

An Act

ENROLLED HOUSE
BILL NO. 1784

By: Pae of the House

and

Paxton of the Senate

An Act relating to public health and safety; creating the Oklahoma Kratom Consumer Protection Act; defining terms; requiring kratom vendors to disclose certain information on product label; prohibiting kratom vendors from certain activities if disclosure requirement is not met; prohibiting kratom vendors from preparing, distributing or selling kratom products under certain circumstances; stating label requirements for kratom products; prohibiting kratom vendors from distributing or selling kratom products to minors; requiring vendors to provide test results; providing administrative penalties for certain violations; authorizing aggrieved person to bring cause of action under certain circumstances; making certain declaration upon a specific finding by the court; providing for codification; and providing an effective date.

SUBJECT: Public health and safety

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1432.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1432.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Food" means a food, food product, food ingredient, dietary ingredient, dietary supplement or beverage for human consumption;
2. "Kratom product" means a food product or ingredient containing any part of the leaf of the plant *Mitragyna speciosa*; and
3. "Vendor" means a person that sells, prepares or maintains kratom products or that advertises, represents or holds itself out as selling, preparing or maintaining kratom products and includes a manufacturer, wholesaler, store, restaurant, hotel, catering facility, camp, bakery, delicatessen, supermarket, grocery store, convenience store, nursing home or food or drink company.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1432.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A vendor that prepares, distributes, sells or exposes for sale a food or product that contains kratom as an ingredient or that is represented to be a kratom product shall disclose on the product label, website, or a quick response (QR) code on the product label linked to a website, the factual basis on which that representation is made.

B. A vendor shall not prepare, distribute, sell or expose for sale a food or ingredient that contains kratom as an ingredient or that is represented to be a kratom product that does not conform to the disclosure required by this section.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1432.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

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

1. A kratom product that is adulterated with a nonkratom substance. A kratom product is adulterated with a nonkratom substance if the kratom product is mixed or packed with a nonkratom

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 nonkratom substance. A kratom product is contaminated with a dangerous nonkratom substance if the kratom product contains a substance that is not safe for human consumption;

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

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

5. A kratom product containing any controlled substance listed in the Uniform Controlled Dangerous Substances Act, unless the product is compounded by a licensed pharmacist with the controlled substance dispensed in accordance with a valid prescription.

B. Kratom products shall be accompanied by a label, or a quick response (QR) code on the product label linked to a website, bearing the following information prior to its sale in this state:

1. A list of the ingredients, which shall include the common or usual name of each ingredient used in the manufacture of the product, listed in descending order of predominance;

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

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

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

5. The name and the principal street address of the vendor or the person responsible for distributing the product;

6. The suggested use of the product; and

7. Any precautionary statements as to the safety and effectiveness of the product.

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

D. Upon request by the State Department of Health, the vendor shall provide test results from a United States-based testing facility to confirm the items listed on the product label.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1432.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The owner or manager of a vendor who violates any of the provisions of Section 3 or 4 of this act shall be punished by an administrative penalty of not more than Five Hundred Dollars (\$500.00) for a first offense and not more than One Thousand Dollars (\$1,000.00) for a second offense. Upon a third offense, the vendor shall be prohibited from selling kratom products for a period of three (3) years. If the State Department of Health receives a complaint that the owner or manager of a vendor is selling kratom products during the period of suspension, then the State Department of Health shall forward the information to the applicable district attorney's office. If the owner or manager of a vendor commits such violation during the three-year period, the person shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in a county jail for a term of not more than one (1) year, or by a fine of not more than Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment.

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

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

SECTION 6. This act shall become effective November 1, 2021.

Passed the House of Representatives the 17th day of May, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the 19th day of May, 2021.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____