

2021 -- H 5909

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO FOOD AND DRUGS -- KRATOM CONSUMER PROTECTION ACT

Introduced By: Representatives Kennedy, and Diaz

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
2 amended by adding thereto the following chapter:

3 CHAPTER 28.11

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 kratom products.

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
15 467.

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 **21-28.11-5. Violations.**

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.

34 **21-28.11-6. Financial transactions.**

1 No financial institution, service, or entity including, but not limited to, a bank, credit union,
2 credit card network, or credit card processing company shall refuse or terminate service to a dealer
3 because the dealer engages in the preparation, distribution, or sale of kratom products. If a financial
4 institution, service, or entity refuses or terminates service to a dealer because the dealer engages in
5 the preparation, distribution, or sale of kratom products, the financial institution, service, or entity
6 shall reestablish or accept service with the dealer upon the request of the dealer, regardless of
7 whether the dealer appears on any report generated by a financial institution data match program
8 or system.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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1 This act would regulate the distribution of food products containing the drug kratom, a
2 drug of concern for its stimulant and sedative effects, to consumers by the department of health.

3 This act would take effect on September 1, 2021.

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