



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2868

Introduced 2/16/2023, by Rep. Marcus C. Evans, Jr.

SYNOPSIS AS INTRODUCED:

New Act

Creates the Kratom Consumer Protection Act. Establishes safety requirements for the preparation, distribution, sale, and exposure for sale of Kratom products and extracts. Prohibits the preparation, distribution, sale, and exposure for sale of adulterated Kratom products and extracts. Provides that a processor of Kratom products that violates the Act is subject to an administrative penalty of not more than \$5,000 for the first offense and not more than \$10,000 for the second or subsequent offense. Provides that the penalty shall be collected by the Department of Public Health and paid into the Food and Drug Safety Fund. Requires, upon the request of a person to whom an administrative penalty is issued, the Director of Public Health to conduct a hearing in accordance with the Illinois Administrative Procedure Act. Provides that a processor shall not distribute, sell, or expose for sale a Kratom product to a person under 18 years of age. Provides that a person who violates the age restrictions shall be punished as provided in the Kratom Control Act. Provides that a processor does not violate the Act if it is shown by a preponderance of the evidence that the processor relied in good faith upon the representations of a manufacturer, processor, packer, or distributor of food represented to be a Kratom product.

LRB103 29911 CPF 56323 b

1 AN ACT concerning Kratom.

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.

7 (a) As used in this Act:

8 "Director" means the Director of Public Health.

9 "Food" means a food, food product, food ingredient,
10 dietary ingredient, dietary supplement, or beverage for human
11 consumption. "Food" includes a Kratom product.

12 "Kratom extract" means a food product or dietary
13 ingredient containing any part of the leaf of the plant
14 *Mitragyna speciosa* that has been extracted and concentrated in
15 order to provide more standardized dosing.

16 "Kratom product" means a food product or dietary
17 ingredient containing any part of the leaf of the plant
18 *Mitragyna speciosa*, or an extract of it, that is manufactured
19 as a powder, capsule, pill, beverage, or other edible product.

20 "Processor" means a person who sells, prepares,
21 manufactures, distributes, or maintains Kratom products or who
22 advertises, represents, or holds himself or herself out as
23 selling, preparing, or maintaining Kratom products.

1 Section 10. Kratom product limitations. A processor shall
2 not prepare, distribute, sell, or expose for sale any of the
3 following:

4 (1) A Kratom product that is adulterated with a
5 dangerous non-Kratom substance. For purposes of this Act,
6 a Kratom product is adulterated with a dangerous
7 non-Kratom substance if the Kratom product is mixed or
8 packed with a non-Kratom substance and that substance
9 affects the quality or strength of the Kratom product to
10 such a degree as to render the Kratom product injurious to
11 a consumer.

12 (2) A Kratom product that is contaminated with a
13 dangerous non-Kratom substance. For purposes of this Act,
14 a Kratom product is contaminated with a dangerous
15 non-Kratom substance if the Kratom product contains a
16 poisonous or otherwise deleterious non-Kratom ingredient,
17 including, but not limited to, the substances listed in
18 Section 204, 206, 208, 210, or 212 of the Illinois
19 Controlled Substances Act.

20 (3) A Kratom extract that contains levels of residual
21 solvents higher than is allowed by United States
22 Pharmacopeia (USP) 467.

23 (4) A Kratom product containing a level of
24 7-hydroxymitragynine in the alkaloid fraction that is
25 greater than 1.5% of the overall alkaloid composition of

1 the product.

2 (5) A Kratom product containing any synthetic
3 alkaloid, including, but not limited to, synthetic
4 mitragynine, synthetic 7-hydroxymitragynine, or any other
5 synthetically derived compound of the Kratom plant.

6 (6) A Kratom product that does not provide adequate
7 labeling directions necessary for safe and effective use
8 by consumers, including, but not limited to, a recommended
9 serving size.

10 Section 15. Age limits. A processor shall not distribute,
11 sell, or expose for sale a Kratom product to a person under 18
12 years of age. A person who violates this Section shall be
13 punished as provided in the Kratom Control Act.

14 Section 20. Violations.

15 (a) A processor who violates Section 10 is subject to an
16 administrative penalty of not more than \$5,000 for a first
17 offense and not more than \$10,000 for a second or subsequent
18 offense. The penalty shall be collected by the Department of
19 Public Health and deposited into the Food and Drug Safety
20 Fund. Upon the request of a person to whom an administrative
21 penalty is issued, the Director shall conduct a hearing in
22 accordance with the Illinois Administrative Procedure Act.

23 (b) A processor does not violate Section 10 if it is shown
24 by a preponderance of the evidence that the processor relied

1 in good faith upon the representations of a manufacturer,
2 processor, packer, or distributor of food represented to be a
3 Kratom product.