

Session of 2023

HOUSE BILL No. 2084

By Committee on Federal and State Affairs

1-19

1 AN ACT concerning food products; regulating the preparation, distribution
2 and sale of kratom products; prohibiting the preparation, distribution
3 and sale of adulterated or contaminated kratom products; establishing
4 fines and penalties; requiring the secretary of agriculture to adopt rules
5 and regulations to administer the act.

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7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. Sections 1 through 6, and amendments thereto, shall be
9 known and may be cited as the kratom consumer protection act.

10 Sec. 2. As used in sections 1 through 6, and amendments thereto:

11 (a) "Food" means a food product, food ingredient, dietary ingredient,
12 dietary supplement or beverage for human consumption;

13 (b) "kratom extract" means a food product or dietary ingredient
14 containing any part of the leaf of the plant *mitragyna speciosa* that has
15 been extracted or concentrated in order to provide more standardized
16 product content;

17 (c) "kratom product" means a food product or dietary ingredient
18 containing any part of the leaf of the plant *mitragyna speciosa* or an extract
19 thereof and is manufactured as a powder, capsule, tablet, beverage or other
20 edible form;

21 (d) "processor" means a person that sells, prepares, manufactures,
22 distributes or maintains kratom products or advertises, represents or holds
23 itself out as selling, preparing or maintaining kratom products;

24 (e) "retailer" means any person that sells, distributes, advertises,
25 represents or holds itself out as selling or maintaining kratom products;
26 and

27 (f) "secretary" means the secretary of agriculture.

28 Sec. 3. A processor shall not prepare, distribute, sell or expose for
29 sale any of the following:

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

36 (b) a kratom product that is contaminated with a dangerous non-

1 kratom substance. A kratom product is contaminated with a dangerous
2 non-kratom substance if the kratom product contains a poisonous or
3 otherwise deleterious non-kratom ingredient, including, but not limited to,
4 the substances listed in K.S.A. 65-4101 et. seq., and amendments thereto,
5 and analogs (cf. 65-4101) of those substances;

6 (c) a kratom extract that contains levels of residual solvents higher
7 than is allowed in United States pharmacopeia chapter 467;

8 (d) a kratom product containing a level of 7-hydroxymitragynine in
9 the alkaloid fraction that is greater than 1% of the overall alkaloid
10 composition of the product;

11 (e) a kratom product containing any synthetic alkaloids, including
12 synthetic mitragynine, synthetic 7-hydroxymitragynine or any other
13 synthetically derived compounds of the kratom plant; or

14 (f) a kratom product that does not provide labeling directions
15 necessary for safe use by consumers, including a recommended serving
16 size, and the name and address of the manufacturer.

17 Sec. 4. A processor shall not distribute, sell or expose for sale a
18 kratom product to an individual under 18 years of age.

19 Sec. 5. (a) A processor that violates section 3, and amendments
20 thereto, or section 4, and amendments thereto, shall be subject to a fine for
21 a first offense of not more than \$1,000 and for a second or subsequent
22 offense of not more than \$2,000. Upon the request of a person to whom an
23 administrative fine is issued, the director shall conduct a hearing in
24 accordance with K.S.A. 77-501 et seq, and amendments thereto.

25 (b) A retailer does not violate section 3, and amendments thereto, if it
26 is shown by a preponderance of the evidence that the retailer relied in good
27 faith upon the representations of a manufacturer, processor, packer or
28 distributor of food represented to be a kratom product.

29 Sec. 6. The secretary of agriculture shall adopt rules and regulations
30 to administer sections 1 through 6, and amendments thereto.

31 Sec. 7. This act shall take effect and be in force from and after its
32 publication in the statute book.

(a)

(b) Kratom products shall be packaged in child-resistant packaging as described in 16 C.F.R. § 1700.15(b) in effect on July 1, 2023.