

HOUSE BILL NO. 5477

October 21, 2021, Introduced by Reps. Stone, Hertel, Kuppa, Steenland, Cherry, Brixie, Weiss, Haadsma, Lasinski, Brenda Carter, Allor, Aiyash, Hood and Sowerby and referred to the Committee on Regulatory Reform.

A bill to regulate the preparation, distribution, and sale of kratom products; to prohibit the preparation, distribution, and sale of adulterated or contaminated kratom products; to provide for the powers and duties of certain state governmental officers and entities; to prescribe fines and penalties; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "kratom consumer
2 protection act".

1 Sec. 3. As used in this act:

2 (a) "Dealer" means a person that sells, prepares, distributes,
3 or maintains kratom products, or advertises, represents, or holds
4 itself out as selling, preparing, or maintaining kratom products.
5 Dealer includes, but is not limited to, a manufacturer, wholesaler,
6 store, restaurant, hotel, catering facility, camp, bakery,
7 delicatessen, supermarket, grocery store, convenience store,
8 nursing home, or food or drink company.

9 (b) "Department" means the department of agriculture and rural
10 development.

11 (c) "Food" means that term as defined in section 1107 of the
12 food law, 2000 PA 92, MCL 289.1107.

13 (d) "Kratom product" means a food that contains any part of
14 the leaf of the plant *Mitragyna speciosa*.

15 Sec. 5. (1) A dealer that, in person or through an online
16 website, sells, prepares, distributes, maintains, or offers for
17 sale a food that is represented to be a kratom product shall
18 disclose on the product label the factual basis upon which that
19 representation is made.

20 (2) A dealer shall not in person or through an online website,
21 sell, prepare, distribute, maintain, or offer for sale a food
22 represented to be a kratom product that does not conform to the
23 disclosure required under subsection (1).

24 (3) In addition to the disclosure requirements under
25 subsection (1), the product label must contain all of the
26 following:

27 (a) A precautionary statement as to the safety and
28 effectiveness of the kratom product.

29 (b) In at least 12-point boldface type, all of the following

1 statements:

2 (i) "Consumption of kratom can lead to a number of health
3 impacts including, but not limited to, respiratory depression,
4 nervousness, agitation, aggression, addiction, sleeplessness,
5 hallucinations, delusion, tremors, loss of libido, constipation,
6 skin hyperpigmentation, nausea, vomiting, and severe withdrawal
7 signs and symptoms.".

8 (ii) "If kratom is used during pregnancy, infant development
9 may be adversely affected and a baby may be born with symptoms of
10 withdrawal that require treatment.".

11 (iii) "Pregnant women and those trying to conceive should be
12 advised to stop taking kratom. There are safer, more effective ways
13 to treat symptoms of pregnancy.".

14 (c) A list of all of the substances and the amount of each
15 substance included in the kratom product.

16 Sec. 7. A dealer shall not in person or through an online
17 website sell, prepare, distribute, maintain, or offer for sale any
18 of the following:

19 (a) A kratom product that is adulterated with a dangerous
20 nonkratom substance. A kratom product is adulterated with a
21 dangerous nonkratom substance if the kratom product is mixed or
22 packed with a nonkratom substance and that substance affects the
23 quality or strength of the kratom product to such a degree as to
24 render the kratom product injurious to a consumer.

25 (b) A kratom product that is contaminated with a dangerous
26 nonkratom substance. A kratom product is contaminated with a
27 dangerous nonkratom substance if the kratom product contains a
28 poisonous or otherwise deleterious nonkratom ingredient, including,
29 but not limited to, any of the substances listed in section 7212 of

1 the public health code, 1978 PA 368, MCL 333.7212.

2 (c) A kratom product that contains a level of 7-
3 hydroxymitragynine in the alkaloid fraction that is greater than 2%
4 of the alkaloid composition of the product.

5 (d) A kratom product that contains a synthetic alkaloid,
6 including, but not limited to, any of the following:

7 (i) Synthetic mitragynine.

8 (ii) Synthetic 7-hydroxymitragynine.

9 (iii) Any other synthetically derived compound of the plant
10 *Mitragyna speciosa*.

11 (e) A kratom product that does not include on its package or
12 label the amount of mitragynine and 7-hydroxymitragynine contained
13 in the kratom product.

14 Sec. 9. A dealer shall not in person or through an online
15 website distribute, sell, or expose for sale a kratom product to an
16 individual under 21 years of age.

17 Sec. 11. (1) A dealer that violates section 5(1) is subject to
18 an administrative fine of not more than \$500.00 for the first
19 offense and not more than \$1,000.00 for a second or subsequent
20 offense. Upon the request of the person to whom an administrative
21 fine is issued, the department shall conduct a hearing in
22 accordance with the administrative procedures act of 1969, 1969 PA
23 306, MCL 24.201 to 24.328.

24 (2) A dealer that violates section 5(2), 7, or 9 is guilty of
25 a misdemeanor punishable by imprisonment for not more than 90 days
26 or a fine of not more than \$500.00, or both.

27 (3) A person aggrieved by a violation of section 5(2) or 7
28 may, in addition to and distinct from any other remedy at law or
29 equity, bring a private cause of action for damages resulting from

1 that violation, including, but not limited to, economic,
2 noneconomic, or consequential damages.

3 (4) A dealer does not violate section 5(2) or 7 if it is shown
4 by a preponderance of the evidence that the dealer relied in good
5 faith upon the representations of a manufacturer, processor,
6 packer, or distributor of a food represented to be a kratom
7 product.

8 Sec. 13. The department shall promulgate rules for the
9 administration and enforcement of this act in accordance with the
10 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
11 24.328, including, but not limited to, the format, size, and
12 placement of the disclosure label required under section 5(1) and
13 the information that must be included in the disclosure.