

CHAPTER 44

(HB 293)

AN ACT relating to kratom.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act:

- (1) *"Department" means the Department for Public Health;*
- (2) *"Food" has the same meaning as in KRS 217.015 and includes any beverage, dietary ingredient, dietary supplement, or food additive as defined in KRS 217.015 intended for human consumption;*
- (3) *"Kratom" means any part of the plant Mitragyna speciosa;*
- (4) *"Kratom extract" means any food, food product, or dietary ingredient containing any part of the leaf of the plant Mitragyna speciosa that has been extracted and concentrated in order to provide more standardized dosing;*
- (5) *"Kratom processor" means any person or entity that prepares, manufactures, distributes, or maintains kratom extracts or kratom products or advertises, represents, or claims to sell, prepare, or maintain kratom extracts or kratom products;*
- (6) *"Kratom product" means a food, powder, capsule, pill, or any other product intended for oral consumption that contains any part of the leaf of the plant Mitragyna speciosa or any extract thereof; and*
- (7) *"Kratom retailer" means any person or entity that sells or advertises, represents, or claims to sell kratom extracts or kratom products.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

A kratom processor or kratom retailer shall not:

- (1) *Distribute, dispense, sell, or make available for sale any kratom extract or kratom product to an individual who is under twenty-one (21) years of age; or*
- (2) *Prepare, manufacture, distribute, dispense, sell, or make available for sale any kratom extract or kratom product that:*
 - (a) *Is adulterated with a dangerous nonkratom substance that affects the quality or strength of the kratom extract or kratom product to such a degree that it may injure a consumer;*
 - (b) *Contains a poisonous or otherwise harmful nonkratom ingredient, including but not limited to any controlled substance as defined in KRS Chapter 218A;*
 - (c) *Contains a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than two percent (2%) of the overall alkaloid composition of the product;*
 - (d) *Contains any synthetic alkaloid, including synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compound of the plant Mitragyna speciosa;*
 - (e) *Contains levels of residual solvents higher than those permitted under the United States Pharmacopeia Chapter 467; or*
 - (f) *Does not meet the labeling requirements established pursuant to Section 3 of this Act an any administrative regulation promulgated thereunder.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

All kratom extracts and kratom products sold or otherwise distributed in the Commonwealth shall be accompanied by a clear label that provides adequate information for safe and effective use by consumers that includes but is not limited to:

- (1) *A list of the ingredients used in the manufacturing of the kratom extract or kratom product;*

- (2) *The amount of mitragynine and 7-hydroxymitragynine contained in the kratom extract or kratom product;*
- (3) *The recommended serving size of the kratom extract or kratom product;*
- (4) *The number of servings per container of the kratom extract or kratom product;*
- (5) *The name and principle street address of the vendor or person responsible for distributing the kratom extract or kratom product;*
- (6) *Any precautionary statements as to the safety and effectiveness of the kratom extract or kratom product; and*
- (7) *A disclaimer that the kratom extract or kratom product is not intended to diagnose, treat, cure, or prevent any medical condition or disease.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

The department may promulgate administrative regulations in accordance with KRS Chapter 13A to implement Sections 2, 3, and 5 of this Act.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

A kratom processor or kratom retailer who violates Section 2 or 3 of this Act or any administrative regulation promulgated thereunder shall be subject to a civil penalty of not more than five hundred dollars (\$500) for a first offense and not more than one thousand dollars (\$1,000) for a second or subsequent offense.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

*If at any time on or after the effective date of this Act, the federal government or any department or agency thereof, including but not limited to the federal Drug Enforcement Agency or Food and Drug Administration, regulates kratom, kratom extracts, kratom products, any other derivative of the plant *Mitragyna speciosa*, kratom processors, or kratom retailers, those federal regulations shall supersede and take precedence over any provision of Section 1, 2, 3, 4, or 5 of this Act and any administrative regulation promulgated thereunder to the contrary.*

Signed by Governor April 4, 2024.