

SECOND REGULAR SESSION

HOUSE BILL NO. 3147

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CUPPS.

6966H.011

JOSEPH ENGLER, 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 shall 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 state 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

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 regulation of any political subdivision of this state. Any political subdivision's existing
19 or future orders, ordinances, or regulations relating to kratom products are hereby
20 void.

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

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

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

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

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

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

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

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

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

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

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

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

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

64 **8. (1) The department shall promulgate rules to implement the provisions of this**
65 **section including, but not limited to, the requirements for the format, size, and**
66 **placement of the disclosure label required under subdivision (1) of subsection 4 of this**
67 **section and for the information to be included in the disclosure label.**

68 **(2) Any rule or portion of a rule, as that term is defined in section 536.010, that is**
69 **created under the authority delegated in this section shall become effective only if it**
70 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
71 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
72 **vested with the general assembly pursuant to chapter 536 to review, to delay the**
73 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
74 **then the grant of rulemaking authority and any rule proposed or adopted after the**
75 **effective date of this section shall be invalid and void.**

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