

2020 -- H 7289

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO FOOD AND DRUGS -- KRATOM CONSUMER PROTECTION ACT

Introduced By: Representatives Kennedy, Diaz, and Ucci

Date Introduced: January 24, 2020

Referred To: House Health, Education & Welfare

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. Purpose.**

8 Kratom is a tropical evergreen native to the marshy jungles of Southeast Asia. Its broad
9 green leaves contain the active, addictive constituent mitragynine which is likened to cocaine for
10 its stimulant effects on the central nervous system when taken in low doses and a sedative effect
11 when taken in higher doses. The United States Drug Enforcement Agency withdrew an August,
12 2016 "notice of intent" to place kratom into Schedule I of the Controlled Substances Act. This
13 legislation seeks to regulate the distribution of kratom products to consumers as this substance is
14 a "drug of concern."

15 **21-28.11-2. Definitions.**

16 As used in this chapter:

17 (1) "Dealer" means a person that sells, prepares, or maintains kratom products, or
18 advertises, represents, or holds itself out as selling, preparing, or maintaining kratom products.
19 Dealer includes, but is not limited to, a manufacturer, wholesaler, store, restaurant, hotel, catering

1 facility, camp, bakery, delicatessen, supermarket, grocery store, convenience store, nursing home,
2 or food or drink company.

3 (2) "Department" means the department of health.

4 (3) "Director" means the director of the department or designee.

5 (4) "Food" means a food, food product, food ingredient, dietary ingredient, dietary
6 supplement, or beverage for human consumption.

7 (5) "Kratom product" means a food product or dietary ingredient containing any part of
8 the leaf of the plant Mitragyna speciosa.

9 **21-28.11-4. Kratom product disclosure required.**

10 (a) A dealer that prepares, distributes, sells, or exposes for sale a food that is represented
11 to be a kratom product shall disclose on the product label the factual basis upon which that
12 representation is made.

13 (b) A dealer shall not prepare, distribute, sell, or expose for sale a food represented to be
14 a kratom product that does not conform to the disclosure required under subsection (a) of this
15 section.

16 **21-28.11-5. Kratom product adulteration and contamination prohibited.**

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

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

22 (2) A kratom product that is contaminated with a dangerous non-kratom substance. A
23 kratom product is contaminated with a dangerous non-kratom substance if the kratom product
24 contains a poisonous or otherwise deleterious non-kratom ingredient, including, but not limited
25 to, the substances listed in § 21-28-2.08;

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

28 (4) A kratom product that contains a synthetic alkaloid, including, but not limited to,
29 synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived
30 compound of the kratom plant; or

31 (5) A kratom product that does not include on its package or label the amount of
32 mitragynine and 7-hydroxymitragynine contained in the product.

33 **21-28.11-6. Sales to minors prohibited.**

34 A dealer shall not distribute, sell, or expose for sale a kratom product to an individual

1 under eighteen (18) years of age.

2 **21-28.11-7. Civil and criminal penalties for violations.**

3 (a) A dealer that violates § 21-28.11-4(a) is subject to an administrative fine of not more
4 than five hundred dollars (\$500) for the first offense and not more than one thousand dollars
5 (\$1,000) for a second or subsequent offense. Upon the request of a person to whom an
6 administrative fine is issued, the director shall conduct a hearing in accordance with the
7 procedures as set forth in chapter 35 of title 42 (the administrative procedures act).

8 (b) A dealer that violates §§ 21-28.11-4(b), 21-28.11-5, or 21-28.11-6 is guilty of a
9 misdemeanor punishable by imprisonment for not more than ninety (90) days or a fine of not
10 more than five hundred dollars (\$500), or both.

11 (c) A person aggrieved by a violation of §§ 21-28.11-4(b) or 21-28.11-5 may, in addition
12 to, and distinct from any other remedy at law or equity, bring a private cause of action, in a
13 competent court of jurisdiction, for damages resulting from that violation, including, but not
14 limited to, economic, noneconomic, or consequential damages.

15 (d) A dealer does not violate §§ 21-28.11-4(b) or 21-28.11-5 if it is shown by a
16 preponderance of the evidence that the dealer relied in good faith upon the representations of a
17 manufacturer, processor, packer, or distributor of food represented to be a kratom product.

18 **21-28.11-8. Promulgation of rules and regulations.**

19 The department shall promulgate rules and regulation for the administration and
20 enforcement of this chapter, including, but not limited to, the format, size, and placement of the
21 disclosure label required under § 21-28.11-4(a) and the information that must be included in the
22 disclosure.

23 SECTION 2. This act shall take effect on September 1, 2020.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FOOD AND DRUGS -- KRATOM CONSUMER PROTECTION ACT

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, 2020.

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