

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 HOUSE BILL 2846

 By: Pae and **Echols**

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7 AS INTRODUCED

8 An Act relating to public health and safety; creating
9 the Oklahoma Kratom Consumer Protection Act; defining
10 terms; requiring kratom vendors to disclose certain
11 information on product label; making certain acts
12 unlawful; providing penalties; authorizing aggrieved
13 person to bring private cause of action under certain
14 circumstances; providing for codification; and
15 providing an effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 2-351 of Title 63, unless there
19 is created a duplication in numbering, reads as follows:

20 Sections 1 through 5 of this act shall be known and may be cited
21 as the "Oklahoma Kratom Consumer Protection Act".

22 SECTION 2. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 2-352 of Title 63, unless there
24 is created a duplication in numbering, reads as follows:

 As used in this act:

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

3 2. "Kratom product" means a food product or dietary ingredient
4 containing any part of the leaf of the plant *Mitragyna speciosa*; and

5 3. "Vendor" means a person that sells, prepares or maintains
6 kratom products or that advertises, represents or holds itself out
7 as selling, preparing or maintaining kratom products and includes a
8 manufacturer, wholesaler, store, restaurant, hotel, catering
9 facility, camp, bakery, delicatessen, supermarket, grocery store,
10 convenience store, nursing home or food or drink company.

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2-353 of Title 63, unless there
13 is created a duplication in numbering, reads as follows:

14 A. A vendor that prepares, distributes, sells or exposes for
15 sale a food that is represented to be a kratom product shall
16 disclose on the product label the factual basis on which that
17 representation is made.

18 B. A vendor shall not prepare, distribute, sell or expose for
19 sale a food represented to be a kratom product that does not conform
20 to the disclosure required by this section.

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2-354 of Title 63, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. A vendor shall not prepare, distribute, sell or expose for
2 sale any of the following:

3 1. A kratom product that is adulterated with a dangerous
4 nonkratom substance. A kratom product is adulterated with a
5 dangerous nonkratom substance if the kratom product is mixed or
6 packed with a nonkratom substance and that substance affects the
7 quality or strength of the kratom product to such a degree as to
8 render the kratom product injurious to a consumer;

9 2. A kratom product that is contaminated with a dangerous
10 nonkratom substance. A kratom product is contaminated with a
11 dangerous nonkratom substance if the kratom product contains a
12 poisonous or otherwise deleterious nonkratom substance, including
13 any controlled substance prescribed by the Uniform Controlled
14 Dangerous Substances Act;

15 3. A kratom product containing a level of 7-hydroxymitragynine
16 in the alkaloid fraction that is greater than two percent (2%) of
17 the alkaloid composition of the product; and

18 4. A kratom product containing any synthetic alkaloid including
19 synthetic mitragynine, synthetic 7-hydroxymitragynine or any other
20 synthetically derived compounds of the kratom plant.

21 B. Kratom packaging shall be accompanied by a label bearing the
22 following information prior to its sale in this state:

23 1. A list of the ingredients;

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1 2. That the sale or transfer of kratom to a person under
2 eighteen (18) years of age is prohibited;

3 3. The amount of mitragynine and 7-hydroxymitragynine contained
4 in the product;

5 4. The amount of mitragynine and 7-hydroxymitragynine contained
6 in the packaging for the product;

7 5. The common or usual name of each ingredient used in the
8 manufacture of the product listed in descending order of
9 predominance;

10 6. The name and the principal mailing address of the
11 manufacturer or the person responsible for distributing the product;

12 7. Clear and adequate directions for the consumption and safe
13 and effective use of the product; and

14 8. Any precautionary statements as to the safety and
15 effectiveness of the product.

16 C. A vendor shall not distribute, sell or expose for sale a
17 kratom product to an individual under eighteen (18) years of age.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2-355 of Title 63, unless there
20 is created a duplication in numbering, reads as follows:

21 A. A vendor who violates any of the provisions set forth in
22 Section 3 or 4 of this act shall, upon conviction, be guilty of a
23 misdemeanor punishable by imprisonment in a county jail for a term
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1 of not more than one (1) year, or by a fine of not more than One
2 Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

3 B. A person aggrieved by a violation of Section 3 or 4 of this
4 act may bring a cause of action in a court of competent jurisdiction
5 for damages resulting from that violation including, but not limited
6 to, economic, noneconomic or consequential damages.

7 C. A vendor does not violate the provisions of Section 3 or 4
8 of this act if the court finds by a preponderance of the evidence
9 that the vendor relied in good faith on the representation of a
10 manufacturer, processor, packer or distributor that the food product
11 or dietary ingredient was a kratom product.

12 SECTION 6. This act shall become effective November 1, 2020.

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14 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/11/2020 - DO PASS,
15 As Coauthored.

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