

By: Zaffirini

S.B. No. 821

A BILL TO BE ENTITLED

AN ACT

relating to the processing and sale of kratom and kratom products and related public health and safety protections; providing civil penalties; providing rulemaking authority.

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) "Department" means the Department of State Health Services.

(2) "Food" has the meaning assigned by Section 432.003.

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

(4) "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

1 proper labeling of kratom products; or

2 (D) packages or labels kratom products.

3 (5) "Kratom product" means a food, including an  
4 extract, capsule, or pill, containing any form of kratom.

5 (6) "Kratom retailer" means a kratom processor who  
6 engages in selling kratom products to consumers or who advertises,  
7 represents, or holds oneself out as a person who sells kratom  
8 products to consumers.

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

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

15 Sec. 444.003. ADULTERATED, CONTAMINATED, AND PROHIBITED  
16 PRODUCTS. A kratom processor or kratom retailer may not prepare,  
17 distribute, sell, or offer to sell a kratom product that:

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

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

25 (3) has a level of 7-hydroxymitragynine in the  
26 alkaloid fraction that is greater than two percent of the overall  
27 alkaloid composition of the product; or

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

4           Sec. 444.004. DISTRIBUTION AND SALE OF KRATOM PRODUCTS TO  
5 MINORS PROHIBITED. A person may not distribute, sell, or expose for  
6 sale a kratom product to someone who is younger than 18 years of  
7 age.

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

10                   (1) \$250 for the first violation;

11                   (2) \$500 for the second violation; and

12                   (3) \$1,000 for each subsequent violation.

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

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

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

25           Sec. 444.006. RULES. The department may adopt rules  
26 consistent with this chapter as necessary to ensure the safe  
27 consumption and distribution of kratom.

1 SECTION 2. This Act takes effect September 1, 2021.