

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 567

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO KRATOM; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW  
2 CHAPTER 55, TITLE 22, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE  
3 TERMS, TO PROVIDE FOR REGISTRATION, TO PROVIDE FOR LABELING, TO PROVIDE  
4 FOR PROHIBITED ACTS, TO PROVIDE FOR THE PROHIBITION OF SALE OF KRATOM TO  
5 MINORS, TO PROVIDE FOR VIOLATIONS, PENALTIES, AND AN EXCEPTION, AND TO  
6 PROVIDE FOR RULEMAKING.  
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Title 22, Idaho Code, be, and the same is hereby amended  
10 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
11 ter 55, Title 22, Idaho Code, and to read as follows:

12 CHAPTER 55

13 KRATOM TRUTH IN LABELING ACT

14 22-5501. SHORT TITLE. This chapter shall be known and may be cited as  
15 the "Kratom Truth in Labeling Act."

16 22-5502. DEFINITIONS. As used in this chapter:

17 (1) "Department" means the Idaho state department of agriculture.

18 (2) "Director" means the director of the department or the director's  
19 designee.

20 (3) "Food" means a food, food product, food ingredient, dietary ingre-  
21 dient, dietary supplement, or beverage for human consumption.

22 (4) "Kratom product" means a food product, food ingredient, dietary in-  
23 gredient, dietary supplement, or beverage containing any part of the leaf of  
24 the plant *Mitragyna speciosa*.

25 (5) "Vendor" means a person or entity that sells, prepares, or main-  
26 tains kratom products or advertises, represents, or holds itself out as  
27 selling, preparing, or maintaining kratom products. "Vendor" includes but  
28 is not limited to a manufacturer, wholesaler, or store in the state of Idaho.

29 22-5503. KRATOM PRODUCT REGISTRATION. (1) A vendor who intends to of-  
30 fer a kratom product for sale shall register with the department and pay a  
31 vendor registration fee of two hundred fifty dollars (\$250).

32 (2) The vendor shall certify on the registration form that none of its  
33 products that are offered for sale in Idaho contain any controlled sub-  
34 stances provided for in schedule I, II, III, or IV in sections 37-2705,  
35 37-2707, 37-2709, and 37-2711, Idaho Code.

36 (3) The vendor shall provide a list of each product intended to be of-  
37 ferred for sale in Idaho, together with a composite certificate of analysis  
38 (COA) from an independent third-party laboratory holding current certifica-  
39 tions for testing of dietary supplements for the raw materials used in each

1 of those products certifying compliance with the provisions of this chapter.  
2 For purposes of the composite sample, it is sufficient to provide COA labo-  
3 ratory results that incorporate all raw materials within a single composite  
4 sample. The COA shall include the following test results:

5 (a) Certification that the content of 7-hydroxymitragynine as a per-  
6 centage of the alkaloid fraction of the kratom product is less than two  
7 percent (2%);

8 (b) Certification that the kratom product tests as absent of all con-  
9 trolled substances as tested pursuant to the world anti-doping agency;

10 (c) Certification that the kratom product tests as absent, negative,  
11 undetected, nondetected, or less than 10 colony-forming units per gram  
12 for the pathogens salmonella and E. coli; and

13 (d) Certification that the kratom product tests as absent, negative,  
14 undetected, nondetected, or less than 1.0 parts per million (ppm) for  
15 the heavy metals lead and arsenic; certification that the kratom prod-  
16 uct tests as absent, negative, undetected, nondetected, or less than  
17 .41 ppm for the heavy metal cadmium; certification that the kratom prod-  
18 uct tests as absent, negative, undetected, nondetected, or less than .3  
19 ppm for the heavy metal mercury.

20 (4) The department shall, upon receipt of a verified adulteration re-  
21 port on a kratom product the vendor has registered for sale in Idaho, be re-  
22 quired, within forty-five (45) days, to produce a new COA from an indepen-  
23 dent third-party lab on the reported product to affirm compliance. Failure  
24 to submit a COA, or upon a finding on the COA that the product is noncompli-  
25 ant, the vendor shall lose its registration to sell the product in Idaho un-  
26 til such time the vendor submits a new product registration and pays a new  
27 registration fee with a current COA showing that product to be fully compli-  
28 ant.

