

By: Lozano

H.B. No. 1097

A BILL TO BE ENTITLED

AN ACT

relating to the processing and sale of kratom and kratom products;  
providing civil penalties.

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

SECTION 1. This Act shall be known as the Texas Kratom  
Consumer 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  
432.003.

(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 seller, preparer, or manufacturer 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 engages in selling kratom products to consumers or who advertises,  
4 represents, or holds oneself out as a person who sells kratom  
5 products to consumers.

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

10 (b) A kratom retailer may not sell a kratom product that is  
11 not properly labeled under this section.

12 Sec. 444.003. ADULTERATED, CONTAMINATED, AND PROHIBITED  
13 PRODUCTS. A kratom processor or kratom retailer may not prepare,  
14 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) has 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. DISTRIBUTION AND SALE OF KRATOM PRODUCTS TO  
2 MINORS PROHIBITED. A person may not distribute, sell, or expose for  
3 sale a kratom product to someone who is younger than 18 years of  
4 age.

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

7               (1) \$250 for the first violation;

8               (2) \$500 for the second violation; and

9               (3) \$1,000 for each subsequent violation.

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

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

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

22       SECTION 3. This Act takes effect September 1, 2021.