

IN THE SENATE

SENATE BILL NO. 1282

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

RELATING TO KRATOM; AMENDING TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 31, TITLE 37, IDAHO CODE, TO ESTABLISH THE KRATOM CONSUMER PROTECTION AND SAFETY ACT; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 31, Title 37, Idaho Code, and to read as follows:

CHAPTER 31

Kratom Consumer Protection and Safety

37-3101. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Kratom Consumer Protection and Safety Act."

37-3102. LEGISLATIVE FINDINGS AND INTENT. (1) The legislature finds that:

- (a) Kratom is legally sold in Idaho and used by adults for a variety of personal purposes;
  - (b) Public health risks arise primarily from adulterated or chemically enhanced kratom products, particularly those containing artificially elevated levels of 7-hydroxymitragynine (7-OH); and
  - (c) Kratom's natural alkaloid profile contains only trace amounts of 7-OH, while potentially dangerous products often include synthetic or spiked levels of 7-OH.
- (2) It is the intent of the legislature:
- (a) To preserve adult access to natural kratom while preventing the sale of unsafe, adulterated, or synthetic products;
  - (b) That regulation of natural kratom products be limited, minimal, and fiscally neutral, and not include the imposition of licensing fees nor registration requirements; and
  - (c) To occupy the whole field of regulation regarding natural kratom products such that no political subdivision of the state shall adopt or enact any standard or other requirement that is inconsistent with, varies from, exceeds, or imposes additional burdens than the provisions of this chapter. Any such standard or requirement that now exists, or that may hereinafter exist, is hereby declared to be unenforceable.

37-3103. DEFINITIONS. As used in this chapter:

- (1) "Adulterated kratom product" means a kratom product that:
  - (a) Contains any synthesized material, semisynthetic alkaloid, or synthetic kratom-like compound;

- 1 (b) Contains added or artificially increased 7-hydroxymitragynine  
 2 (7-OH);
- 3 (c) Contains 7-OH that exceeds two percent (2%) of its total alkaloid  
 4 content;
- 5 (d) Contains more than one (1) milligram per serving of 7-OH;
- 6 (e) Contains heavy metals exceeding applicable federal limits;
- 7 (f) Contains microbial contamination, mold, salmonella, E. coli, or  
 8 other harmful adulterants; or
- 9 (g) Contains any controlled substance listed under chapter 27, title  
 10 37, Idaho Code.
- 11 (2) "Alkaloid" means a compound found in the mitragyna speciosa leaf,  
 12 including but not limited to mitragynine, paynantheine, speciociliatine, or  
 13 speciogynine.
- 14 (3) "Department" means the Idaho department of agriculture.
- 15 (4) "Kratom" means the mitragyna speciosa plant or any part of that  
 16 plant.
- 17 (5) "Kratom distributor" means a person that sells, transports,  
 18 stores, or wholesales a finished kratom product that the person did not manu-  
 19 facture, process, extract, alter, repackage, or relabel.
- 20 (6) "Kratom extract" means a substance or compound obtained by extrac-  
 21 tion from the mitragyna speciosa leaf that contains kratom alkaloids and  
 22 that does not contain any controlled substances or levels of residual sol-  
 23 vents higher than is allowed in the U.S. pharmacopoeia (USP) 467.
- 24 (7) "Kratom product" means a finished product containing kratom or  
 25 kratom extract that is intended for human consumption that contains any part  
 26 of the mitragyna speciosa plant in any form.
- 27 (8) "Kratom processor" means a person that:
- 28 (a) Manufactures, distributes, or warehouses a kratom product; or
- 29 (b) Advertises, represents, or holds itself out as manufacturing, dis-  
 30 tributing, or warehousing a kratom product.
- 31 (9) "Kratom retailer" means a person that sells or advertises itself as  
 32 selling kratom products directly to consumers for human consumption.
- 33 (10) "Person" means any individual, partnership, corporation, associ-  
 34 ation, governmental subdivision or agency, or public or private organiza-  
 35 tion or entity of any character.

