

DRAFT

SUMMARY

Establishes regulations for kratom products, including labeling requirements and minimum age for sale. Requires registration of kratom products with State Department of Agriculture. Provides civil cause of action for damages resulting from violation of kratom regulations. Authorizes imposition of civil penalty for certain violations.

Creates crime of unlawful preparation, distribution, sale or offer for sale of kratom product. Punishes by maximum of 30 days' imprisonment, \$1,250 fine, or both. Creates crime of unlawful distribution, sale or offer for sale to individual under 21 years of age. Punishes by maximum of 30 days' imprisonment, \$1,250 fine, or both.

Takes effect on July 1, 2020.

A BILL FOR AN ACT

Relating to kratom; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in sections 1 to 6 of this 2020 Act:

(1) "Food" means:

(a) An item used for food or drink for human or animal consumption or the components of the item;

(b) Chewing gum or chewing gum components; or

(c) A food supplement for special dietary use that is necessitated because of a physical, physiological, pathological or other condition.

(2) "Kratom processor" means a person who:

(a) Sells, prepares, processes, manufactures, distributes or maintains a kratom product; or

(b) Advertises, represents or holds out as being a person who sells, prepares, processes, manufactures, distributes or maintains a kratom

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **product.**

2 **(3) “Kratom product” means a food containing any part of the leaf**
3 **of the plant *Mitragyna speciosa*.**

4 **SECTION 2. (1) A kratom processor shall disclose on the product**
5 **label of each kratom product that the kratom processor prepares,**
6 **distributes, sells or offers for sale, the factual basis upon which the**
7 **kratom processor represents the food as a kratom product.**

8 **(2) A kratom processor may not prepare, distribute, sell or offer for**
9 **sale a kratom product:**

10 **(a) That is mixed or packed with a nonkratom substance that af-**
11 **fects the quality or strength of the kratom product to such a degree**
12 **as to render the kratom product injurious to a consumer;**

13 **(b) That contains a poisonous or otherwise deleterious nonkratom**
14 **ingredient, including a controlled substance as defined in ORS 475.005;**

15 **(c) That contains a level of 7-hydroxymitragynine in the alkaloid**
16 **fraction that is greater than two percent of the alkaloid composition**
17 **of the kratom product;**

18 **(d) That contains a synthetic alkaloid, including synthetic**
19 **mitragynine, synthetic 7-hydroxymitragynine or any other synthet-**
20 **ically derived compound of the plant *Mitragyna speciosa*; or**

21 **(e) That does not include a product label on the kratom product**
22 **packaging that states the amount of mitragynine and**
23 **7-hydroxymitragynine contained in the kratom product.**

24 **(3) Notwithstanding ORS 659A.403, a kratom processor may not**
25 **distribute, sell or offer for sale a kratom product to an individual un-**
26 **der 21 years of age.**

27 **SECTION 3. (1)(a) A kratom processor shall register a kratom**
28 **product with the State Department of Agriculture if the kratom**
29 **processor intends to prepare, distribute, sell or offer for sale the**
30 **kratom product.**

31 **(b) A kratom processor may not prepare, distribute, sell or offer for**

1 sale a kratom product that is not registered with the department as
2 described in this section.

3 (2)(a) The department shall by rule create procedures for registering
4 a kratom product under this section.

5 (b) The rules described in paragraph (a) of this subsection shall in-
6 clude standards for a registered kratom product, including standards
7 for:

8 (A) Testing to ensure the kratom product is safe for human con-
9 sumption; and

10 (B) Accurate labeling.

11 (c) The department shall by rule set a fee to register a kratom
12 product.

13 (d) The fee described in paragraph (c) of this subsection must be
14 paid by a kratom processor before a kratom product may be registered
15 with the department.

16 (3) The department may seize and destroy any unregistered kratom
17 product offered for sale in this state.

18 (4) The department may adopt other rules necessary to carry out
19 the provisions of this section.

20 SECTION 4. In addition to and distinct from any other remedy at
21 law, an individual may bring a civil action for damages resulting from
22 a violation of sections 1 to 6 of this 2020 Act, including economic or
23 noneconomic damages.

24 SECTION 5. (1) For a violation of section 2 (1) of this 2020 Act, a
25 kratom processor is subject to a civil penalty of:

26 (a) No more than \$500 for the first offense; and

27 (b) No more than \$1,000 for a second or subsequent offense.

28 (2) For a violation of section 3 (1) of this 2020 Act, a kratom
29 processor is subject to a civil penalty greater than the fee described
30 in section 3 (2)(c) of this 2020 Act.

31 SECTION 6. (1)(a) A kratom processor who violates section 2 (2)(a)

1 of this 2020 Act is guilty of a Class C misdemeanor for each violation.

2 (b) It is a defense to a charge of violating section 2 (2)(a) of this 2020
3 Act if the kratom processor shows, by a preponderance of the evi-
4 dence, that the kratom processor relied in good faith upon the repre-
5 sentation of a manufacturer, processor, packer or distributor of food
6 represented to be a kratom product.

7 (2) A kratom processor who violates section 2 (3) of this 2020 Act is
8 guilty of a Class C misdemeanor for each violation.

9 SECTION 7. This 2020 Act takes effect on July 1, 2020.