



Rep. Curtis J. Tarver, II

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10400HB1303ham001

LRB104 05303 BDA 23827 a

1 AMENDMENT TO HOUSE BILL 1303

2 AMENDMENT NO. _____. Amend House Bill 1303 by replacing
3 everything after the enacting clause with the following:

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

6 Section 5. Definitions. As used in this Act:

7 "Department" means the Department of Revenue.

8 "Kratom" means the plant *Mitragyna speciosa* or any part of
9 that plant.

10 "Kratom extract" means a substance or compound that is
11 obtained by extraction of the *Mitragyna speciosa* leaf, is
12 intended for ingestion, and contains more than trace amounts
13 of *Mitragyna speciosa* and other alkaloids of the kratom plant.

14 "Kratom processor" means (i) a person who manufactures,
15 distributes, maintains, or sells a kratom product or (ii) a
16 person who advertises, represents, or holds oneself out as

1 selling, preparing, or maintaining a kratom product.

2 "Kratom product" means a product containing (i) any part
3 of a leaf of the plant *Mitragyna speciosa* in fresh,
4 dehydrated, or dried form or (ii) a kratom extract.

5 "Product that is attractive to children" means (i) a
6 product that is in the shape of a cartoon or animal or (ii) a
7 product in a form that bears reasonable resemblance to an
8 existing candy product and that could be mistaken by a child
9 for a widely distributed, branded food product.

10 "Retailer" means any person that sells, distributes,
11 advertises, represents, or holds oneself out as selling a
12 kratom product.

13 "Synthesized material" means an alkaloid, metabolite, or
14 alkaloid derivative that has been created by chemical
15 synthesis or biosynthetic means, including, but not limited
16 to, fermentation, recombinant techniques, yeast derivation, or
17 enzymatic techniques, rather than by heating, extracting, or
18 any other traditional food preparation techniques that
19 synthetically alter the composition of the kratom alkaloid or
20 constituent.

21 Section 10. Kratom-containing product limitations. A
22 person may not prepare, distribute, sell, or offer for sale a
23 kratom product that is intended for ingestion if:

24 (1) the product contains a concentration of
25 7-hydroxymitragynine in the alkaloid fraction that is

1 greater than 2% of the alkaloid composition of the
2 product;

3 (2) the product contains synthesized material;

4 (3) the product contains a poisonous or otherwise
5 deleterious non-kratom ingredient, including, but not
6 limited to, a substance identified as a controlled
7 substance under State or federal law;

8 (4) the product is in a form that is combustible,
9 injectable, or intended to be used for vaporization;

10 (5) the product is a product that is attractive to
11 children; or

12 (6) the product contains residual solvents in
13 concentrations that are greater than the concentration
14 that is allowed under the U.S. Pharmacopeia General
15 Chapter <467>, "Residual Solvents".

16 Section 15. Kratom product registration.

17 (a) A person may not distribute, offer for sale, or sell a
18 kratom product in this State, unless that product is a kratom
19 product that is registered with the Department.

20 (b) For a kratom product to be offered for sale in this
21 State, the party responsible for placing that kratom product
22 into commerce in the State shall annually register the kratom
23 product with the Department and shall pay to the Department an
24 annual registration fee, which may be adjusted annually by the
25 Department. The fee collected by the Department shall be

1 sufficient to cover all administrative costs specifically
2 needed for processing registrations and otherwise
3 administering this Act, including the necessary staffing costs
4 and costs of publishing and maintaining a kratom registration
5 webpage on the Department's website.

6 (c) To obtain registration under this Act, the application
7 for registration shall include the following documentation
8 from the kratom processor:

9 (1) a certification from a qualified independent
10 auditor that the applicant meets or exceeds guidelines
11 published by the U.S. Food and Drug Administration for
12 current good manufacturing practices for the facility that
13 manufactures, processes, packs, or holds the kratom
14 product;

15 (2) a current U.S. Food and Drug Administration food
16 facility registration certificate for the facility that
17 manufactures, processes, packs, or holds the kratom
18 product;

19 (3) a statement certifying, under penalty of perjury,
20 that (i) the kratom processor has a reasonable basis to
21 believe that the product is safe for consumption under the
22 conditions of use set forth on the label, (ii) the kratom
23 processor assumes responsibility and liability for the
24 kratom product, and (iii) the kratom processor complies
25 with Section 10 and all other requirements of the Act; and

26 (4) a certificate of analysis from a certified

1 independent third-party laboratory showing compliance with
2 the requirements of this Act regarding allowable
3 concentrations of residual solvents,
4 7-hydroxymitragynine, and heavy metals.

