

**A-Engrossed**  
**Senate Bill 1005**

Ordered by the Senate April 22  
Including Senate Amendments dated April 22

Sponsored by COMMITTEE ON JUDICIARY

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Directs Oregon Criminal Justice Commission to conduct study on relationship between recidivism rates and sentence imposed and present report on findings to interim committees of Legislative Assembly related to judiciary on or before September 15, 2020.]*

*[Sunsets January 2, 2021.]*

**Establishes regulations for kratom products, including labeling requirements and minimum age for sale. Requires registration of kratom products with State Department of Agriculture. Provides civil cause of action for damages resulting from violation of kratom regulations. Authorizes imposition of civil penalty for certain violations. Creates crime of unlawful preparation, distribution, sale or offer for sale of kratom product. Punishes by maximum of 30 days' imprisonment, \$1,250 fine, or both. Creates crime of unlawful distribution, sale or offer for sale to individual under 21 years of age. Punishes by maximum of 30 days' imprisonment, \$1,250 fine, or both.**

**Adds two members to Task Force on School Safety. Directs task force to submit third report to interim committee of Legislative Assembly related to judiciary no later than September 1, 2021. Extends sunset of task force to December 31, 2021.**

**Declares emergency, effective July 1, 2019.**

**A BILL FOR AN ACT**

1  
2 Relating to public safety; creating new provisions; amending sections 1 and 2, chapter 93, Oregon  
3 Laws 2014; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. As used in sections 1 to 6 of this 2019 Act:**

6 (1) **"Food" means:**

7 (a) **An item used for food or drink for human or animal consumption or the components**  
8 **of the item;**

9 (b) **Chewing gum or chewing gum components; or**

10 (c) **A food supplement for special dietary use that is necessitated because of a physical,**  
11 **physiological, pathological or other condition.**

12 (2) **"Kratom processor" means a person who:**

13 (a) **Sells, prepares, processes, manufactures, distributes or maintains a kratom product;**  
14 **or**

15 (b) **Advertises, represents or holds out as being a person who sells, prepares, processes,**  
16 **manufactures, distributes or maintains a kratom product.**

17 (3) **"Kratom product" means a food containing any part of the leaf of the plant *Mitragyna***  
18 ***speciosa*.**

19 **SECTION 2. (1) On the product label of each kratom product that a kratom processor**  
20 **prepares, distributes, sells or offers for sale, the kratom processor shall disclose the factual**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 basis upon which the kratom processor represents the food as a kratom product.

2 (2) A kratom processor may not prepare, distribute, sell or offer for sale a kratom  
3 product:

4 (a) That is mixed or packed with a nonkratom substance that affects the quality or  
5 strength of the kratom product to such a degree as to render the kratom product injurious  
6 to a consumer;

7 (b) That contains a poisonous or otherwise deleterious nonkratom ingredient, including  
8 a controlled substance as defined in ORS 475.005;

9 (c) That contains a level of 7-hydroxymitragynine in the alkaloid fraction that is greater  
10 than two percent of the alkaloid composition of the kratom product;

11 (d) That contains a synthetic alkaloid, including synthetic mitragynine, synthetic  
12 7-hydroxymitragynine or any other synthetically derived compound of the plant *Mitragyna*  
13 *speciosa*; or

14 (e) That does not include a product label on the kratom product packaging that states  
15 the amount of mitragynine and 7-hydroxymitragynine contained in the kratom product.

16 (3) Notwithstanding ORS 659A.403, a kratom processor may not distribute, sell or offer  
17 for sale a kratom product to an individual under 21 years of age.

18 **SECTION 3.** (1)(a) A kratom processor shall register a kratom product with the State  
19 Department of Agriculture if the kratom processor intends to prepare, distribute, sell or  
20 offer for sale the kratom product.

21 (b) A kratom processor may not prepare, distribute, sell or offer for sale a kratom  
22 product that is not registered with the department as described in this section.

23 (2)(a) The department shall by rule create procedures for registering a kratom product  
24 under this section.

25 (b) The rules described in paragraph (a) of this subsection shall include standards for a  
26 registered kratom product, including standards for:

27 (A) Testing to ensure the kratom product is safe for human consumption; and

28 (B) Accurate labeling.

29 (c) The department shall by rule set a fee to register a kratom product.

30 (d) The fee described in paragraph (c) of this subsection must be paid by a kratom  
31 processor before a kratom product may be registered with the department.

32 (3) The department may seize and destroy any unregistered kratom product offered for  
33 sale in this state.

34 (4) The department may adopt other rules necessary to carry out the provisions of this  
35 section.

36 **SECTION 4.** In addition to and distinct from any other remedy at law, an individual may  
37 bring a civil action for damages resulting from a violation of sections 1 to 6 of this 2019 Act,  
38 including economic or noneconomic damages.

39 **SECTION 5.** (1) For a violation of section 2 (1) of this 2019 Act, a kratom processor is  
40 subject to a civil penalty of:

41 (a) No more than \$500 for the first offense; and

42 (b) No more than \$1,000 for a second or subsequent offense.

43 (2) For a violation of section 3 (1) of this 2019 Act, a kratom processor is subject to a civil  
44 penalty greater than the fee described in section 3 (2)(c) of this 2019 Act.

