

HOUSE BILL 861

By Hulsey

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 17, Part 4 and Title 43, relative to kratom.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act is known and may be cited as the "Tennessee Kratom Consumer Protection Act."

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 17, Part 4, is amended by adding the following as a new section:

(a) For purposes of this section:

(1) "Food" means a food, food product, food ingredient, dietary ingredient, dietary supplement, or beverage for human consumption;

(2) "Kratom extract" means a food product or dietary ingredient containing any part of the leaf of the plant *mitragyna speciosa* that has been extracted or concentrated in order to provide more standardized product content;

(3) "Kratom product" means a food product or dietary ingredient containing any part of the leaf of the plant *mitragyna speciosa*, or an extract of the plant, that is manufactured as a powder, capsule, tablet, beverage, or other edible form;

(4) "Processor" means a person who prepares, manufactures, or distributes kratom products, or advertises, represents, or holds oneself out as preparing, manufacturing, or distributing kratom products; and

(5) "Retailer" means a person who sells or holds oneself out as selling kratom products.

(b) A processor shall not prepare, manufacture, distribute, or sell, and a retailer shall not sell or expose for sale, any of the following:

(1) A kratom product that is adulterated with a dangerous non-kratom substance. A kratom product is adulterated with a dangerous non-kratom substance if the kratom product is mixed or packed with a non-kratom substance and that substance affects the quality or strength of the kratom product to such a degree as to render the kratom product injurious to a consumer;

(2) A kratom product that is contaminated with a dangerous non-kratom substance. A kratom product is contaminated with a dangerous non-kratom substance if the kratom product contains a poisonous or otherwise deleterious non-kratom ingredient, including, but not limited to, a controlled substance, or an analogue of a controlled substance, identified in this part;

(3) A kratom product that does not list all ingredients on the label;

(4) A kratom extract that contains levels of residual solvents higher than is allowed under United States Pharmacopeia chapter 467 (USP 467);

(5) A kratom product containing a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than two percent (2%) of the overall alkaloid composition of the product;

(6) A kratom product containing a synthetic alkaloid, including synthetic mitragynine, synthetic 7-hydroxymitragynine, or another synthetically derived compound of the kratom plant; or

(7) A kratom product or extract that does not provide labeling directions necessary for safe use by consumers, including a recommended serving size, and the name and physical address of the processor or manufacturer.

(c) It is an offense for a person to knowingly:

(1) Distribute, sell, or offer for sale, a kratom product or kratom extract to a person under twenty-one (21) years of age;

(2) Purchase or possess a kratom product or kratom extract if under twenty-one (21) years of age; or

(3) Prepare, manufacture, distribute, or sell a kratom product or kratom extract if the person is not a processor or retailer.

(d)

(1) A violation of subsection (c) is a Class A misdemeanor.

(2) A processor or retailer who violates subsection (b) commits:

(A) A Class B misdemeanor, punishable by fine only in the amount of five hundred dollars (\$500) for the first offense; and

(B) A Class A misdemeanor punishable by fine only in the amount of two thousand five hundred dollars (\$2,500) for a second or subsequent offense.

(3) It is a defense to prosecution if a retailer proves, by a preponderance of the evidence, that the retailer relied in good faith upon the representations of a manufacturer, processor, packer, or distributor that the purchased kratom product or kratom extract was unadulterated and uncontaminated.

SECTION 3. Tennessee Code Annotated, Section 39-17-452(a)(3), is amended by deleting the subdivision in its entirety.

SECTION 4. This act takes effect July 1, 2023, the public welfare requiring it.