 0.1, rather than two, percent of the overall alkaloid composition of the product;

(4) contains any artificial or synthetic alkaloids, including artificial or synthetic 7-hydroxymitragynine and synthetically derived compounds from kratom, rather than a kratom plant;

(5) is a prepackaged beverage; or

(6) is a prepackaged food other than raw or dried kratom leaves, ground kratom leaves, kratom leaf powder, or clear capsules containing kratom leaf powder.

Makes nonsubstantive changes to this section.

Sec. 445.004. New heading: OFFENSE: DISTRIBUTION OR SALE OF KRATOM PRODUCT TO INDIVIDUAL YOUNGER THAN 21 YEARS OF AGE. Redesignates existing Section 444.004 as Section 445.004. (a) Provides that a person commits an offense if the person distributes, sells, or exposes for sale a kratom product to an individual younger than 21, rather than 18, years of age.

(b) Provides that an offense under this section is a Class A, rather than Class C, misdemeanor.

Sec. 445.005. OFFENSE: SALE OR DELIVERY OF CERTAIN KRATOM PRODUCTS NEAR SCHOOL. (a) Defines "school" and "premises."

(b) Provides that a person commits an offense if the person sells, offers for sale, or delivers a kratom product in, on, or within 1,000 feet of the premises of a school.

(c) Provides that an offense under this section is a Class A misdemeanor.

Sec. 445.006. OFFENSE: FALSE LABORATORY REPORT. (a) Provides that a person commits an offense if the person, with the intent to deceive, forges, falsifies, or alters the results of a laboratory test authorized or required by this chapter.

(b) Provides that an offense under this section is a felony of the third degree.

Sec. 445.007. OFFENSE: SALE OF OTHER PRODUCTS PROHIBITED. (a) Provides that a person commits an offense if the person sells or offers for sale a kratom product at a location that also sells or offers for sale certain products.

(b) Provides that an offense under this section is a Class A misdemeanor.

Sec. 445.008. CIVIL PENALTY. Redesignates existing Section 444.005 as Section 445.008. (a) Provides that a person who violates this chapter is subject to a civil penalty in the amount of:

(1) \$2,500, rather than \$250, for the first violation;

(2) \$5,000, rather than \$500, for the second violation; and

(3) \$10,000, rather than \$1,000, for each subsequent violation.

(b) Provides that each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under this section.

(c) Redesignates existing Subsection (d) as Subsection (c). Deletes existing text providing that a kratom retailer is not liable for a civil penalty under this section for a violation of Section 444.002 or 444.003 if the kratom retailer proves by a preponderance of the evidence that the violation was unintentional and due to the kratom retailer's good faith reliance on the representation of another kratom processor.

Sec. 445.009. PENALTIES UNDER OTHER LAW. Redesignates existing Section 444.006 as Section 445.009 and makes no further changes.

Sec. 445.010. RULES. Redesignates existing Section 444.007 as Section 445.1010 and makes no further changes.

SECTION 2. Amends Section 481.002, Health and Safety Code, by adding Subdivision (56) to define "kratom."

SECTION 3. Amends Section 481.102, Health and Safety Code, as follows:

Sec. 481.102. PENALTY GROUP 1. Provides that Penalty Group 1 consists of:

(1) certain opiates, including etodesnitazene, N-pyrrolidino etonitazene, and protonitazene;

(2) makes no changes to this subdivision;

(3) certain substances, however produced, except those narcotic drugs listed in another group, including:

(A)-(C) makes no changes to these paragraphs;

(D) makes a nonsubstantive change to this paragraph;

(E) makes no change to this paragraph;

(F) kratom alkaloids, other than within kratom, as well as artificial equivalents of the substances naturally created in a plant of the species *Mitragyna speciosa*, as well as synthetic equivalents of the substances naturally created in a plant of the species *Mitragyna speciosa*, including certain substances;

(G) any salt, isomer, salt of isomer, compound, derivative, extract, or preparation of a substance described by Paragraph (F) with similar pharmacological activity, as well as any other analogue of a substance described by Paragraph (F) intended to interact with human opioid receptors; and

(H) Tianeptine and any salt, isomer, salt of isomer, compound, derivative, extract, or preparation of tianeptine with similar pharmacological activity, as well as any other analogue of tianeptine intended to interact with human opioid receptors; and

(4)-(16) makes no changes to these subdivisions.

SECTION 4. Amends Section 481.103(a), Health and Safety Code, as follows:

(a) Provides that Penalty Group 2 consists of certain substances, including any quantity of the following hallucinogenic substances, their salts, isomers, salts of isomers, ethers, and esters unless specifically excepted, if the existence of these salts, isomers, salts of isomers, ethers, and esters is possible: ibotenic acid and muscimol. Makes nonsubstantive changes.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Provides that, to the extent of any conflict, this Act prevails over another Act of the 89th Legislature, Regular Session, 2025, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 7. Effective date: September 1, 2025.