

DRAFT

SUMMARY

Establishes regulations for kratom products, including labeling requirements and minimum age for sale. Directs State Department of Agriculture to adopt rules to carry out regulations. Authorizes imposition of civil penalty for certain violations.

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

Takes effect on 91st day following adjournment sine die.

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. Sections 2 to 5 of this 2021 Act shall be known and may be cited as the “Oregon Kratom Consumer Protection Act.”

SECTION 2. As used in sections 2 to 7 of this 2021 Act:

(1) “Kratom product” means a food, food product, food ingredient, dietary ingredient, dietary supplement or beverage for human consumption containing any part of the leaf of the plant *Mitragyna speciosa*.

(2) “Processor” means a person that:

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

(b) Advertises, represents or holds out as being a person that sells, prepares, processes, manufacturers, distributes or maintains a kratom product.

SECTION 3. (1) A processor may not sell, prepare, process, manu-

1 **facture, distribute, maintain or expose for sale any of the following:**

2 **(a) A kratom product that is adulterated with a dangerous non-**
 3 **kratom substance. A kratom product is adulterated with a dangerous**
 4 **non-kratom substance if the kratom product is mixed or packed with**
 5 **a non-kratom substance and that substance affects the quality or**
 6 **strength of the kratom product to such a degree as to render the**
 7 **kratom product injurious to a consumer.**

8 **(b) A kratom product that is contaminated with a dangerous non-**
 9 **kratom substance. A kratom product is contaminated with a danger-**
 10 **ous non-kratom substance if the kratom product contains a poisonous**
 11 **or otherwise deleterious non-kratom ingredient, including, but not**
 12 **limited to, any of the substances listed in ORS 475.005 (6).**

13 **(c) A kratom product containing a level of 7-hydroxymitragynine in**
 14 **the alkaloid fraction that is greater than two percent of the overall**
 15 **alkaloid composition of the product.**

16 **(d) A kratom product containing any synthetic alkaloids including**
 17 **synthetic mitragynine, synthetic 7-hydroxymitragynine or any other**
 18 **synthetically derived compounds of the Mitragyna speciosa plant.**

19 **(e) A kratom product that does not provide adequate labeling di-**
 20 **rections necessary for safe and effective use by consumers, including**
 21 **a recommended serving size.**

22 **(2) A processor that violates subsection (1) of this section is subject**
 23 **to a civil penalty of not more than \$500 for the first offense and not**
 24 **more than \$1,000 for the second or subsequent offense. Upon request**
 25 **by the processor to whom an administrative fine is issued, the Director**
 26 **of Agriculture shall conduct a hearing in accordance with contested**
 27 **case proceedings under ORS chapter 183.**

28 **(3) A processor does not violate subsection (1) of this section if it**
 29 **is shown by a preponderance of the evidence that the processor relied**
 30 **in good faith upon the representation of another processor regarding**
 31 **the ingredients of a kratom product.**

1 **SECTION 4.** (1) A processor may not distribute, sell or expose for
2 sale a kratom product to an individual under 21 years of age.

3 (2) A processor that violates subsection (1) of this section is guilty
4 of a Class C misdemeanor for each violation.

5 **SECTION 5.** The State Department of Agriculture shall adopt rules
6 necessary to carry out sections 2 to 4 of this 2021 Act.

7 **SECTION 6.** (1) Sections 2 to 5 of this 2021 Act become operative
8 on January 1, 2022.

9 (2) The State Department of Agriculture may take any action before
10 the operative date specified in subsection (1) of this section that is
11 necessary to enable the department to exercise, on and after the op-
12 erative date specified in subsection (1) of this section, all of the duties,
13 functions and powers conferred on the department by sections 2 to 5
14 of this 2021 Act.

15 **SECTION 7.** This 2021 Act takes effect on the 91st day after the date
16 on which the 2021 regular session of the Eighty-first Legislative As-
17 sembly adjourns sine die.