

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2646

By JOINT COMMITTEE ON WAYS AND MEANS

June 23

1 On page 1 of the printed A-engrossed bill, delete lines 4 through 23 and delete pages 2 and 3
2 and insert:

3 **“SECTION 1. Sections 2 to 5 of this 2021 Act shall be known and may be cited as the**
4 **Oregon Kratom Consumer Protection Act.**

5 **“SECTION 2. As used in sections 2 to 5 of this 2021 Act:**

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

9 **“(2) ‘Processor’ means a person, excluding a retailer, that:**

10 **“(a) Sells, prepares, processes, manufactures, distributes or maintains kratom products;**
11 **or**

12 **“(b) Advertises, represents or holds out as being a person that sells, prepares, processes,**
13 **manufactures, distributes or maintains a kratom product.**

14 **“(3) ‘Retailer’ means a person that sells, distributes or exposes for sale kratom products**
15 **to individuals for personal consumption.**

16 **“SECTION 3. (1) A processor may not sell, prepare, process, manufacture, distribute,**
17 **maintain or expose for sale a kratom product prior to registering with the State Department**
18 **of Agriculture pursuant to section 5 of this 2021 Act.**

19 **“(2) A retailer may not sell, distribute or expose for sale a kratom product sold, prepared,**
20 **processed, manufactured, distributed or maintained by a processor that is not registered**
21 **with the department.**

22 **“(3) The following kratom products may not be sold, distributed or exposed for sale by a**
23 **processor or retailer:**

24 **“(a) A kratom product that is adulterated with a dangerous nonkratom substance. A**
25 **kratom product is adulterated with a dangerous nonkratom substance if the kratom product**
26 **is mixed or packed with a nonkratom substance and that substance affects the quality or**
27 **strength of the kratom product to such a degree as to render the kratom product injurious**
28 **to a consumer.**

29 **“(b) A kratom product that is contaminated with a dangerous nonkratom substance. A**
30 **kratom product is contaminated with a dangerous nonkratom substance if the kratom**
31 **product contains a poisonous or otherwise deleterious nonkratom ingredient, including, but**
32 **not limited to, any of the substances listed in ORS 475.005 (6).**

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

35 **“(d) A kratom product containing any synthetic alkaloids including synthetic**

1 mitragynine, synthetic 7-hydroxymitragynine or any other synthetically derived compounds
2 of the *Mitragyna speciosa* plant.

3 “(4) A processor that violates subsection (1) of this section or a retailer that violates
4 subsection (2) of this section is subject to a civil penalty of not more than \$500 for the first
5 offense and not more than \$1,000 for the second or subsequent offense. Upon request by the
6 processor or retailer to whom an administrative fine is issued, the Director of Agriculture
7 shall conduct a hearing in accordance with contested case proceedings under ORS chapter
8 183.

9 “(5) A retailer does not violate subsection (2) of this section if it is shown by a prepon-
10 derance of the evidence that the retailer relied in good faith upon the representation of a
11 processor regarding the registration of the processor.

12 “SECTION 4. (1) A retailer may not distribute, sell or expose for sale a kratom product
13 to an individual under 21 years of age.

14 “(2) A retailer that violates subsection (1) of this section is guilty of a Class C
15 misdemeanor for each violation.

16 “SECTION 5. The State Department of Agriculture shall adopt rules necessary to carry
17 out sections 2 and 3 of this 2021 Act, including rules establishing:

18 “(1) Standards for testing to ensure a kratom product is safe for human consumption;

19 “(2) Standards for accurate labeling to ensure safe and effective use of a kratom product
20 by consumers, including a recommended serving size;

21 “(3) Procedures by which a processor may register with the department, including a re-
22 quirement that the processor sign, under penalty of perjury, an affidavit certifying compli-
23 ance with section 3 (1) and (3) of this 2021 Act and any rules adopted by the department
24 under this section, including standards for testing and labeling;

25 “(4) A model form for the affidavit described in subsection (3) of this section;

26 “(5) A reasonable registration fee to be paid to the department by a processor, subject
27 to annual adjustment not greater than the percentage increase in the general cost of living
28 as measured by the Consumer Price Index for All Urban Consumers, West Region (All
29 Items), as published by the Bureau of Labor Statistics of the United States Department of
30 Labor; and

31 “(6) Procedures by which a person may submit a complaint upon good-faith belief that:

32 “(a) A processor has violated section 3 (1) or (3) of this 2021 Act or any rule adopted by
33 the department under this section; or

34 “(b) A retailer has violated section 3 (2) or (3) of this 2021 Act or any rule adopted by the
35 department under this section.

36 “SECTION 6. The State Department of Agriculture shall set the registration fee, pursu-
37 ant to section 5 (5) of this 2021 Act, for the first year in an amount not to exceed \$2,500.

38 “SECTION 7. Section 6 of this 2021 Act is repealed on January 2, 2023.

39 “SECTION 8. (1) Sections 2 to 7 of this 2021 Act become operative on July 1, 2022.

40 “(2) The State Department of Agriculture may take any action before the operative date
41 specified in subsection (1) of this section that is necessary to enable the department to ex-
42 ercise, on and after the operative date specified in subsection (1) of this section, all of the
43 duties, functions and powers conferred on the department by sections 2 to 7 of this 2021 Act.

44 “SECTION 9. In addition to and not in lieu of any other appropriation, there is appro-
45 priated to the State Department of Agriculture, for the biennium beginning July 1, 2021, out

1 of the General Fund, the amount of \$1,099,977, for implementing the Oregon Kratom Con-
2 sumer Protection Act.

3 “SECTION 10. Notwithstanding any other law limiting expenditures, the limitation on
4 expenditures established by section 2 (6), chapter _____, Oregon Laws 2021 (Enrolled House
5 Bill 5014), for the biennium beginning July 1, 2021, as the maximum limit for payment of ex-
6 penses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding
7 lottery funds and federal funds, collected or received by the Department of Justice, for the
8 General Counsel Division, is increased by \$304,964, for the purpose of assisting the State
9 Department of Agriculture with implementing the Oregon Kratom Consumer Protection Act.

10 “SECTION 11. This 2021 Act takes effect on the 91st day after the date on which the 2021
11 regular session of the Eighty-first Legislative Assembly adjourns sine die.”
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