

# HB4681



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

**HB4681**

Introduced 2/18/2020, by Rep. Marcus C. Evans, Jr.

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Kratom Consumer Protection Act. Requires dealers of kratom products to disclose specified information. Provides that dealers shall not prepare, distribute, sell, or expose for sale: kratom products or kratom-containing products that meet specified criteria; or any kratom product to an individual who is under 18 years of age. Provides penalties and establishes a private cause of action for violations of the Act. Provides that the Department of Public Health shall adopt rules for the administration and enforcement of the Act.

LRB101 15173 CPF 64327 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Kratom  
5 Consumer Protection Act.

6 Section 5. Definitions. In this Act:

7 "Dealer" means a person that sells, prepares, or maintains  
8 kratom products, or advertises, represents, or holds himself or  
9 herself out as selling, preparing, or maintaining kratom  
10 products. "Dealer" includes, but is not limited to, a  
11 manufacturer, wholesaler, store, restaurant, hotel, catering  
12 facility, camp, bakery, delicatessen, supermarket, grocery  
13 store, convenience store, nursing home, or food or drink  
14 company.

15 "Department" means the Department of Public Health.

16 "Director" means the Director of Public Health or his or  
17 her designee.

18 "Food" means a food, food product, food ingredient, dietary  
19 ingredient, dietary supplement, or beverage for human  
20 consumption.

21 "Kratom product" means a food product or dietary ingredient  
22 containing any part of the leaf of the plant *Mitragyna*  
23 *speciosa*. "Kratom product" includes product formulations,

1 including powders, capsules, extracts, and tinctures. All  
2 "kratom products" are foods.

3 Section 10. Dealer disclosure.

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

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

11 Section 15. Prohibitions. A dealer shall not prepare,  
12 distribute, sell, or expose for sale any of the following:

13 (1) A kratom product that is adulterated with a  
14 dangerous non-kratom substance. A kratom product is  
15 adulterated with a dangerous non-kratom substance if the  
16 kratom product is mixed or packed with a non-kratom  
17 substance and that substance affects the quality or  
18 strength of the kratom product to such a degree as to  
19 render the kratom product injurious to a consumer.

20 (2) A kratom product that is contaminated with a  
21 dangerous non-kratom substance. A kratom product is  
22 contaminated with a dangerous non-kratom substance if the  
23 kratom product contains a poisonous or otherwise  
24 deleterious non-kratom ingredient, including, but not

1 limited to, controlled substances as defined in Section 102  
2 of the Illinois Controlled Substances Act.

3 (3) A kratom product containing a level of  
4 7-hydroxymitragynine in the alkaloid fraction that is  
5 greater than 2% of the total alkaloid composition of the  
6 kratom product.

7 (4) A kratom product containing any synthetic  
8 alkaloids of the kratom plant, including synthetic  
9 mitragynine, synthetic 7-hydroxymitragynine, or any other  
10 synthetically-derived compounds of the kratom plant.

11 (5) A kratom-containing product that does not include  
12 on its package or label a certification that the product  
13 does not contain alkaloids that exceed the proportion of  
14 the alkaloids that occur in the natural plant and that does  
15 not provide adequate labeling directions necessary for  
16 safe and effective use by consumers.

17 Section 20. Distribution to individuals under 18. A dealer  
18 shall not distribute, sell, or expose for sale a kratom product  
19 to an individual who is under 18 years of age.

20 Section 25. Violations.

21 (a) A dealer that violates subsection (a) of Section 10 is  
22 subject to an administrative fine of not more than \$500 for the  
23 first offense and not more than \$1,000 for the second or  
24 subsequent offense. Upon the request of a person to whom an

1 administrative fine is issued, the Director shall conduct a  
2 hearing in accordance with the Illinois Administrative  
3 Procedure Act.

4 (b) A dealer that violates subsection (b) of Section 10 or  
5 any provision of Section 15 or 20 is guilty of a Class B  
6 misdemeanor for which imprisonment for not more than 90 days, a  
7 fine of not more than \$500, or both, may be imposed.

8 (c) A person aggrieved by a violation of subsection (b) of  
9 Section 10 or of Section 15 may, in addition to and distinct  
10 from any other remedy at law or equity, bring a private cause  
11 of action in a competent court of jurisdiction for damages  
12 resulting from that violation, including, but not limited to,  
13 economic, noneconomic, or consequential damages.

14 (d) A dealer does not violate either subsection (b) of  
15 Section 10 or Section 15 if it is shown by a preponderance of  
16 the evidence that the dealer relied in good faith upon the  
17 representations of a manufacturer, processor, packer, or  
18 distributor of food represented to be a kratom product.

19 Section 30. Rules. The Department shall adopt rules for the  
20 administration and enforcement of this Act, including, but not  
21 limited to, the format, size, and placement of the disclosure  
22 label required under subsection (a) of Section 10 and the  
23 information that must be included in the disclosure.