29 (5) The department shall deny or withdraw registration for any kratom  
30 product that violates the provisions of this chapter or is adulterated or  
31 contaminated based on the COA. If the department determines the vendor has  
32 a consistent record of three (3) or more violations of this chapter in any  
33 twelve (12) month period, and a hearing officer determines the firm is not  
34 capable of maintaining compliant business operations, such noncompliance  
35 that places consumers at a safety risk shall serve as the basis to deny or  
36 withdraw a registration. The burden of proof for the suitability of any  
37 product for sale in Idaho rests solely with the vendor to provide evidence of  
38 the product's compliance with this chapter whenever the department requests  
39 the vendor to do so.

40 22-5504. LABELING. (1) A vendor that prepares, distributes, sells, or  
41 exposes for direct sale to the consumer a food that is represented to be a  
42 kratom product shall disclose on the product label the factual basis upon  
43 which that representation is made.

44 (2) A vendor shall not prepare, distribute, sell, or expose for sale a  
45 food represented to be a kratom product that does not conform to the disclo-  
46 sure required under subsection (1) of this section.

47 (3) If a kratom product is packaged having less than twelve (12) square  
48 inches of total surface area available to bear labeling, in lieu of a label-  
49 ing panel, the point of sale for the product shall provide in an accessible

1 format for consumers to read the complete labeling for each small package  
2 product, and the kratom product shall include on the label a telephone num-  
3 ber, address, or a QR code that consumers can use to obtain labeling informa-  
4 tion.

5 22-5505. PROHIBITED ACTS. A vendor shall not prepare, distribute,  
6 sell, or expose for sale any of the following:

7 (1) A kratom product that is knowingly adulterated with a dangerous  
8 nonkratom substance. A kratom product is adulterated with a dangerous  
9 nonkratom substance if the kratom product is mixed or packed with a nonkratom  
10 substance, including but not limited to the substances listed in section  
11 37-2705, Idaho Code, and that substance affects the quality of the kratom  
12 product to such a degree as to render the kratom product injurious to a con-  
13 sumer;

14 (2) A kratom product containing a level of 7-hydroxymitragynine in the  
15 alkaloid fraction that is greater than two percent (2%) of the alkaloid com-  
16 position of the product;

17 (3) A kratom product containing any synthetic alkaloids including syn-  
18 thetic mitragynine, synthetic 7-hydroxymitragynine, or any other syntheti-  
19 cally derived compounds of the kratom plant; or

20 (4) Any kratom-containing product that does not include on its package  
21 or label the amount of 7-hydroxymitragynine contained in the product. For  
22 purposes of this section, it shall be sufficient that a label include an in-  
23 dication that the kratom product contains less than two percent (2%) 7-hy-  
24 droxymitragynine of the total alkaloid content of the plant.

25 22-5506. MINORS. A vendor shall not knowingly distribute, sell, or ex-  
26 pose for sale a kratom product to an individual under twenty-one (21) years  
27 of age.

28 22-5507. VIOLATIONS -- PENALTIES -- EXCEPTION. (1) A vendor that vio-  
29 lates the provisions of section 22-5503(1), Idaho Code, is subject to an ad-  
30 ministrative fine of no more than five hundred dollars (\$500) for the first  
31 offense and no more than one thousand dollars (\$1,000) for the second or sub-  
32 sequent offense. Upon the request of a person to whom an administrative fine  
33 is issued, the director shall conduct a hearing in accordance with chapter  
34 52, title 67, Idaho Code.

35 (2) A vendor that violates the provisions of section 22-5503(2),  
36 22-5504, or 22-5505, Idaho Code, is guilty of a misdemeanor punishable by a  
37 fine of no more than one thousand dollars (\$1,000).

38 (3) A person aggrieved by a violation of the provisions of section  
39 22-5503(2) or 22-5504, Idaho Code, may, in addition to and distinct from any  
40 other remedy at law or equity, bring a private cause of action in a competent  
41 court of jurisdiction for damages resulting from that violation, including  
42 but not limited to economic, noneconomic, or consequential damages.

43 (4) A vendor does not violate the provisions of section 22-5503(2) or  
44 22-5504, Idaho Code, if it is shown by a preponderance of the evidence that  
45 the vendor relied in good faith upon the representations of a manufacturer,  
46 processor, packer, or distributor of food represented to be a kratom prod-  
47 uct.

1           22-5508. RULEMAKING. The department shall promulgate rules for the  
2 administration and enforcement of this chapter, including but not limited  
3 to the format, size, and placement of the disclosure label required under  
4 section 22-5504, Idaho Code, and the information that must be included in the  
5 disclosure.