

As Amended by House Committee

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.
6

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. **Each kratom**
17 **product label shall contain the following: WARNING: The U.S. Food**
18 **and Drug Administration has not approved kratom for medical use. If**
19 **you are pregnant or nursing a baby, seek the advice of a health care**
20 **professional before using this product.**

21 Sec. 4. A processor shall not distribute, sell or expose for sale a
22 kratom product to an individual under ~~18~~ **21** years of age.

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

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

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

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