

By: Lozano, Orr

H.B. No. 861

A BILL TO BE ENTITLED

AN ACT

relating to the processing and sale of kratom and kratom products;
providing civil penalties; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as the Texas Kratom
Consumer Health and Safety Protection Act.

SECTION 2. Subtitle A, Title 6, Health and Safety Code, is
amended by adding Chapter 444 to read as follows:

CHAPTER 444. MANUFACTURE, DISTRIBUTION, AND SALE OF

KRATOM PRODUCTS

Sec. 444.001. DEFINITIONS. In this chapter:

(1) "Food" has the meaning assigned by Section
431.002.

(2) "Kratom" means any part of the leaf of the plant
Mitragyna speciosa.

(3) "Kratom processor" means a person who:

(A) manufactures, prepares, distributes, or
maintains kratom products for sale;

(B) advertises, represents, or holds oneself out
as a manufacturer, preparer, or seller of kratom products;

(C) is responsible for ensuring the purity and
proper labeling of kratom products; or

(D) packages or labels kratom products.

(4) "Kratom product" means a food, including an

1 extract, capsule, or pill, containing any form of kratom.

2 (5) "Kratom retailer" means a kratom processor who
3 sells kratom products to consumers or who advertises, represents,
4 or holds oneself out as a person who sells kratom products to
5 consumers.

6 Sec. 444.002. LABEL REQUIRED. (a) A kratom processor shall
7 label each kratom product with the product use directions necessary
8 to ensure safe use of the product by a consumer, including the
9 recommended serving size for the product.

10 (b) A kratom retailer may only sell a kratom product that is
11 properly labeled in accordance with this section.

12 Sec. 444.003. ADULTERATED, CONTAMINATED, AND PROHIBITED
13 KRATOM PRODUCTS. A kratom processor or kratom retailer may not
14 prepare, distribute, sell, or offer to sell a kratom product that:

15 (1) is adulterated with a dangerous non-kratom
16 substance affecting the quality or strength of the product to a
17 degree that renders the product injurious to a consumer;

18 (2) is contaminated with a poisonous or otherwise
19 deleterious non-kratom substance, including any substance
20 designated as a controlled substance by Chapter 481 (Texas
21 Controlled Substances Act);

22 (3) contains a level of 7-hydroxymitragynine in the
23 alkaloid fraction that is greater than two percent of the overall
24 alkaloid composition of the product; or

25 (4) contains any synthetic alkaloids, including
26 synthetic 7-hydroxymitragynine and synthetically derived compounds
27 from a kratom plant.

1 Sec. 444.004. OFFENSE FOR DISTRIBUTION OR SALE OF KRATOM
2 PRODUCT TO MINOR. (a) A person commits an offense if the person
3 distributes, sells, or exposes for sale a kratom product to an
4 individual younger than 18 years of age.

5 (b) An offense under this section is a Class C misdemeanor.

6 Sec. 444.005. CIVIL PENALTY. (a) A person who violates
7 this chapter is subject to a civil penalty in the amount of:

8 (1) \$250 for the first violation;

9 (2) \$500 for the second violation; and

10 (3) \$1,000 for each subsequent violation.

11 (b) Each day a violation continues or occurs is a separate
12 violation for purposes of imposing a penalty under this section.

13 (c) A kratom retailer is not liable for a civil penalty
14 under this section for a violation of Section 444.002 or 444.003 if
15 the kratom retailer proves by a preponderance of the evidence that
16 the violation was unintentional and due to the kratom retailer's
17 good faith reliance on the representation of another kratom
18 processor.

19 (d) The attorney general or the district or county attorney
20 for the county or municipal attorney for the municipality in which
21 the violation is alleged to have occurred may bring an action to
22 recover a civil penalty under this section.

23 Sec. 444.006. PENALTIES UNDER OTHER LAW. The penalties
24 prescribed by this chapter are in addition to any other penalties
25 prescribed by law, including penalties prescribed by Chapters [431](#)
26 and [481](#).

27 Sec. 444.007. RULES. The executive commissioner may adopt

1 rules consistent with this chapter as necessary to ensure the safe
2 consumption and distribution of kratom and kratom products.

3 SECTION 3. This Act takes effect September 1, 2023.