

## Department of Planning and Budget

### 2022 Fiscal Impact Statement

**1. Bill Number:** HB1307

<b>House of Origin</b>	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron:** Fowler

**3. Committee:** Health, Welfare and Institutions

**4. Title:** Kratom; prohibited acts; civil penalty.

**5. Summary:** Provides that no person that sells, prepares, manufactures, distributes, or maintains kratom products, as defined in the bill, or advertises, represents, or holds itself out as selling, preparing, manufacturing, distributing, or maintaining kratom products shall prepare, distribute, sell, or expose for sale (i) any kratom product that includes or is packed with a substance that is not kratom and that affects the quality or strength of the kratom product or that contains any poisonous or otherwise deleterious ingredient; (ii) any kratom product that contains a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than two percent of the overall alkaloid composition of the product or any synthetic alkaloids or other synthetically derived compounds of the kratom plant; (iii) any kratom extract that contains levels of residual solvents that are higher than is allowed in Chapter 467 of current edition of the United States Pharmacopeia; or (iv) any kratom product that does not provide labeling directions necessary for safe and effective use by consumers, including a recommended serving size. The bill provides that any person that violates the provisions of the bill shall be subject to a civil penalty in the amount of \$100 for a first violation, a civil penalty in the amount of \$200 for a second violation, and a civil penalty in the amount of \$500 for a third or subsequent violation.

**6. Budget Amendment Necessary:** See item 8.

**7. Fiscal Impact Estimates:** Indeterminate, see item 8.

**8. Fiscal Implications:** The fiscal impact this legislation would have on the Commonwealth cannot be determined.

The Department of Forensic Science (DFS) has stated it does not have the ability to provide the level of analysis (i.e. quantitation) that would be required to support the civil penalty per the legislation. While DFS can currently identify the chemical compounds in kratom, it does not have methods for residual solvent testing, total alkaloid composition, or 7-hydroxymitragynine quantitation. If proof were needed to support civil offenses in court per this legislation, DFS would not be able to provide these services. It is unknown whether the Division of Consolidated Laboratory Services (DCLS) or a private laboratory would be able to provide the required analysis for these offenses. If DFS is required to develop the

capability to do the analysis they would need additional resources to gather additional information in order estimate the potential impact.

DCLS is continuing to assess the impact of this bill and this statement may be revised based on the outcome of this analysis.

This bill would not have a fiscal impact on the Department of Health Professions.

**9. Specific Agency or Political Subdivisions Affected:** Department of Forensic Science and the Division of Consolidated Laboratory Services.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.