

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 350

101ST GENERAL ASSEMBLY

0687H.03P

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. This section shall be known and may be cited as the "Kratom Consumer Protection Act".

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

(1) "Dealer", a person who sells, prepares, or maintains kratom products or advertises, represents, or holds oneself 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 the director's 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. The general assembly hereby occupies and preempts the entire field of regulating kratom products to the complete exclusion of any order, ordinance, or regulation of any

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.

17 political subdivision of this state. Any political subdivision's existing or future orders,
18 ordinances, or regulations relating to kratom products are hereby void.

19 4. (1) A dealer who prepares, distributes, sells, or exposes for sale a food that is
20 represented to be a kratom product shall disclose on the product label the factual basis
21 upon which that representation is made.

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

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

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

31 (2) A kratom product that is contaminated with a dangerous non-kratom
32 substance. A kratom product shall be considered to be contaminated with a dangerous
33 non-kratom substance if the kratom product contains a poisonous or otherwise deleterious
34 non-kratom ingredient including, but not limited to, any substance listed in section
35 195.017;

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

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

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

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

45 7. (1) If a dealer violates subdivision (1) of subsection 4 of this section, the director
46 may, after notice and hearing, impose a fine on the dealer of no more than five hundred
47 dollars for the first offense and no more than one thousand dollars for the second or
48 subsequent offense.

49 (2) A dealer who violates subdivision (2) of subsection 4 of this section, subsection
50 5 of this section, or subsection 6 of this section is guilty of a class D misdemeanor.

51 (3) A person aggrieved by a violation of subdivision (2) of subsection 4 of this
52 section or subsection 5 of this section may, in addition to and distinct from any other

53 remedy at law or in equity, bring a private cause of action in a court of competent
54 jurisdiction for damages resulting from that violation including, but not limited to,
55 economic, noneconomic, and consequential damages.

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

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

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