

SENATE BILL NO. 774

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR REHDER.

3353S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

To amend chapter 196, RSMo, by adding thereto one new section relating to kratom products, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 196, RSMo, is amended by adding thereto
2 one new section, to be known as section 196.1170, to read as
3 follows:

196.1170. 1. This section shall be known and may be
2 cited as the "Kratom Consumer Protection Act".

3 2. As used in this section, the following terms mean:

4 (1) "Dealer", a person who sells, prepares, or
5 maintains kratom products or advertises, represents, or
6 holds oneself out as selling, preparing, or maintaining
7 kratom products. Such person may include, but not be
8 limited to, a manufacturer, wholesaler, store, restaurant,
9 hotel, catering facility, camp, bakery, delicatessen,
10 supermarket, grocery store, convenience store, nursing home,
11 or food or drink company;

12 (2) "Department", the department of health and senior
13 services;

14 (3) "Director", the director of the department or the
15 director's designee;

16 (4) "Food", a food, food product, food ingredient,
17 dietary ingredient, dietary supplement, or beverage for
18 human consumption;

19 (5) "Kratom product", a food product or dietary
20 ingredient containing any part of the leaf of the plant
21 *Mitragyna speciosa*.

22 3. The general assembly hereby occupies and preempts
23 the entire field of regulating kratom products to the
24 complete exclusion of any order, ordinance, or regulation of
25 any political subdivision of this state. Any political
26 subdivision's existing or future orders, ordinances, or
27 regulations relating to kratom products are hereby void.

28 4. (1) A dealer who prepares, distributes, sells, or
29 exposes for sale a food that is represented to be a kratom
30 product shall disclose on the product label the factual
31 basis upon which that representation is made.

32 (2) A dealer shall not prepare, distribute, sell, or
33 expose for sale a food represented to be a kratom product
34 that does not conform to the disclosure requirement under
35 subdivision (1) of this subsection.

36 5. A dealer shall not prepare, distribute, sell, or
37 expose for sale any of the following:

38 (1) A kratom product that is adulterated with a
39 dangerous non-kratom substance. A kratom product shall be
40 considered to be adulterated with a dangerous non-kratom
41 substance if the kratom product is mixed or packed with a
42 non-kratom substance and that substance affects the quality
43 or strength of the kratom product to such a degree as to
44 render the kratom product injurious to a consumer;

45 (2) A kratom product that is contaminated with a
46 dangerous non-kratom substance. A kratom product shall be
47 considered to be contaminated with a dangerous non-kratom
48 substance if the kratom product contains a poisonous or
49 otherwise deleterious non-kratom ingredient including, but
50 not limited to, any substance listed in section 195.017;

51 (3) A kratom product containing a level of 7-
52 hydroxymitragynine in the alkaloid fraction that is greater
53 than two percent of the alkaloid composition of the product;

54 (4) A kratom product containing any synthetic
55 alkaloids, including synthetic mitragynine, synthetic 7-
56 hydroxymitragynine, or any other synthetically derived
57 compounds of the plant *Mitragyna speciosa*; or

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

61 6. A dealer shall not distribute, sell, or expose for
62 sale a kratom product to an individual under eighteen years
63 of age.

64 7. (1) If a dealer violates subdivision (1) of
65 subsection 4 of this section, the director may, after notice
66 and hearing, impose a fine on the dealer of no more than
67 five hundred dollars for the first offense and no more than
68 one thousand dollars for the second or subsequent offense.

69 (2) A dealer who violates subdivision (2) of
70 subsection 4 of this section, subsection 5 of this section,
71 or subsection 6 of this section is guilty of a class D
72 misdemeanor.

73 (3) A person aggrieved by a violation of subdivision
74 (2) of subsection 4 of this section or subsection 5 of this
75 section may, in addition to and distinct from any other
76 remedy at law or in equity, bring a private cause of action
77 in a court of competent jurisdiction for damages resulting
78 from that violation including, but not limited to, economic,
79 noneconomic, and consequential damages.

80 (4) A dealer does not violate subdivision (2) of
81 subsection 4 of this section or subsection 5 of this section
82 if a preponderance of the evidence shows that the dealer

83 relied in good faith upon the representations of a
84 manufacturer, processor, packer, or distributor of food
85 represented to be a kratom product.

86 8. The department shall promulgate rules to implement
87 the provisions of this section including, but not limited
88 to, the requirements for the format, size, and placement of
89 the disclosure label required under subdivision (1) of
90 subsection 4 of this section and for the information to be
91 included in the disclosure label. Any rule or portion of a
92 rule, as that term is defined in section 536.010, that is
93 created under the authority delegated in this section shall
94 become effective only if it complies with and is subject to
95 all of the provisions of chapter 536 and, if applicable,
96 section 536.028. This section and chapter 536 are
97 nonseverable, and if any of the powers vested with the
98 general assembly pursuant to chapter 536 to review, to delay
99 the effective date, or to disapprove and annul a rule are
100 subsequently held unconstitutional, then the grant of
101 rulemaking authority and any rule proposed or adopted after
102 August 28, 2022, shall be invalid and void.

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