

2023 Regular Session

HOUSE BILL NO. 572

BY REPRESENTATIVE GOUDEAU

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CONSUMERS/PROTECTION: Provides relative to kratom products

1 AN ACT

2 To amend the heading of Part XI of Chapter 4 of Title 40 of the Louisiana Revised Statutes
3 of 1950 and to enact R.S. 40:1051 through 1056, relative to kratom products; to
4 provide for definitions; to provide for limitations on preparation, distribution, and
5 sale of kratom products; to prohibit distribution to minors; to provide for kratom
6 product registration; to provide for violations and penalties; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part XI of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950
10 is hereby amended and reenacted and R.S. 40:1051 through 1056 is hereby enacted to read
11 as follows:

12 PART ~~XI. LOUISIANA NARCOTICS REHABILITATION COMMISSION~~ X-G.

13 KRATOM CONSUMER PROTECTION ACT

14 §1051. Short title

15 This Part shall be known and may be cited as the "Kratom Consumer
16 Protection Act"

17 §1052. Definitions

18 As used in this Part, the following terms have the meaning ascribed to them
19 in this Section unless the context clearly indicates otherwise:

1 (1) "Commissioner" shall mean the commissioner of the Department of
2 Agriculture.

3 (2) "Food" shall mean a food, food product, food ingredient, dietary
4 ingredient, dietary supplement, or beverage for human consumption.

5 (3) "Kratom extract" shall mean a food product or dietary ingredient
6 containing any part of the leaf of the plant Mitragyna speciosa that has been
7 extracted in order to provide more standardized dosing.

8 (4) "Kratom product" means a food product or dietary ingredient containing
9 any part of the leaf of the plant Mitragyna speciosa or an extract of it, manufactured
10 as a powder, capsule, pill, beverage, extract, or other edible form. For purposes of
11 the provisions of this Part, all kratom products are considered food.

12 (5) "Processor" shall mean a person that sells, prepares, manufactures,
13 distributes, or maintains kratom products or advertises, represents, or holds itself out
14 as selling, preparing, or maintaining kratom products.

15 (6) "Retailer" shall mean a person that sells, distributes, advertises,
16 represents, or holds itself out as selling or maintaining kratom products.

17 §1053. Kratom product limitations

18 A processor shall not prepare, distribute, sell, or expose for sale any kratom
19 product that is or contains any of the following:

20 (1) Adulterated with a dangerous non-kratom substance. For purposes of
21 this Section, a kratom product is adulterated with a dangerous non-kratom substance
22 if the kratom product is mixed or packed with non-kratom substance and that
23 substance affects the quality or strength of the kratom product to such a degree as to
24 render the kratom product injurious to a consumer.

25 (2) Contaminated with a dangerous non-kratom substance. For purposes of
26 this Section, a kratom product is contaminated with a dangerous non-kratom
27 substance if the kratom product contains a poisonous or otherwise deleterious non-
28 kratom ingredient; including, but not limited to, the substances listed in the state's
29 controlled substance list.

1 (3) Levels of residual solvents higher than is allowed in the United States
2 Pharmacopeia 467.

3 (4) A kratom product containing a level of 7-hydroxymitragynine in the
4 product and alkaloid fraction that is greater than one percent of the overall alkaloid
5 composition of the product.

6 (5) A kratom product containing any synthetic alkaloids including synthetic
7 mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived
8 compounds of the kratom plant.

9 (6) A kratom product that does not provide adequate labeling directions
10 necessary for safe use by consumers, including a recommended serving size, the
11 recommended number of servings per day, and the number of servings in the
12 package that is sold.

13 §1054. Age limits

14 A processor shall not distribute, sell, or expose for sale, a kratom product to
15 an individual under eighteen years of age.

16 §1055. Kratom product registration

17 A. Processor Registration. A processor shall register annually any kratom
18 product intended to be offered for sale to an end consumer that is in an approved
19 kratom delivery form and pay a fee, adjusted annually, to cover all administrative
20 costs for processing and administering such registrations. The registration shall
21 include a certificate of analysis (COA) from a certified, independent third-party
22 laboratory showing compliance with the requirements for kratom products in this
23 Part.

