

2024 -- S 2704

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO FOOD AND DRUGS -- KRATOM CONSUMER PROTECTION ACT

Introduced By: Senators Gallo, Cano, Sosnowski, Bissailon, and LaMountain

Date Introduced: March 01, 2024

Referred To: Senate Health & Human Services

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 28.12

4 KRATOM CONSUMER PROTECTION ACT

5 **21-28.12-1. Short title.**

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

7 **21-28.12-2. Definitions.**

8 As used in this chapter:

9 (1) "Director" means the director of the department of business regulation.

10 (2) "Food" means a dietary ingredient, dietary supplement, botanical supplement, or
11 beverage for human consumption.

12 (3) "Kratom extract" means a dietary ingredient, dietary supplement, botanical supplement
13 or containing any part of the leaf of the plant *Mitragyna speciosa* that has been extracted and
14 concentrated in order to provide more standardized dosing.

15 (4) "Kratom product" means a dietary ingredient, dietary supplement, botanical
16 supplement, or containing any part of the leaf of the plant *Mitragyna speciosa* or an extract of it; is
17 manufactured as a powder, capsule, pill, beverage, or other edible form; and all kratom products
18 are dietary ingredients, dietary supplements, or botanical supplements.

19 (5) "Processor" means a person that sells, prepares, manufactures, distributes, or maintains

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 **21-28.12-3. 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 in § 21-28-2.08.](#)

14 [\(3\) A kratom extract that contains levels of residual solvents higher than is allowed in the](#)
15 [U.S. Pharmacopeia 467.](#)

16 [\(4\) A kratom product containing a level of 7-hydroxymitragynine in the alkaloid fraction](#)
17 [that is greater than one percent \(1%\) 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 [\(6\) A kratom product that does not provide adequate labeling directions necessary for safe](#)
21 [and effective use by consumers, including a recommended serving size, the number of servings in](#)
22 [a container, and the name and address of the distributor or manufacturer.](#)

23 **21-28.12-4. Age limits.**

24 [A processor shall not distribute, sell, or expose for sale a kratom product to an individual](#)
25 [under twenty-one \(21\) years of age.](#)

26 **21-28.12-5. Violations.**

27 [\(a\) A processor or retailer that negligently violates the provisions of § 21-28.12-3 shall be](#)
28 [subject to an administrative fine of not more than five hundred dollars \(\\$500\) for the first offense](#)
29 [and not more than one thousand dollars \(\\$1,000\) for a second or subsequent offense. Upon the](#)
30 [request of a person to whom an administrative fine is issued, the director shall conduct a hearing in](#)
31 [accordance with the procedures as set forth in chapter 35 of title 42 \("administrative procedures"\).](#)

32 [\(b\) Upon receipt of a third violation pursuant to subsection \(a\) of this section, the](#)
33 [registration of the retailer shall be revoked, and the retailer shall be prohibited from selling any](#)
34 [kratom product.](#)

1 (c) A retailer does not violate § 21-28.12-3 if it is shown by a preponderance of the evidence
2 that the retailer relied in good faith upon the representations of a manufacturer, processor, packer,
3 or distributor of food represented to be a kratom product.

4 (d) A person who intentionally, willfully or wantonly violates § 21-28.12-3 shall be
5 punished by a fine of one thousand dollars (\$1,000) for the first offense, two thousand dollars
6 (\$2,000) for a second offense, and five thousand dollars (\$5,000) for a third or subsequent offense.

7 **21-28.12-6. Taxation of kratom products.**

8 A "kratom product" as defined in 21-28.12-2, is subject to sales and use tax, at the rates as
9 provided in §§ 44-18-18 and 44-18-20.

10 SECTION 2. Section 21-28-2.3 of the General Laws in Chapter 21-28 entitled "Uniform
11 Controlled Substances Act" is hereby amended to read as follows:

12 **21-28-2.03. Schedule I tests.**

13 (a) The director of health shall place a substance in schedule I if he or she finds that the
14 substance:

15 (1) Has high potential for abuse; and

16 (2) Has no accepted medical use in treatment in the United States or lacks accepted safety
17 for use in treatment under medical supervision.

18 (b) Notwithstanding the provisions of subsection (a) of this section, the director shall have
19 no authority to place or maintain mitragynine and 7-hydroxymitragynine in schedule I.

20 SECTION 3. This act shall take effect on January 1, 2025.

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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 authorize and regulate the distribution of the product known as “kratom,”
2 and would ban the adulteration of kratom with a dangerous non-kratom substance as to render the
3 product injurious to a consumer. The act would require that any kratom product contain adequate
4 labeling directions necessary for safe and effective use by consumers. A processor or retailer that
5 violates the provisions of § 21-28.12-3 would be subject to an administrative fine of not more than
6 five hundred dollars (\$500) for the first offense and not more than one thousand dollars (\$1,000)
7 for a second or subsequent offense, and up to five thousand dollars (5,000) in some instances.

8 This act would take effect on January 1, 2025.

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