AN ACT

RELATING TO FOOD AND DRUGS -- KRATOM CONSUMER PROTECTION ACT

Introduced By: Representatives Kennedy, and Diaz

Date Introduced: February 27, 2019

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

SECTION 1. Title 21 of the General Laws entitled "FOOD AND DRUGS" is hereby amended by adding thereto the following chapter:

CHAPTER 28.10

KRATOM CONSUMER PROTECTION ACT


This chapter shall be known and may be cited as the "Kratom Consumer Protection Act."


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


As used in this chapter:

(1) "Dealer" means a person that sells, prepares, or maintains kratom products, or advertises, represents, or holds itself out as selling, preparing, or maintaining kratom products.

Dealer includes, but is not limited to, a manufacturer, wholesaler, store, restaurant, hotel, catering
facility, camp, bakery, delicatessen, supermarket, grocery store, convenience store, nursing home, or food or drink company.

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

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

(4) “Food” means a food, food product, food ingredient, dietary ingredient, dietary supplement, or beverage for human consumption.

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


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

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


A dealer shall not prepare, distribute, 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, the substances listed in § 21-28-2.08;

3. A kratom product that contains 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 that contains a synthetic alkaloid, including, but not limited to, synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compound of the kratom plant; or

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


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


(a) A dealer that violates § 21-28.10-4(a) is subject to an administrative fine of not more than five hundred dollars ($500) for the first offense and not more than one thousand dollars ($1,000) for a second or subsequent offense. Upon the request of a person to whom an administrative fine is issued, the director shall conduct a hearing in accordance with as set forth in chapter 35 of title 42 the (administrative procedures act).

(b) A dealer that violates §§ 21-28.10-4(b), 21-28.10-5, or 21-28.10-6 is guilty of a misdemeanor punishable by imprisonment for not more than ninety (90) days or a fine of not more than five hundred dollars ($500), or both.

(c) A person aggrieved by a violation of §§ 21-28.10-4(b) or 21-28.10-5 may, in addition to, and distinct from any other remedy at law or equity, bring a private cause of action, in a competent court of jurisdiction, for damages resulting from that violation, including, but not limited to, economic, noneconomic, or consequential damages.

(d) A dealer does not violate §§ 21-28.10-4(b) or 21-28.10-5 if it is shown by a preponderance of the evidence that the dealer relied in good faith upon the representations of a manufacturer, processor, packer, or distributor of food represented to be a kratom product.


The department shall promulgate rules and regulation for the administration and enforcement of this chapter, including, but not limited to, the format, size, and placement of the disclosure label required under § 21-28.10-4(a) and the information that must be included in the disclosure.

SECTION 2. This act shall take effect on September 1, 2019.
This act would regulate the distribution of food products containing the drug kratom, a drug of concern for its stimulant and sedative effects, to consumers by the department of health. This act would take effect on September 1, 2019.

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