

FIRST REGULAR SESSION

HOUSE BILL NO. 1115

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CHRISTOFANELLI.

1862H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 196, RSMo, by adding thereto one new section relating to kratom products, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 196, RSMo, is amended by adding thereto one new section, to be known as section 196.1170, to read as follows:

196.1170. 1. The provisions of this section shall be known and may be cited as the "Kratom Consumer Protection Act".

2. For purposes of this section, the following terms mean:

(1) "Dealer", a person who sells, prepares, or maintains kratom products, or advertises or represents or holds himself or herself out as selling, preparing, or maintaining kratom products. Such person may include, but not be limited to, a manufacturer, wholesaler, store, restaurant, hotel, catering facility, camp, bakery, delicatessen, supermarket, grocery store, convenience store, nursing home, or food or drink company;

(2) "Department", the department of health and senior services;

(3) "Director", the director of the department or his or her designee;

(4) "Food", a food, food product, food ingredient, dietary ingredient, dietary supplement, or beverage for human consumption;

(5) "Kratom product", a food product or dietary ingredient containing any part of the leaf of the plant *Mitragyna speciosa*.

3. (1) A dealer who prepares, distributes, sells, or exposes for sale a food that is represented to be a kratom product shall disclose on the product label the factual basis upon which that representation is made.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (2) A dealer shall not prepare, distribute, sell, or expose for sale a food represented
19 to be a kratom product that does not conform to the disclosure requirement under
20 subdivision (1) of this subsection.

21 4. A dealer shall not prepare, distribute, sell, or expose for sale any of the following:

22 (1) A kratom product that is adulterated with a dangerous non-kratom substance.
23 A kratom product shall be considered to be adulterated with a dangerous non-kratom
24 substance if the kratom product is mixed or packed with a non-kratom substance and that
25 substance affects the quality or strength of the kratom product to such a degree as to
26 render the kratom product injurious to a consumer;

27 (2) A kratom product that is contaminated with a dangerous non-kratom
28 substance. A kratom product shall be considered to be contaminated with a dangerous
29 non-kratom substance if the kratom product contains a poisonous or otherwise deleterious
30 non-kratom ingredient including, but not limited to, any substance listed in section
31 195.017;

32 (3) A kratom product containing a level of 7-hydroxymitragynine in the alkaloid
33 fraction that is greater than two percent of the alkaloid composition of the product;

34 (4) A kratom product containing any synthetic alkaloids, including synthetic
35 mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived
36 compounds of the plant *Mitragyna speciosa*; or

37 (5) A kratom product that does not include on its package or label the amount of
38 mitragynine and 7-hydroxymitragynine contained in the product.

39 5. A dealer shall not distribute, sell, or expose for sale a kratom product to an
40 individual under eighteen years of age.

41 6. (1) If a dealer violates subdivision (1) of subsection 3 of this section, the director
42 may, after notice and hearing, impose a fine on the dealer of not more than five hundred
43 dollars for the first offense and not more than one thousand dollars for the second or
44 subsequent offense.

45 (2) A dealer who violates subdivision (2) of subsection 3 of this section, subsection
46 4 of this section, or subsection 5 of this section is guilty of a class D misdemeanor.

47 (3) A person aggrieved by a violation of subdivision (2) of subsection 3 of this
48 section or subsection 4 of this section may, in addition to and distinct from any other
49 remedy at law or in equity, bring a private cause of action in a court of competent
50 jurisdiction for damages resulting from that violation including, but not limited to,
51 economic, noneconomic, and consequential damages.

52 (4) A dealer does not violate subdivision (2) of subsection 3 of this section or
53 subsection 4 of this section if a preponderance of the evidence shows that the dealer relied

54 **in good faith upon the representations of a manufacturer, processor, packer, or distributor**
55 **of food represented to be a kratom product.**

56 **7. The department shall promulgate rules to implement the provisions of this**
57 **section including, but not limited to, the requirements for the format, size, and placement**
58 **of the disclosure label required under subdivision (1) of subsection 3 of this section and for**
59 **the information to be included in the disclosure label. Any rule or portion of a rule, as that**
60 **term is defined in section 536.010, that is created under the authority delegated in this**
61 **section shall become effective only if it complies with and is subject to all of the provisions**
62 **of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are**
63 **nonseverable, and if any of the powers vested with the general assembly pursuant to**
64 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
65 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
66 **proposed or adopted after August 28, 2019, shall be invalid and void.**

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