

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 4010 - A

81st Oregon Legislative Assembly – 2022 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: Michael Graham
Reviewed by: John Terpening, Zane Potter, Amanda Beitel, John Borden
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Measure Description:

Prohibits sale of kratom products unless kratom product derives from processor registered with Department of Revenue.

Government Unit(s) Affected:

Department of Revenue (DOR), Cities, Counties, Oregon State Police (OSP), District Attorneys and their Deputies (DAs), Public Defense Services Commission (PDSC), Oregon Judicial Department (OJD), Oregon Youth Authority (OYA), Department of Corrections (DOC), Department of Justice (DOJ), Criminal Justice Commission (CJC)

Summary of Fiscal Impact:

Costs related to the measure will require budgetary action - See analysis.

Summary of Expenditure Impact:

| | 2021-23 Biennium | 2023-25 Biennium |
|------------------------------------|------------------|------------------|
| Department of Revenue (DOR) | | |
| General Fund | | |
| Services and Supplies | 195,894 | 0 |
| Total General Fund | \$195,894 | \$0 |
| Other Funds | | |
| Services and Supplies | 0 | 9,215 |
| Total Other Funds | \$0 | \$9,215 |
| TOTAL FISCAL IMPACT | \$195,894 | \$9,215 |
| Positions | 0 | 0 |
| FTE | 0.00 | 0.00 |

Analysis:

House Bill 4010 A-engrossed replaces the introduced version. The measure, which may be cited as the Oregon Kratom Consumer Protection Act, requires processors of kratom products to register with the Department of Revenue (DOR) to distribute, sell, or offer for sale wholesale kratom products in the state beginning on or after July 1, 2023. Any unregistered processor that sells, distributes or offers for sale a kratom product in the state is subject to a civil penalty imposed by DOR of not more than \$500 for the first offense and not more than \$1,000 for every subsequent offense, which the processor may appeal as a contested case. DOR must adopt rules that establish procedures for a processor to register annually with DOR and certify that the products sold by a processor are tested by a third-party to satisfy industry standards for adulteration, and reasonable registration fees to support administration and enforcement of the measure. DOR is authorized to collect an annual registration fee from registered kratom processors to support program administration and enforcement. The measure also prohibits a retailer of kratom products from selling, distributing, or offering for sale a kratom product to an individual under 21 years of age and creates a Class C misdemeanor for violation. An unspecified General Fund appropriation to DOR for the 2021-23 biennium is included for implementation of the Oregon Kratom Consumer Protection Act. The measure takes effect 91 days after adjournment *sine die* and it becomes operative on July 1, 2023.

Department of Revenue

The measure will have a fiscal impact on DOR. The department will need additional funding to contract with an external software developer to implement system changes to the GenTax core systems and Revenue Online, including registration to be configured in Revenue Online and configuration of new letters associated with registration, all of which must be complete by June 1, 2023. DOR estimates that this project will begin in October 2022 and take 9 months to complete. Because the effort is greater than 4 months and needs to be completed by June 1, 2023, DOR Information Technology (IT) does not have capacity to complete the configuration due to upgrades to GenTax v12 and other projects. DOR also expects to incur additional costs for FAST optional services for the GenTax development work. Once the project is complete, registration will be issued through a new Kratom Processor Account type in GenTax, beginning in June 2023, and will require processors to annually renew their registrations, which will be processed through Revenue Online, printed and mailed to processors for confirmation.

Because the program is anticipated to register no more than 10 processors, DOR will be able to implement and administer the program with existing staff. Existing program operational and policy resources will be used to write administrative rules, develop an implementation plan, and assist in coordinating configuration and testing with other existing resources in the department. Existing staff will perform business analysis and testing for the GenTax configuration of the new registration and kratom processor accounts, while existing compliance specialists will identify unregistered kratom processors subject to civil penalty.

DOR will need General Fund to prop up this new licensing program. The estimated fiscal impact to DOR in the 2021-23 biennium is \$195,894 General Fund. Once the program is operational, processor registration fees and renewal of those registration fees will offset the cost of ongoing administration. The estimated fiscal impact in the 2023-25 biennium for program administration is \$9,215 Other Funds, which will be supported through annual registration fees from registered kratom processors.

The measure warrants a subsequent referral to the Joint Committee on Ways and Means for consideration of its impact to DOR's budget and to the state General Fund.

Other Agencies and Local Governments

The measure is anticipated to have a minimal fiscal impact on the Oregon Judicial Department, Department of Justice, as well as cities and counties. The measure will have no fiscal impact on the Oregon State Police, District Attorneys and their Deputies, Public Defense Services Commission, Oregon Youth Authority, Department of Corrections, and Criminal Justice Commission.