2021 -- H 5909 SUBSTITUTE A

LC001658/SUB A

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

AN ACT

RELATING TO FOOD AND DRUGS -- KRATOM CONSUMER PROTECTION ACT

<u>Introduced By:</u> Representatives Kennedy, Diaz, and Edwards

Date Introduced: February 24, 2021

Referred To: House Corporations

It is enacted by the General Assembly as follows:

| 1 | SECTION 1. Title 21 of the General Laws entitled "FOOD AND DRUGS" is hereby |
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| 2 | amended by adding thereto the following chapter: |
| 3 | <u>CHAPTER 28.11</u> |
| 4 | KRATOM CONSUMER PROTECTION ACT |
| 5 | 21-28.11-1. Short title. |
| 6 | This chapter shall be known and may be cited as the "Kratom Consumer Protection Act." |
| 7 | 21-28.11-2. Definitions. |
| 8 | As used in this chapter: |
| 9 | (1) "Director" means the director of the department of health. |
| 10 | (2) "Food" means a food, food product, food ingredient, dietary ingredient, dietary |
| 11 | supplement, or beverage for human consumption. |
| 12 | (3) "Kratom extract" means a food product or dietary ingredient containing any part of the |
| 13 | leaf of the plant Mitragyna speciosa that has been extracted and concentrated in order to provide |
| 14 | more standardized dosing |
| 15 | (4) "Kratom product" means a food product or dietary ingredient containing any part of the |
| 16 | leaf of the plant Mitragyna speciosa or an extract of it; is manufactured as a powder, capsule, pill, |
| 17 | beverage, or other edible form; and all kratom products are foods. |
| 18 | (5) Processor" means a person that sells, prepares, manufactures, distributes, or maintains |
| 19 | kratom products, or advertises, represents, or holds itself out as selling, preparing, or maintaining |

| 1 | <u>kratom products.</u> |
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| 2 | (6) "Retailer" means any person that sells, distributes, advertises, represents, or holds itself |
| 3 | out as selling or maintaining kratom products. |
| 4 | 21-28.11-3. Kratom product limitations. |
| 5 | A processor shall not prepare, distribute, sell, or expose for sale any of the following: |
| 6 | (1) A kratom product that is adulterated with a dangerous non-kratom substance. A kratom |
| 7 | product is adulterated with a dangerous non-kratom substance if the kratom product is mixed or |
| 8 | packed with a non-kratom substance and that substance affects the quality or strength of the kratom |
| 9 | product to such a degree as to render the kratom product injurious to a consumer. |
| 10 | (2) A kratom product that is contaminated with a dangerous non-kratom substance. A |
| 11 | kratom product is contaminated with a dangerous non-kratom substance if the kratom product |
| 12 | contains a poisonous or otherwise deleterious non-kratom ingredient, including, but not limited to, |
| 13 | the substances listed § 21-28-2.08. |
| 14 | (3) A Kratom extract that contains levels of residual solvents higher than is allowed in USP |
| 15 | <u>467.</u> |
| 16 | (4) A kratom product containing a level of 7-hydroxymitragynine in the alkaloid fraction |
| 17 | that is greater than two percent (2%) of the overall alkaloid composition of the product. |
| 18 | (5) A kratom product containing any synthetic alkaloids including synthetic mitragynine, |
| 19 | synthetic 7-hydroxymitragynine, or any other synthetically derived compounds of the kratom plant. |
| 20 | (6) That does not provide adequate labeling directions necessary for safe and effective use |
| 21 | by consumers, including a recommended serving size. |
| 22 | 21-28.11-4. Age Limits. |
| 23 | A processor shall not distribute, sell, or expose for sale a kratom product to an individual |
| 24 | under eighteen (18) years of age. |
| 25 | <u>21-28.11-5. Violations.</u> |
| 26 | (a) A processor that violates § 21-28.11-3 is subject to an administrative fine of not more |
| 27 | than five hundred dollars (\$500) for the first offense and not more than one thousand dollars |
| 28 | (\$1,000) for a second or subsequent offense. Upon the request of a person to whom an |
| 29 | administrative fine is issued, the director shall conduct a hearing in accordance with the procedures |
| 30 | as set forth in chapter 35 of title 42 (the "administrative procedures act"). |
| 31 | (b) A retailer does not violate § 21-28.11-3 if it is shown by a preponderance of the |
| 32 | evidence that the retailer relied in good faith upon the representations of a manufacturer, processor, |
| 33 | packer, or distributor of food represented to be a kratom product. |

| SECTION 2. This act shall take effect September | 1, 2021. |
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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

AN ACT

RELATING TO FOOD AND DRUGS -- KRATOM CONSUMER PROTECTION ACT

This act would regulate the distribution of the product known as "kratom" and would ban
the adulteration of kratom with a dangerous non-kratom substance as to render the product injurious
to a consumer. Any kratom product must contain adequate labeling directions necessary for safe
and effective use by consumers.

This act would take effect on September 1, 2021.

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