

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1837H.01I
Bill No.: HB 912
Subject: Consumer Protection; Drugs and Controlled Substances; Department of Health
and Senior Services
Type: Original
Date: March 20, 2023

Bill Summary: This proposal creates new provisions relating to the sale of kratom products.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

- ☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- ☐ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§196.1170 – Sale of kratom products

Officials from the **City of Kansas City** state this legislation could have a negative fiscal impact on Kansas City, Missouri of an indeterminate amount if it loses revenue because it cannot tax kratom products.

Oversight notes provisions of this bill (§196.1170.3) provides that the General Assembly occupies and preempts the regulation of kratom products to the complete exclusion of any order, ordinance, or regulation of any political subdivision of the state and that any political subdivision's existing or future orders, ordinances or regulations relating to kratom will be void. As Oversight does not have information to the contrary, Oversight will reflect a \$0 to (Unknown) potential loss of revenue to local governments.

Oversight also notes subsection .7 provides that if a kratom dealer violates certain provisions of this proposal, the director of the Department of Health and Senior Services (DHSS) may, after notice and hearing, impose a fine of no more than \$500 for the first offense and no more than \$1,000 for second and subsequent offenses. In addition, a dealer that violates certain provisions of this proposal is guilty of a class D misdemeanor. As it is unknown whether the DHSS will impose any fines. Oversight assumes, for fiscal note purposes, the amount of fines collected will be minimal and will not present fine revenue for fiscal note purposes.

Officials from the **Missouri Office of Prosecution Services (MOPS)** state there is no measurable fiscal impact to MOPS. The enactment of a new crime [196.1170.7(2)] creates additional responsibilities for county prosecutors and the circuit attorney which may in turn result in additional costs which are difficult to determine.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect no impact for MOPS for fiscal note purposes.

Officials from the **Department of Commerce and Insurance**, the **Department of Health and Senior Services**, the **Department of Public Safety - Missouri Highway Patrol**, the **Office of the State Public Defender** and the **City of Springfield** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

In response to similar legislation from the current session (SB 504), officials from the **Office of the State Courts Administrator** assumed the proposal would have no fiscal impact on their organization.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. **The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs.** However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities and various county officials were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
LOCAL GOVERNMENTS – CITIES			
<u>Revenue Reduction – Cities</u>			
Potential reduction in licensing fees (\$196.1170)	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS - CITIES	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>

FISCAL IMPACT – Small Business

This proposal may directly impact small businesses that sell kratom products. (§196.1170)

FISCAL DESCRIPTION

This bill establishes the "Kratom Consumer Protection Act", which requires dealers who prepare, distribute, sell, or expose for sale a food that is represented to be a kratom product to disclose on the product label the basis on which this representation is made. A dealer is prohibited from preparing, distributing, selling, or exposing for sale a kratom product that does not conform to these labeling requirements.

The General Assembly preempts the entire field of regulating kratom products to the exclusion of any order, ordinance, or regulation of any political subdivision of the state. Any existing orders, ordinances, or regulations of any political subdivision of the state relating to kratom are void under this bill.

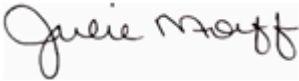
A dealer may not prepare, distribute, sell, or expose for sale a kratom product that is adulterated or contaminated with a dangerous non-kratom substance, contains a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than 2% composition of the product, contains any synthetic alkaloids, or does not include on its package or label the amount of mitragynine, 7-hydroxymitragynine, or other synthetically derived compounds of the plant *Mitragyna speciosa*. A dealer may not distribute, sell, or expose for sale a kratom product to anyone under 18 years of age.

The bill specifies penalties for a violation of the labeling requirements and allows for a person who is aggrieved by a violation of the labeling requirements to bring a cause of action for damages resulting from the violation.

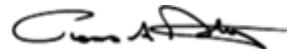
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Commerce and Insurance
Department of Health and Senior Services
Department of Public Safety – Missouri Highway Patrol
Office of the Secretary of State
Office of the State Public Defender
City of Kansas City
City of Springfield
Joint Committee on Administrative Rules
Missouri Office of Prosecution Services
Office of the State Courts Administrator



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