

BILL ANALYSIS

Senate Research Center

S.B. 497
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Health & Human Services
5/24/2023
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Kratom, also known by its scientific name *mitragyna speciosa*, is a tropical evergreen tree in the coffee family indigenous to southeast Asia, most notably Indonesia. The leaves of the kratom tree have long been used medicinally in traditional remedies and have grown in popularity worldwide in the last few decades. It is most commonly consumed by chewing the leaves or brewing them into tea. In low doses, kratom reportedly has similar effects to caffeine, including boosted energy, greater focus, etc.—not surprising, given its scientific relationship with coffee. In higher doses, however, kratom has been employed as a non-opioid pain reliever for acute or chronic pain.

As kratom use grew, especially in the late 2000s and early 2010s, some evidence emerged that kratom overdoses led to deaths, leading to increased federal scrutiny. Adulterated kratom—which has been "strengthened" chemically by addition or manipulation—can be harmful, necessitating some regulation of the product's sale.

With time, however, a new consensus has emerged: Pure kratom is not harmful.

S.B. 497 would establish a base level of regulation on the sale of kratom in Texas by requiring proper labeling of kratom products with use instructions and recommended serving size, prohibiting the sale of adulterated or contaminated kratom or kratom with abnormal alkaloid levels, limiting the sale of kratom only to adults, and establishing escalating civil penalties for violations.

S.B. 497 amends current law relating to the processing and sale of kratom and kratom products, provides civil penalties, and creates a criminal offense.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 444.007, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Requires that this Act be known as the Texas Kratom Consumer Health and Safety Protection Act.

SECTION 2. Amends Subtitle A, Title 6, Health and Safety Code, by adding Chapter 444, as follows:

CHAPTER 444. MANUFACTURE, DISTRIBUTION, AND SALE OF KRATOM PRODUCTS

Sec. 444.001. DEFINITIONS. Defines "food," "kratom," "kratom processor," "kratom product," and "kratom retailer."

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

(b) Authorizes a kratom retailer to only sell a kratom product that is properly labeled in accordance with this section.

Sec. 444.003. ADULTERATED, CONTAMINATED, AND PROHIBITED KRATOM PRODUCTS. Prohibits a kratom processor or kratom retailer from preparing, distributing, selling, or offering to sell a kratom product that:

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

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

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

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

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

(b) Provides that an offense under this section is a Class C misdemeanor.

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

(1) \$250 for the first violation;

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

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

(b) Provides that each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under this section.

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

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

Sec. 444.006. PENALTIES UNDER OTHER LAW. Provides that the penalties prescribed by this chapter are in addition to any other penalties prescribed by law, including penalties prescribed by Chapters 431 (Texas Food, Drug, and Cosmetic Act) and 481.

Sec. 444.007. RULES. Authorizes the executive commissioner of the Health and Human Services Commission to adopt rules consistent with this chapter as necessary to ensure the safe consumption and distribution of kratom and kratom products.

SECTION 3. Effective date: September 1, 2023.