

SECOND REGULAR SESSION

HOUSE BILL NO. 2061

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CHRISTOFANELLI.

3383H.02I

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. 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 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 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 as provided in this section to the complete exclusion of any order, ordinance, or regulation by any political subdivision of this state. Any existing or future

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 orders, ordinances, or regulations relating to kratom products as provided in this section
19 are hereby void.

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

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

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

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

32 (2) A kratom product that is contaminated with a dangerous non-kratom
33 substance. A kratom product shall be considered to be contaminated with a dangerous
34 non-kratom substance if the kratom product contains a poisonous or otherwise deleterious
35 non-kratom ingredient including, but not limited to, any substance listed in section
36 195.017;

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

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

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

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

46 7. (1) If a dealer violates subdivision (1) of subsection 4 of this section, the director
47 may, after notice and hearing, impose a fine on the dealer of not more than five hundred
48 dollars for the first offense and not more than one thousand dollars for the second or
49 subsequent offense.

50 (2) A dealer who violates subdivision (2) of subsection 4 of this section, subsection
51 5 of this section, or subsection 6 of this section is guilty of a class D misdemeanor.

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

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

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

61 8. The department shall promulgate rules to implement the provisions of this
62 section including, but not limited to, the requirements for the format, size, and placement
63 of the disclosure label required under subdivision (1) of subsection 4 of this section and for
64 the information to be included in the disclosure label. Any rule or portion of a rule, as that
65 term is defined in section 536.010, that is created under the authority delegated in this
66 section shall become effective only if it complies with and is subject to all of the provisions
67 of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
68 nonseverable, and if any of the powers vested with the general assembly pursuant to
69 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
70 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
71 proposed or adopted after August 28, 2020, shall be invalid and void.

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