

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 2061

## 100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CHRISTOFANELLI.

3383H.02P

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To amend chapter 196, RSMo, by adding thereto one new section relating to kratom products, with penalty provisions.

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*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  
2 known as section 196.1170, to read as follows:

3       **196.1170. 1. The provisions of this section shall be known and may be cited as the**  
4 **"Kratom Consumer Protection Act".**

5       **2. As used in this section, the following terms mean:**

6       **(1) "Dealer", a person who sells, prepares, or maintains kratom products or**  
7 **advertises, represents, or holds himself or herself out as selling, preparing, or maintaining**  
8 **kratom products. Such person may include, but not be limited to, a manufacturer,**  
9 **wholesaler, store, restaurant, hotel, catering facility, camp, bakery, delicatessen,**

10       **(2) "Department", the department of health and senior services;**

11       **(3) "Director", the director of the department or the director's designee;**

12       **(4) "Food", a food, food product, food ingredient, dietary ingredient, dietary**  
13 **supplement, or beverage for human consumption;**

14       **(5) "Kratom product", a food product or dietary ingredient containing any part**  
**of the leaf of the plant *Mitragyna speciosa*.**

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.

15           **3. The general assembly hereby occupies and preempts the entire field of regulating**  
16 **kratom products as provided in this section to the complete exclusion of any order,**  
17 **ordinance, or regulation by any political subdivision of this state. Any existing or future**  
18 **orders, ordinances, or regulations relating to kratom products as provided in this section**  
19 **are hereby void.**

20           **4. (1) A dealer who prepares, distributes, sells, or exposes for sale a food that is**  
21 **represented to be a kratom product shall disclose on the product label the factual basis**  
22 **upon which that representation is made.**

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

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

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

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

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

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

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

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

46           **7. (1) If a dealer violates subdivision (1) of subsection 4 of this section, the director**  
47 **may, after notice and hearing, impose a fine on the dealer of not more than five hundred**  
48 **dollars for the first offense and not more than one thousand dollars for the second or**  
49 **subsequent offense.**

50           **(2) A dealer who violates subdivision (2) of subsection 4 of this section, subsection**  
51 **5 of this section, or subsection 6 of this section is guilty of a class D misdemeanor.**

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

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

61           **8. The department shall promulgate rules to implement the provisions of this**  
62 **section including, but not limited to, the requirements for the format, size, and placement**  
63 **of the disclosure label required under subdivision (1) of subsection 4 of this section and for**  
64 **the information to be included in the disclosure label. Any rule or portion of a rule, as that**  
65 **term is defined in section 536.010, that is created under the authority delegated in this**  
66 **section shall become effective only if it complies with and is subject to all of the provisions**  
67 **of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are**  
68 **nonseverable, and if any of the powers vested with the general assembly pursuant to**  
69 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**  
70 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**  
71 **proposed or adopted after August 28, 2020, shall be invalid and void.**

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