

1-1 By: Lozano (Senate Sponsor - Zaffirini) H.B. No. 1097
 1-2 (In the Senate - Received from the House May 3, 2021;
 1-3 May 14, 2021, read first time and referred to Committee on Health &
 1-4 Human Services; May 20, 2021, reported favorably by the following
 1-5 vote: Yeas 8, Nays 0; May 20, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the processing and sale of kratom and kratom products;
 1-20 providing civil penalties; creating a criminal offense.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. This Act shall be known as the Texas Kratom
 1-23 Consumer Health and Safety Protection Act.

1-24 SECTION 2. Subtitle A, Title 6, Health and Safety Code, is
 1-25 amended by adding Chapter 444 to read as follows:

1-26 CHAPTER 444. MANUFACTURE, DISTRIBUTION, AND SALE OF
 1-27 KRATOM PRODUCTS

1-28 Sec. 444.001. DEFINITIONS. In this chapter:

1-29 (1) "Food" has the meaning assigned by Section
 1-30 431.002.

1-31 (2) "Kratom" means any part of the leaf of the plant
 1-32 Mitragyna speciosa.

1-33 (3) "Kratom processor" means a person who:

1-34 (A) manufactures, prepares, distributes, or
 1-35 maintains kratom products for sale;

1-36 (B) advertises, represents, or holds oneself out
 1-37 as a seller, preparer, or manufacturer of kratom products;

1-38 (C) is responsible for ensuring the purity and
 1-39 proper labeling of kratom products; or

1-40 (D) packages or labels kratom products.

1-41 (4) "Kratom product" means a food, including an
 1-42 extract, capsule, or pill, containing any form of kratom.

1-43 (5) "Kratom retailer" means a kratom processor who
 1-44 engages in selling kratom products to consumers or who advertises,
 1-45 represents, or holds oneself out as a person who sells kratom
 1-46 products to consumers.

1-47 Sec. 444.002. LABELING REQUIRED. (a) A kratom processor
 1-48 shall label each kratom product with the product use directions
 1-49 necessary to ensure safe and effective use of the product by a
 1-50 consumer, including the recommended serving size for the product.

1-51 (b) A kratom retailer may not sell a kratom product that is
 1-52 not properly labeled under this section.

1-53 Sec. 444.003. ADULTERATED, CONTAMINATED, AND PROHIBITED
 1-54 PRODUCTS. A kratom processor or kratom retailer may not prepare,
 1-55 distribute, sell, or offer to sell a kratom product that:

1-56 (1) is adulterated with a dangerous non-kratom
 1-57 substance affecting the quality or strength of the product to a
 1-58 degree that renders the product injurious to a consumer;

1-59 (2) is contaminated with a poisonous or otherwise
 1-60 deleterious non-kratom substance, including any substance
 1-61 designated as a controlled substance by Chapter 481 (Texas

2-1 Controlled Substances Act);
2-2 (3) has a level of 7-hydroxymitragynine in the
2-3 alkaloid fraction that is greater than two percent of the overall
2-4 alkaloid composition of the product; or

2-5 (4) contains any synthetic alkaloids, including
2-6 synthetic 7-hydroxymitragynine and synthetically derived compounds
2-7 from a kratom plant.

2-8 Sec. 444.004. OFFENSE FOR DISTRIBUTION OR SALE OF KRATOM
2-9 PRODUCT TO MINOR. (a) A person commits an offense if the person
2-10 distributes, sells, or exposes for sale a kratom product to someone
2-11 who is younger than 18 years of age.

2-12 (b) An offense under this section is a Class C misdemeanor.

2-13 Sec. 444.005. CIVIL PENALTY. (a) A person who violates
2-14 this chapter is subject to a civil penalty in the amount of:

2-15 (1) \$250 for the first violation;

2-16 (2) \$500 for the second violation; and

2-17 (3) \$1,000 for each subsequent violation.

2-18 (b) Each day a violation continues or occurs is a separate
2-19 violation for purposes of imposing a penalty under this section.

2-20 (c) A kratom retailer is not liable for a civil penalty
2-21 under this section for a violation of Section 444.002 or 444.003 if
2-22 the kratom retailer proves by a preponderance of the evidence that
2-23 the violation was unintentional and due to the kratom retailer's
2-24 good faith reliance on the representation of another kratom
2-25 processor.

2-26 (d) The attorney general, the district or county attorney
2-27 for the county, or the municipal attorney of the municipality in
2-28 which the violation is alleged to have occurred may bring an action
2-29 to recover a civil penalty under this section.

2-30 Sec. 444.006. PENALTIES UNDER OTHER LAW. The penalties
2-31 prescribed by this chapter are in addition to any other penalties
2-32 prescribed by law, including penalties prescribed by Chapters 431
2-33 and 481.

2-34 Sec. 444.007. RULES. The executive commissioner may adopt
2-35 rules consistent with this chapter as necessary to ensure the safe
2-36 consumption and distribution of kratom and kratom products.

2-37 SECTION 3. This Act takes effect September 1, 2021.

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