



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3948

Introduced 1/21/2022, by Sen. Elgie R. Sims, Jr.

SYNOPSIS AS INTRODUCED:

New Act

Creates the Kratom Consumer Protection Act. Establishes safety requirements for the preparation, distribution, sale, and exposure for sale of Kratom products and extracts. Prohibits the preparation, distribution, sale, and exposure for sale of adulterated Kratom products and extracts. Provides that a processor of Kratom products that violates the Act is subject to an administrative penalty of not more than \$5,000 for the first offense and not more than \$10,000 for the second or subsequent offense. Provides that the penalty shall be collected by the Department of Public Health and paid into the Food and Drug Safety Fund. Upon the request of a person to whom an administrative penalty is issued, the Director of Public Health shall conduct a hearing in accordance with the Illinois Administrative Procedure Act. Provides that a processor shall not distribute, sell, or expose for sale a Kratom product to a person under 18 years of age. Provides that a person who violates the age restrictions shall be punished as provided in the Kratom Control Act. Provides that a retailer does not violate the Act if it is shown by a preponderance of the evidence that the retailer relied in good faith upon the representations of a manufacturer, processor, packer, or distributor of food represented to be a Kratom product.

LRB102 23057 RLC 32213 b

1 AN ACT concerning Kratom.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Kratom
5 Consumer Protection Act.

6 Section 5. Definitions.

7 (a) As used in this Act:

8 "Director" means the Director of Public Health.

9 "Food" means a food, food product, food ingredient,
10 dietary ingredient, dietary supplement, or beverage for human
11 consumption. "Food" includes a Kratom product.

12 "Kratom extract" means a food product or dietary
13 ingredient containing any part of the leaf of the plant
14 *Mitragyna Speciosa* that has been extracted and concentrated in
15 order to provide more standardized dosing.

16 "Kratom product" means a food product or dietary
17 ingredient containing any part of the leaf of the plant
18 *Mitragyna speciosa* or an extract of it that is manufactured as
19 a powder, capsule, pill, beverage, or other edible form.

20 "Processor" means a person that sells, prepares,
21 manufactures, distributes, or maintains Kratom products, or
22 advertises, represents, or holds itself out as selling,
23 preparing, or maintaining Kratom products.

1 "Retailer" means any person that sells, distributes,
2 advertises, represents, or holds itself out as selling or
3 maintaining Kratom products.

4 Section 10. Kratom product limitations. A processor shall
5 not prepare, distribute, sell, or expose for sale any of the
6 following:

7 (1) A Kratom product that is adulterated with a dangerous
8 non-Kratom substance. For purposes of this Act, a Kratom
9 product is adulterated with a dangerous non-Kratom substance
10 if the Kratom product is mixed or packed with a non-Kratom
11 substance and that substance affects the quality or strength
12 of the Kratom product to such a degree as to render the Kratom
13 product injurious to a consumer.

14 (2) A Kratom product that is contaminated with a dangerous
15 non-Kratom substance. For purposes of this Act, a Kratom
16 product is contaminated with a dangerous non-Kratom substance
17 if the Kratom product contains a poisonous or otherwise
18 deleterious non-Kratom ingredient, including, but not limited
19 to, the substances listed in Section 204, 206, 208, 210, or 212
20 of the Illinois Controlled Substances Act.

21 (3) A Kratom extract that contains levels of residual
22 solvents higher than is allowed by United States Pharmacopeia
23 (USP) 467.

24 (4) A Kratom product containing a level of
25 7-hydroxymitragynine in the alkaloid fraction that is greater

1 than 2% of the overall alkaloid composition of the product.

2 (5) A Kratom product containing any synthetic alkaloids
3 including synthetic mitragynine, synthetic
4 7-hydroxymitragynine, or any other synthetically derived
5 compounds of the Kratom plant.

6 (6) A Kratom product that does not provide adequate
7 labeling directions necessary for safe and effective use by
8 consumers, including a recommended serving size.

9 Section 15. Age limits. A processor shall not distribute,
10 sell, or expose for sale a Kratom product to a person under 18
11 years of age. A person who violates this Section shall be
12 punished as provided in the Kratom Control Act.

13 Section 20. Violations.

14 (a) A processor that violates Section 10 is subject to an
15 administrative penalty of not more than \$5,000 for the first
16 offense and not more than \$10,000 for the second or subsequent
17 offense. The penalty shall be collected by the Department of
18 Public Health and paid into the Food and Drug Safety Fund. Upon
19 the request of a person to whom an administrative penalty is
20 issued, the Director shall conduct a hearing in accordance
21 with the Illinois Administrative Procedure Act.

22 (b) A retailer does not violate Section 10 if it is shown
23 by a preponderance of the evidence that the retailer relied in
24 good faith upon the representations of a manufacturer,

1 processor, packer, or distributor of food represented to be a
2 Kratom product.