

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute No. 2 for Senate Bill No. 26, Page 2,
2 Section 84.400, Line 14, by inserting after all of said section and line the following:

3
4 "196.1170. 1. This section shall be known and may be cited as the "Kratom Consumer
5 Protection Act".

6 2. As used in this section, the following terms mean:

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

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

13 (3) "Director", the director of the department or the director's designee;

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

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

18 3. The general assembly hereby occupies and preempts the entire field of regulating kratom
19 products to the complete exclusion of any order, ordinance, or regulation of any political subdivision
20 of this state. Any political subdivision's existing or future orders, ordinances, or regulations relating
21 to kratom products are hereby void.

22 4. (1) A dealer who prepares, distributes, sells, or exposes for sale a food that is represented
23 to be a kratom product shall disclose on the product label the factual basis upon which that
24 representation is made.

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

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

29 (1) A kratom product that is adulterated with a dangerous non-kratom substance. A kratom
30 product shall be considered to be adulterated with a dangerous non-kratom substance if the kratom
31 product is mixed or packed with a non-kratom substance and that substance affects the quality or
32 strength of the kratom product to such a degree as to render the kratom product injurious to a
33 consumer;

34 (2) A kratom product that is contaminated with a dangerous non-kratom substance. A
35 kratom product shall be considered to be contaminated with a dangerous non-kratom substance if
36 the kratom product contains a poisonous or otherwise deleterious non-kratom ingredient including,

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1 but not limited to, any substance listed in section 195.017;

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

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

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

9 6. A dealer shall not distribute, sell, or expose for sale a kratom product to an individual
10 under eighteen years of age.

11 7. (1) If a dealer violates subdivision (1) of subsection 4 of this section, the director may,
12 after notice and hearing, impose a fine on the dealer of no more than five hundred dollars for the
13 first offense and no more than one thousand dollars for the second or subsequent offense.

14 (2) A dealer who violates subdivision (2) of subsection 4 of this section, subsection 5 of this
15 section, or subsection 6 of this section is guilty of a class D misdemeanor.

16 (3) A person aggrieved by a violation of subdivision (2) of subsection 4 of this section or
17 subsection 5 of this section may, in addition to and distinct from any other remedy at law or in
18 equity, bring a private cause of action in a court of competent jurisdiction for damages resulting
19 from that violation including, but not limited to, economic, noneconomic, and consequential
20 damages.

21 (4) A dealer does not violate subdivision (2) of subsection 4 of this section or subsection 5
22 of this section if a preponderance of the evidence shows that the dealer relied in good faith upon the
23 representations of a manufacturer, processor, packer, or distributor of food represented to be a
24 kratom product.

25 8. The department shall promulgate rules to implement the provisions of this section
26 including, but not limited to, the requirements for the format, size, and placement of the disclosure
27 label required under subdivision (1) of subsection 4 of this section and for the information to be
28 included in the disclosure label. Any rule or portion of a rule, as that term is defined in section
29 536.010, that is created under the authority delegated in this section shall become effective only if it
30 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
31 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the
32 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
33 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any
34 rule proposed or adopted after August 28, 2021, shall be invalid and void."; and

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36 Further amend said bill by amending the title, enacting clause, and intersectional references
37 accordingly.