24 B. Product Non-Compliance Reports. Upon receipt of a credible report of
25 non-compliance with the provisions of this Part of a kratom product offered for sale,
26 the department shall require the processor to produce an updated and current COA
27 within ninety days from a certified independent third-party laboratory showing
28 compliance with the requirements of this Part for safe kratom products. If the

1 processor does not provide the COA in the specified time frame, the registration for
2 that product shall be revoked.

3 C. Adverse Events Reports. Upon receipt of any adverse event (AE) related
4 to a registered kratom product, the processor shall submit a copy of their AE report
5 via certified mail to the department that is required to be submitted to the United
6 States Food and Drug Administration (FDA) under Section 761 of the Federal Food
7 Drug and Cosmetic Act. Any documented failure to report an AE to the department
8 shall authorize the department to revoke the product's registration.

9 D. Third Party Verification. If the department has a reasonable basis to
10 require an independent third-party test of a registered kratom product by a laboratory
11 of the department's choice, the processor shall be required to submit payment for the
12 test within a reasonable time frame. If the processor does not tender payment to the
13 department within a set time period upon receipt of the invoice for the testing, the
14 department shall revoke the registration for that product.

15 §1056. Violations

16 A. A processor that violates the provisions of this Part shall be subject to an
17 administrative fine of not more than five hundred dollars for the first offense and not
18 more than one thousand dollars for a second or subsequent offense. Upon the
19 request of a person to whom an administrative fine is issued, the commissioner shall
20 conduct a hearing in accordance with the Administrative Procedure Act.

21 B. A retailer does not violate the provisions of this Part if it is shown by a
22 preponderance of the evidence that the retailer relied in good faith upon the
23 representations of a manufacturer, processor, packer, or distributor of food
24 represented to be a kratom product.

25 Section 2. This Act shall become effective upon signature by the governor or, if not
26 signed by the governor, upon expiration of the time for bills to become law without signature
27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
28 vetoed by the governor and subsequently approved by the legislature, this Act shall become
29 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 572 Original

2023 Regular Session

Goudeau

Abstract: Provides relative to kratom products.

Proposed law creates the "Kratom Consumer Protection Act" for the purpose of regulating the preparation, distribution, sale, or exposure for sale of kratom.

Proposed law provides for the following definitions related to kratom products and distribution of kratom products:

- (1) Commissioner
- (2) Food
- (3) Kratom extract
- (4) Kratom product
- (5) Processor
- (6) Retailer

Proposed law specifies products that processors are not permitted to prepare, distribute, sell, or expose for sale. Specifies that this prohibition includes:

- (1) Kratom products that are adulterated with a dangerous non-kratom substance that renders the product injurious to a consumer.
- (2) Kratom contaminated with a dangerous non-kratom substance, such as a poisonous or otherwise deleterious ingredient, including, but not limited to, the substances listed in the state's controlled substances list.
- (3) Kratom extract that contains levels of residual solvents higher than is allowed in the United States Pharmacopeia 467.
- (4) Kratom products containing a level of 7-hydroxymitragynine and alkaloid fraction greater than one percent of the overall alkaloid composition.
- (5) Kratom products containing any synthetic alkaloids.
- (6) Kratom products not adequately labeled with directions for safe use by a consumer.

Proposed law prohibits processors from distributing or exposing for sale kratom products to minors.

Proposed law provides for kratom product registration, including processor registration, which includes a certificate of analysis (COA) from a certified independent third party, non-compliance reports, which require the processor to produce an updated and current COA showing compliance with the requirements for safe kratom products, adverse events reports, which must be submitted to the department and third party verification, which the processor

must be required to submit payment for an independent third party laboratory test of a registered kratom product if the department has a reasonable basis to require a test.

Proposed law provides penalties for violations of proposed law. Specifies that a processor that violates proposed law is subject to an administrative fine of not more than \$500 for the first offense and not more than \$1000 for a second or subsequent offense. Requires the commissioner to conduct a hearing in accordance with the Administrative Procedure Act upon request of a person to whom an administrative fine is issued. Additionally, specifies that a retailer does not violate proposed law if shown by a preponderance of the evidence that the retailer relied in good faith on the representation of a manufacturer, processor, or distributor of food represented to be a kratom product.

(Amends the heading of Part XI of Chapter 4 of Title 40; Adds R.S. 40:1051-1056)