36 37-3104. PROHIBITED CONDUCT. (1) A kratom processor or retailer shall  
 37 not:

- 38 (a) Sell, prepare, or distribute an adulterated kratom product;
- 39 (b) Add, introduce, or apply any substance intended to increase the  
 40 concentration or potency of 7-OH in a kratom product;
- 41 (c) Sell a synthetic product falsely represented as a kratom product;  
 42 and
- 43 (d) Mislabel or intentionally misrepresent the alkaloid content of a  
 44 kratom product.
- 45 (2) A kratom retailer does not violate this chapter if it is shown by a  
 46 preponderance of the evidence that the retailer, in good faith, relied on the  
 47 representation of a kratom processor that the product was a kratom product  
 48 and not an adulterated kratom product.

1 (3) This chapter shall not be construed to prohibit the production or  
2 sale of kratom products that include other substances, such as vitamins,  
3 minerals, botanicals, concentrates, metabolites, extracts, or combinations  
4 thereof, that are not otherwise prohibited by law.

5 37-3105. AGE RESTRICTION. No person shall sell, deliver, or give away  
6 kratom or cause or permit kratom to be sold, delivered, or given away to any  
7 person under eighteen (18) years of age.

8 (2) Proof of age shall be a validly issued state, district, territo-  
9 rial, possession, provincial, national, or other equivalent government  
10 driver's license, identification card, or military identification card  
11 bearing a photograph and date of birth, or a valid passport.

12 (3) Any person who knowingly misrepresents age for the purpose of ob-  
13 taining kratom shall be guilty of a misdemeanor.

14 (4) (a) An affirmative defense shall be available for a kratom retailer  
15 that requested, examined, and reasonably relied on identification es-  
16 tablishing age pursuant to this section provided to the retailer by a  
17 person intending to purchase a kratom product.

18 (b) A kratom retailer's failure to request and examine identification  
19 from a person intending to purchase a kratom product prior to the sale  
20 of such product to such person shall be construed against the retailer  
21 and shall form a conclusive basis for the retailer's violation of this  
22 section.

23 37-3106. TESTING REQUIREMENTS. (1) A kratom processor shall keep, and  
24 make available upon request by the department, a certification that the pro-  
25 cessor's operations are consistent with applicable federal regulations and  
26 guidelines, including:

27 (a) 21 CFR 111 and 117;

28 (b) Requirements related to the processor establishing limits and con-  
29 trols for contaminants reasonably likely to occur; and

30 (c) Other such requirements that apply to kratom products made avail-  
31 able pursuant to the provisions of this chapter for facilities that man-  
32 ufacture, process, pack, or store a kratom product that is being offered  
33 for sale in the state of Idaho.

34 (2) A kratom retailer or distributor may rely, in good faith, on the  
35 kratom processor's certification and shall not be subject to penalty for  
36 violations resulting solely from inaccurate or fraudulent information pro-  
37 vided by a kratom processor.

38 37-3107. LABELING REQUIREMENTS. A kratom product offered for sale in  
39 Idaho shall include on its package:

40 (1) The name and business address of the processor or retailer;

41 (2) A batch number; and

42 (3) A statement that the product:

43 (a) Contains kratom;

44 (b) Has not been evaluated by the U.S. food and drug administration, and  
45 is not intended to diagnose, treat, cure, or prevent any disease; and

46 (c) Is not for sale to persons under eighteen (18) years of age.

1           37-3108. ENFORCEMENT AND PENALTIES. (1) A person that knowingly vio-  
2 lates this chapter is subject to a civil penalty not to exceed:

3           (a) One thousand dollars (\$1,000) for a first violation; and

4           (b) Two thousand five hundred dollars (\$2,500) for each subsequent vio-  
5 lation.

6           (2) Each batch or individually packaged product sold in violation con-  
7 stitutes a separate offense.

8           (3) The attorney general or a county prosecuting attorney in which the  
9 alleged violation occurred shall bring a civil action to enforce this chap-  
10 ter.

11           (a) A political subdivision of the state may request the office of the  
12 attorney general and the county prosecuting attorney to bring a civil  
13 action to enforce this chapter.

14           (b) A private cause of action is prohibited.

15           (4) Any adulterated kratom product may be seized and destroyed pursuant  
16 to court order.

17           37-3109. RULEMAKING AUTHORITY. The department may adopt only mini-  
18 mal rules, subject to legislative approval, necessary to define acceptable  
19 contaminant limits and testing standards. No rule may impose any licensing  
20 requirement, registration requirement, fee, or regulatory burden not ex-  
21 pressly authorized in this chapter.

22           SECTION 2. An emergency existing therefor, which emergency is hereby  
23 declared to exist, this act shall be in full force and effect on and after  
24 July 1, 2026.