

House Bill 4013

Sponsored by Representatives POST, CLEM, BARKER; Representative PRUSAK (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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 product.

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

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

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

(a) That is mixed or packed with a nonkratom substance that affects the quality or strength of the kratom product to such a degree as to render the kratom product injurious to a consumer;

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

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 (c) That contains a level of 7-hydroxymitragynine in the alkaloid fraction that is greater
2 than two percent of the alkaloid composition of the kratom product;
3 (d) That contains a synthetic alkaloid, including synthetic mitragynine, synthetic
4 7-hydroxymitragynine or any other synthetically derived compound of the plant *Mitragyna*
5 *speciosa*; or
6 (e) That does not include a product label on the kratom product packaging that states
7 the amount of mitragynine and 7-hydroxymitragynine contained in the kratom product.
8 (3) Notwithstanding ORS 659A.403, a kratom processor may not distribute, sell or offer
9 for sale a kratom product to an individual under 21 years of age.

10 SECTION 3. (1)(a) A kratom processor shall register a kratom product with the State
11 Department of Agriculture if the kratom processor intends to prepare, distribute, sell or
12 offer for sale the kratom product.

13 (b) A kratom processor may not prepare, distribute, sell or offer for sale a kratom
14 product that is not registered with the department as described in this section.

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

17 (b) The rules described in paragraph (a) of this subsection shall include standards for a
18 registered kratom product, including standards for:

- 19 (A) Testing to ensure the kratom product is safe for human consumption; and
20 (B) Accurate labeling.

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

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

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

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

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

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

- 33 (a) No more than \$500 for the first offense; and
34 (b) No more than \$1,000 for a second or subsequent offense.

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

37 SECTION 6. (1)(a) A kratom processor who violates section 2 (2)(a) of this 2020 Act is
38 guilty of a Class C misdemeanor for each violation.

39 (b) It is a defense to a charge of violating section 2 (2)(a) of this 2020 Act if the kratom
40 processor shows, by a preponderance of the evidence, that the kratom processor relied in
41 good faith upon the representation of a manufacturer, processor, packer or distributor of
42 food represented to be a kratom product.

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

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

