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Office of Research
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Office

H.B. 318
133rd General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsor: Rep. Scherer

Local Impact Statement Procedure Required: No

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Highlights

- The Department of Agriculture will incur costs to oversee and enforce the registration and use of kratom. These costs may be offset by the application fees that are to be established in rule. Costs would likely be paid from the Food Safety Fund (Fund 4P70) that is used by the Division of Food Safety to regulate food processing establishments and provide oversight of retail food establishments.
- The Department of Health or local boards of health could also see an increase in costs to oversee the registration of kratom products by retail food establishments; however, these costs may be offset by the application fees that are to be established in rule.
- Costs incurred by the Department of Agriculture, Department of Health, and local boards of health would depend on the number of kratom products that are registered under the departments or local boards. Commercially available kratom products come in a number of dried and liquid formulations.

Detailed Analysis

Registration of kratom products

The Department of Agriculture (AGR), Department of Health (DOH), and local boards of health could incur costs to oversee and enforce the registration and use of kratom. Specifically, the bill requires food processing establishments to register kratom products with AGR and retail food establishments to register kratom products with AGR or DOH in order to process, package, manufacture, hold or handle for distribution, distribute, or sell these items. The costs that will be incurred by both departments and local boards of health ultimately depends on the number of registered kratom products, which is unknown. These costs may be offset by the application fees that are to be established in rule by the departments.

Currently, food processing establishments register with AGR's Division of Food Safety. Retail food establishments are licensed by local boards of health with oversight by the Division. The Division or local boards of health do not register the individual products these establishments make, as would be required of kratom products under the bill. In CY 2019, there were approximately 3,300 registered food processing establishments and over 18,000 licensed retail food establishments. The annual food processing establishment registration fee ranges from \$50 to \$300 depending on square footage and is deposited into the Food Safety Fund (Fund 4P70). Annual license fees for retail food establishments ranges from \$73.50 to \$880 depending on the size of the building, risk level, and whether the business is a commercial or noncommercial establishment. Of this license fee amount, \$14 or \$28, depending on whether the retail food establishment is commercial or noncommercial, is remitted to AGR and deposited into Fund 4P70. In addition to Fund 4P70, the Division's operating expenses are supported by GRF line item 700407, Food Safety. The Division currently has 34 employees.

There are a variety of kratom products available on the market. They are sold in dried leaf, powder, capsule, resin, extract, and tincture form. Under the bill, the departments are required to adopt rules to implement the registration of kratom products, including (1) the application procedures and fees for registering the kratom product, (2) establishing civil penalties, (3) standards and procedures for appealing civil penalties, (4) procedures for seizing and destroying a kratom product that does not meet the bill's requirements, (5) standards and procedures for kratom product testing, (6) standards for labeling kratom products, and (7) any other standards or procedures the are deemed necessary.

Court costs

The bill allows an individual to bring a civil action for damages resulting from a food processing establishment and licensed retail food establishment violating the bill's requirements. As a result, local courts may incur a minimum increase in costs if the bill increases caseloads. Any increase could be at least partially offset by the imposition of court costs. The bill also states that a person who distributes or sells a kratom product to an individual who is 18 years or younger is guilty of a second degree misdemeanor. A second degree misdemeanor is punishable by up to 90 days in jail with a maximum fine of \$750.