

1 AN ACT relating to consumer protections.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 5 of this Act:*

6 *(1) "Consumer" means a person who uses kratom products;*

7 *(2) "Department" means the Department of Alcoholic Beverage Control;*

8 *(3) "Food" has the same meaning as in KRS 217.015 and includes any beverage,*
9 *dietary ingredient, dietary supplement, or food additive as defined in KRS*
10 *217.015 intended for human consumption;*

11 *(4) "Kratom extract" means a food containing any part of the leaf of the plant*
12 *Mitragyna speciosa that has been extracted and concentrated in order to provide*
13 *more standardized dosing;*

14 *(5) "Kratom processor" means a person or entity that prepares, manufactures,*
15 *distributes, or maintains kratom extracts or kratom products or advertises,*
16 *represents, or claims to sell, prepare, or maintain kratom extracts or kratom*
17 *products;*

18 *(6) "Kratom product" means a food, powder, capsule, pill, or any other product*
19 *intended for oral consumption that contains any part of the leaf of the plant*
20 *Mitragyna speciosa or any extract thereof; and*

21 *(7) "Kratom retailer" means a person or entity that sells or advertises, represents, or*
22 *claims to sell kratom extracts or kratom products.*

23 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO
24 READ AS FOLLOWS:

25 *(1) The department shall license kratom processors and kratom retailers and shall*
26 *enforce Sections 1 to 5 of this Act.*

27 *(2) (a) Any kratom processor shall pay to the department an annual licensing fee*

1 of one thousand dollars (\$1,000).

2 (b) Any kratom retailer shall pay to the department an annual licensing fee of
3 five hundred dollars (\$500).

4 (3) The department shall promulgate administrative regulations in accordance with
5 KRS Chapter 13A to establish for Sections 1 to 5 of this Act:

6 (a) Standard qualifications for licensure;

7 (b) The reasons the department may deny, suspend, or revoke a license;

8 (c) Licensing categories, privileges, and restrictions; and

9 (d) Prohibited conduct and enforcement procedures related to licensees.

10 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO
11 READ AS FOLLOWS:

12 A kratom processor or kratom retailer shall not:

13 (1) Dispense, distribute, sell, or expose for sale any kratom extract or kratom product
14 to an individual who is under twenty-one (21) years of age;

15 (2) Prepare, manufacture, distribute, dispense, sell, or make available for sale a
16 kratom product that:

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

22 (b) Is contaminated with a dangerous non-kratom substance. A kratom product
23 is contaminated with a dangerous non-kratom substance if the kratom
24 product contains a poisonous or otherwise deleterious non-kratom
25 ingredient, including but not limited to a Schedule I, II, III, IV, or V
26 controlled substance as defined in KRS Chapter 218A;

27 (c) Contains a level of 7-hydroxymitragynine in the alkaloid fraction that is

1 greater than two percent (2%) of the overall alkaloid composition of the
 2 product;

3 (d) Contains any synthetic alkaloids, including synthetic mitragynine, synthetic
 4 7-hydroxymitragynine, or any other synthetically derived compounds of the
 5 plant *Mitragyna speciosa*; or

6 (e) Does not provide adequate labeling directions necessary for safe and
 7 effective use by consumers, including the number of servings in the
 8 package; or

9 (3) Prepare, manufacture, distribute, dispense, sell, or make available for sale a
 10 kratom extract that:

11 (a) Contains levels of residual solvents higher than those permitted under the
 12 United States Pharmacopeia Chapter 467; or

13 (b) Does not provide adequate labeling directions necessary for safe and
 14 effective use by consumers, including the number of servings in the
 15 package.

16 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO
 17 READ AS FOLLOWS:

18 (1) A kratom processor or retailer who violates Section 3 of this Act shall be subject
 19 to the same licensee penalties established in KRS 243.480(1)(c).

20 (2) A kratom processor or retailer who has been penalized as authorized by
 21 subsection (1) of this section or by a license denial, suspension, or revocation
 22 may, within thirty (30) days after receiving notice of the penalty from the
 23 department, file a written request for an administrative hearing to appeal the
 24 penalty. The hearing shall be conducted in compliance with the requirements of
 25 KRS Chapter 13B.

26 (3) A kratom retailer does not violate Section 3 of this Act if it can be shown through
 27 a preponderance of evidence that the retailer relied in good faith upon the

1 representations of a manufacturer, processor, packer, or distributor of food
2 presented as a kratom product.

3 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO
4 READ AS FOLLOWS:

5 If at any time on or after the effective date of this Act, the federal government or any
6 federal agency, including but not limited to the federal Drug Enforcement Agency or
7 the federal Food and Drug Administration, regulates kratom, kratom extracts, kratom
8 products, or any other derivative of the plant Mitragyna speciosa, those regulations
9 shall supersede and take precedence over any provision of Sections 1 to 5 of this Act to
10 the contrary.