5 (d) A product that contains the same kratom ingredients in
6 the same kratom delivery form, but a different container,
7 package, or volume, shall be included in a single
8 registration.

9 (e) The Department shall publish and maintain a kratom
10 registration page on its official website, which lists all
11 currently registered kratom products.

12 Section 20. Labeling. Each retail package containing a
13 kratom product that is produced, manufactured, distributed,
14 sold, or offered for sale in the State shall have a label
15 affixed to it that clearly and conspicuously provides all of
16 the following information:

17 (1) a statement discouraging use of the product by
18 individuals who are under 21 years of age, who are
19 pregnant, or who are breastfeeding;

20 (2) a recommendation to consult a health care
21 professional before using the product;

22 (3) a statement that the product may be habit forming;

23 (4) the following statement: "These statements have
24 not been evaluated by the Food and Drug Administration.
25 This product is not intended to diagnose, treat, cure, or

1 prevent any disease.";

2 (5) the name and the address for the place of business
3 of the registrant;

4 (6) directions for use that include the following:

5 (A) a recommended amount of the kratom product per
6 serving that is (i) clearly described on the label for
7 product forms, such as capsules, gummies, prepackaged
8 single serving units, and similar product forms; or
9 (ii) for beverages, liquids, or loose powders, a clear
10 instruction or a mark on the package or container that
11 clearly informs the consumer of the recommended
12 serving size;

13 (B) a recommended number of servings that can be
14 safely consumed in a 24-hour period;

15 (C) a listing of the servings per container; and

16 (D) a listing of kratom alkaloids and other
17 ingredients in the product, including quantitative
18 data not to exceed declarations of the amount per
19 serving of each of the following: (i) Mitragynine and
20 (ii) 7-hydroxymitragynine.

21 Section 25. Tax.

22 (a) A tax is imposed upon the privilege of engaging or
23 continuing within this State in the business of the retail
24 sale of kratom products. The applicable tax rate is equal to 5%
25 of the retail sales price of the kratom or kratom products sold

1 during the reporting period. Such tax is imposed in addition
2 to all other applicable taxes.

3 (b) On or before the 25th day of the first month following
4 the end of the calendar quarter, a person in the business of
5 the retail sale of kratom products shall file with the
6 Department a return on a form prescribed by the Department.
7 Each person in the business of the retail sale of kratom
8 products in this State shall pay to the Department the amount
9 of the tax at the time when the person is required to file the
10 person's return for the period during which the tax was
11 collected.

12 (c) A person required to file a return under this Section
13 who knowingly files a false or incomplete return is guilty of a
14 Class A misdemeanor.

15 (d) The Department has full power to: (i) administer and
16 enforce this Law; (ii) collect all taxes, penalties, and
17 interest due under this Section; (iii) dispose of taxes,
18 penalties, and interest so collected; and (iv) determine all
19 rights to credit memoranda or refunds arising on account of
20 the erroneous payment of tax, penalty, or interest under this
21 Law.

22 (e) All of the provisions of Sections 5a, 5b, 5c, 5d, 5e,
23 5f, 5g, 5i, and 5j of the Retailers' Occupation Tax Act, which
24 are not inconsistent with this Act, and Section 3-7 of the
25 Uniform Penalty and Interest Act shall apply, as far as
26 practicable, to the subject matter of this Act to the same

1 extent as if such provisions were included herein.

2 (f) The tax imposed in this Section shall be administered
3 by the Department under rules adopted by the Department. The
4 Department shall adopt rules as necessary to implement this
5 Section.

6 Section 30. Enforcement.

7 (a) A person must not distribute, offer for sale, or sell
8 in this State a kratom product unless that kratom product is
9 registered with the Department.

10 (b) A person who knowingly violates subsection (a) of this
11 Section is subject to the following penalties:

12 (1) a civil penalty of \$5,000 for a first violation;

13 and

14 (2) a civil penalty of \$10,000 for a second or
15 subsequent violation.

