

B-Engrossed House Bill 4010

Ordered by the House February 28
Including House Amendments dated February 8 and February 28

Sponsored by Representatives STARK, LIVELY, SMITH DB; Representative WILDE (Pre-session 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.

Prohibits sale of kratom products by processor unless processor is registered with Department of Revenue. Directs department 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.

Appropriates moneys from General Fund to Department of Revenue for carrying out provisions of Act.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to kratom; and prescribing an effective date.

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

4 **SECTION 1. Sections 2 to 7 of this 2022 Act shall be known and may be cited as the**
5 **Oregon Kratom Consumer Protection Act.**

6 **SECTION 2. As used in sections 2 to 7 of this 2022 Act:**

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

10 (2) **"Processor" means a person that sells, distributes or exposes for sale kratom pro-**
11 **ducts on a wholesale basis to a retailer.**

12 (3) **"Retailer" means a person that sells, distributes or exposes for sale kratom products**
13 **to individuals for personal consumption.**

14 **SECTION 3. (1) A processor may not sell, distribute or expose for sale a kratom product**
15 **prior to registering with the Department of Revenue under section 7 of this 2022 Act.**

16 (2) **A processor that violates subsection (1) of this section is subject to a civil penalty of**
17 **not more than \$500 for the first offense and not more than \$1,000 for a second or subsequent**
18 **offense.**

19 (3) **Except as otherwise provided by state tax law or the department by rule or order, a**
20 **civil penalty imposed under this section may be appealed as a contested case proceeding un-**
21 **der ORS chapter 183.**

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

24 (2) **A retailer that violates subsection (1) of this section is guilty of a Class C**
25 **misdemeanor for each violation.**

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 **SECTION 5.** The Department of Revenue shall deposit all moneys collected under sections
2 3 and 7 of this 2022 Act in a suspense account established under ORS 293.445. The department
3 may pay expenses for the administration and enforcement of sections 2 to 7 of this 2022 Act
4 with moneys from the suspense account. The department shall pay refunds, if any, with
5 moneys in the suspense account. Moneys necessary to pay administrative and enforcement
6 expenses and refunds are continuously appropriated to the department from the suspense
7 account.

8 **SECTION 6.** Except as otherwise provided or where the context requires otherwise, the
9 provisions of ORS chapters 305 and 314 as to the determination and notice of deficiencies,
10 assessments, collections, liens, delinquencies, claims for refund and refunds, stays of col-
11 lection pending appeal, confidentiality of registration and the related civil penalties, and the
12 related procedures, apply to the determination of civil penalties imposed under section 3 of
13 this 2022 Act and registration fees imposed under section 7 of this 2022 Act.

14 **SECTION 7.** (1) The Department of Revenue shall adopt rules necessary to carry out
15 sections 2 and 3 of this 2022 Act, including rules establishing:

16 (a) Procedures for a processor to register annually with the department, including a re-
17 quirement that a processor certify that all of the kratom products the processor will sell,
18 distribute or expose for sale are third-party tested to satisfy industry standards for
19 adulteration;

20 (b) A reasonable registration fee to be paid to the department by a processor to support
21 the administration and enforcement of sections 2 to 7 of this 2022 Act; and

22 (c) Any other requirements the department deems appropriate.

23 (2) Fees collected under subsection (1) of this section may not exceed the cost to ad-
24 minister and enforce sections 2 to 7 of this 2022 Act.

25 **SECTION 8.** (1) Sections 2 to 7 of this 2022 Act become operative on July 1, 2023.

26 (2) The Department of Revenue may take any action before the operative date specified
27 in subsection (1) of this section that is necessary to enable the department to exercise, on
28 and after the operative date specified in subsection (1) of this section, all of the duties,
29 functions and powers conferred on the department by sections 2 to 7 of this 2022 Act.

30 **SECTION 9.** Notwithstanding any other provision of law, the General Fund appropriation
31 made to the Department of Revenue by section 1 (4), chapter 441, Oregon Laws 2021, for the
32 biennium ending June 30, 2023, for the Business Division, is increased by \$195,894 to imple-
33 ment sections 2 to 7 of this 2022 Act.

34 **SECTION 10.** This 2022 Act takes effect on the 91st day after the date on which the 2022
35 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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