45 **SECTION 6.** (1)(a) A kratom processor who violates section 2 (2)(a) of this 2019 Act is

1 **guilty of a Class C misdemeanor for each violation.**

2 **(b) It is a defense to a charge of violating section 2 (2)(a) of this 2019 Act if the kratom**  
3 **processor shows, by a preponderance of the evidence, that the kratom processor relied in**  
4 **good faith upon the representation of a manufacturer, processor, packer or distributor of**  
5 **food represented to be a kratom product.**

6 **(2) A kratom processor who violates section 2 (3) of this 2019 Act is guilty of a Class C**  
7 **misdemeanor for each violation.**

8 **SECTION 7.** Section 1, chapter 93, Oregon Laws 2014, as amended by section 6, chapter 74,  
9 Oregon Laws 2016, is amended to read:

10 **Sec. 1.** (1) The Task Force on School Safety is established, consisting of [16] 18 members as  
11 follows:

12 (a) The Superintendent of State Police or the superintendent's designee.

13 (b) The Director of the Department of Public Safety Standards and Training or the director's  
14 designee.

15 (c) The Governor's Public Safety Policy Advisor.

16 (d) The Governor's Education Policy Advisor.

17 (e) The President of the Senate shall appoint one member from among members of the Senate.

18 (f) The Speaker of the House of Representatives shall appoint one member from among members  
19 of the House of Representatives.

20 (g) The Governor shall appoint [10] 12 members as follows:

21 (A) A member of the Oregon State Sheriffs' Association;

22 (B) A member of the Oregon Association Chiefs of Police;

23 (C) A member of the Oregon Fire Chiefs Association;

24 (D) A member of the Oregon Education Association;

25 (E) A member of the Oregon School Employees Association;

26 (F) A member of the Oregon School Boards Association;

27 (G) A member of the Oregon Association of Education Service Districts;

28 (H) A member of the Confederation of Oregon School Administrators;

29 (I) A member representing the Department of Education; [and]

30 (J) A member of the Association of Oregon Community Mental Health Programs[.];

31 **(K) A member of the Oregon Health Authority; and**

32 **(L) A member of the Office of Emergency Management.**

33 (2) Members of the Legislative Assembly appointed to the task force are nonvoting members of  
34 the task force and may act in an advisory capacity only.

35 (3) The task force shall:

36 (a)(A) Develop a request for proposals to be published by the Department of State Police for  
37 hiring a vendor to create a database of floor plans for all schools within the state, accessible to  
38 authorized users via the Internet; and

39 (B) Make recommendations to the Department of State Police for the development of adminis-  
40 trative rules governing the database, including but not limited to:

41 (i) Specifying the persons and agencies that may have access to the database;

42 (ii) Identifying the persons or agencies that will maintain the database; and

43 (iii) Regulating the manner in which database records are added or modified;

44 (b) Examine models of existing education and training programs for law enforcement officials,  
45 other first responders and school employees in the area of school safety and incident response; and

1 (c) Examine models for existing protocols for school safety and incident response and consider  
2 whether standardized statewide school safety and incident response protocols would be appropriate.

3 (4) A majority of the voting members of the task force constitutes a quorum for the transaction  
4 of business.

5 (5) Official action by the task force requires the approval of a majority of the voting members  
6 of the task force.

7 (6) The task force shall elect one of its members to serve as chairperson and one of its members  
8 to serve as vice chairperson.

9 (7) If there is a vacancy for any cause, the appointing authority shall make an appointment to  
10 become immediately effective.

11 (8) The task force shall meet at times and places specified by the call of the chairperson or of  
12 a majority of the voting members of the task force.

13 (9) The task force may adopt rules necessary for the operation of the task force.

14 (10) The task force shall submit a report concerning the floor plan database in the manner  
15 provided by ORS 192.245, and may include recommendations for legislation, to an interim committee  
16 of the Legislative Assembly related to the judiciary as appropriate no later than September 1, 2017.  
17 A second report shall be submitted in a similar manner no later than September 1, 2019. **A third  
18 report shall be submitted in a similar manner no later than September 1, 2021.**

19 (11) The Department of State Police shall provide staff support to the task force.

20 (12) Members of the task force who are not members of the Legislative Assembly are not enti-  
21 tled to compensation, but may be reimbursed for actual and necessary travel and other expenses  
22 incurred by them in the performance of their official duties in the manner and amounts provided for  
23 in ORS 292.495. Claims for expenses incurred in performing functions of the task force shall be paid  
24 out of funds appropriated to the Department of State Police for purposes of the task force.

25 (13) All agencies of state government, as defined in ORS 174.111, are directed to assist the task  
26 force in the performance of its duties and, to the extent permitted by laws relating to confidentiality,  
27 to furnish such information and advice as the members of the task force consider necessary to per-  
28 form their duties.

29 **SECTION 8.** Section 2, chapter 93, Oregon Laws 2014, as amended by section 7, chapter 74,  
30 Oregon Laws 2016, is amended to read:

31 **Sec. 2.** Section 1, chapter 93, Oregon Laws 2014, is repealed on December 31, [2019] 2021.

32 **SECTION 9. This 2019 Act being necessary for the immediate preservation of the public**  
33 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**  
34 **July 1, 2019.**

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