16 Upon a third or subsequent violation of subsection (a), a
17 person may not, for a period of 2 years, distribute, offer for
18 sale, or sell in this State a kratom product.

19 (c) A person who knowingly violates Section 15 of this
20 Act, or rules adopted under this Act, shall be subject to the
21 following penalties:

22 (1) a civil penalty of \$1,000 for a first violation;

23 and

24 (2) a civil penalty of \$2,500 for a second or
25 subsequent violation.

1 Upon a third or subsequent violation of Section 15, or a
2 rule adopted under this Act, a person may not, for a period of
3 2 years, distribute, offer for sale, or sell in this State a
4 kratom product.

5 (d) Kratom products that are intended for human ingestion
6 may not be sold in this State to a person who is under 21 years
7 of age. A person who knowingly and willfully violates this
8 subsection (d) commits a Class B misdemeanor. A person who
9 knowingly and willfully commits a second or subsequent
10 violation of this subsection (d) within one year after the
11 initial violation commits a Class A misdemeanor.

12 (e) A person that knowingly and willfully manufactures,
13 delivers, holds, offers for sale, distributes, or sells a
14 product that contains kratom and a controlled substance
15 regulated under State or federal law commits a Class 4 felony.

16 (f) A person that knowingly and willfully manufactures,
17 delivers, holds, offers for sale, distributes, or sells a
18 product that contains synthetic mitragynine, synthetic
19 7-hydroxymitragynine, or any other synthetically derived
20 compound of the plant *Mitragyna speciosa* commits a Class B
21 misdemeanor.

22 (g) Upon receipt of a report concerning a kratom product
23 that is being manufactured, distributed, offered for sale, or
24 sold in this State in violation of this Act, the Department
25 shall require the registrant of the product to produce, in a
26 reasonable time frame, an updated and current certificate of

1 analysis for the product from a certified independent
2 third-party laboratory showing compliance with the
3 requirements of this Act, including copies of all product
4 labels. If the registrant does not provide the certificate of
5 analysis in the specified time frame, the Department shall
6 revoke the registration for that product and issue a stop
7 sales order for the product.

8 (h) If the Department has a reasonable basis to require an
9 independent third-party test by a laboratory of the
10 Department's choice concerning a kratom product that is being
11 manufactured, distributed, offered for sale, or sold in the
12 State, the registrant of that product shall be required to
13 submit payment for the test within a reasonable time frame. If
14 the registrant does not tender payment to the Department
15 within 30 days after receipt of the invoice for the testing,
16 the Department shall revoke the registration for that product,
17 if one exists, and issue a stop sales order for the product.

18 (i) A retailer does not violate this Section if it is shown
19 by a preponderance of the evidence that the retailer relied in
20 good faith upon the representations of a manufacturer,
21 processor, packer, or distributor of food represented to be a
22 kratom product.

23 Section 35. Rulemaking. The Department shall adopt rules
24 to implement and administer this Act. The rules must, at a
25 minimum:

1 (1) establish the process for a registration of a
2 kratom product;

3 (2) set forth the requirements for enforcing the
4 restriction on the sale of any kratom product to a person
5 under the age of 21; and

6 (3) require proof of appropriate quality testing from
7 an ISO 17025 laboratory in the form of a certificate of
8 analysis demonstrating that the product does not contain
9 unsafe or otherwise impermissible levels of residual
10 solvents, biological contaminants, or heavy metals.

11 Section 40. Home rule limitation. The regulation of the
12 manufacturing, packaging, labeling, distribution, and sale of
13 kratom leaves, kratom leaf extracts, and kratom products is an
14 exclusive power and function of the State. A home rule unit may
15 not regulate the manufacturing, packaging, labeling,
16 distribution, and sale of kratom leaves, kratom leaf extracts,
17 and kratom products. This Section is a denial and limitation
18 of home rule powers and functions under subsection (h) of
19 Section 6 of Article VII of the Illinois Constitution.

20 (720 ILCS 642/Act rep.)

21 Section 90. The Kratom Control Act is repealed.

22 Section 99. Effective date. This Act takes effect January
23 1, 2026."