

HOUSE BILL No. 2400

By Committee on Federal and State Affairs

3-18

1 AN ACT concerning food products; enacting the kratom consumer
2 protection act.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. The provisions of sections 1 through 8, and amendments
6 thereto, shall be known and may be cited as the kratom consumer
7 protection act.

8 Sec. 2. As used in sections 1 through 8, and amendments thereto:

9 (a) "Dealer" means a person that sells, prepares or maintains kratom
10 products, or advertises or represents that such person sells, prepares or
11 maintains kratom products, including, but not limited to, a manufacturer,
12 wholesaler, retail store, restaurant, hotel, catering facility, camp, bakery,
13 delicatessen, grocery store, convenience store or nursing home.

14 (b) "Food" means a food product, food ingredient, dietary ingredient,
15 dietary supplement or beverage that is produced for human consumption.

16 (c) "Kratom product" means a food containing any part of the leaf of
17 the plant *mitragyna speciosa*.

18 Sec. 3. (a) It shall be unlawful for any dealer to manufacture,
19 prepare, distribute, sell or otherwise provide food that is represented to be
20 a kratom product, unless the dealer discloses the factual basis for such
21 representation on the label of such product.

22 (b) A violation of this section shall be punishable by a civil fine of
23 not to exceed \$500 for a first offense and not to exceed \$1,000 for a
24 second or subsequent offense.

25 (c) The provisions of this section shall be subject to the Kansas
26 administrative procedure act.

27 Sec. 4. (a) It shall be unlawful for any dealer to manufacture, prepare,
28 distribute, sell or otherwise provide any kratom product:

29 (1) That is mixed or packed with a non-kratom substance that affects
30 the quality or strength of the kratom product to such a degree as to render
31 the kratom product harmful if consumed;

32 (2) that contains a poisonous or otherwise harmful non-kratom
33 substance, including, but not limited to, any controlled substance, as
34 defined in K.S.A. 65-4101, and amendments thereto;

35 (3) that contains a level of 7-hydroxymitragynine in the alkaloid
36 fraction that is greater than 2% of the alkaloid composition of such

1 product;

2 (4) that contains any synthetic alkaloids including synthetic
3 mitragynine, synthetic 7-hydroxymitragynine or any other synthetically
4 derived compounds of the kratom plant; or

5 (5) that does not state the amount of mitragynine and 7-
6 hydroxymitragynine contained in such product on the label of such
7 product.

8 (b) Violation of this section is a class C misdemeanor.

9 (c) It shall not be a violation of this section, if it is shown by a
10 preponderance of the evidence that the dealer relied in good faith upon the
11 representations of a manufacturer, processor, packer or distributor who
12 represented the food to be a kratom product.

13 Sec. 5. (a) It shall be unlawful for any dealer to distribute, sell or
14 otherwise provide any kratom product to an individual under 18 years of
15 age.

16 (b) Violation of this section is a class C misdemeanor.

17 Sec. 6. Any person aggrieved by a violation of section 4, and
18 amendments thereto, may, in addition to any other remedy at law or equity,
19 bring a cause of action against the dealer who violated section 4, and
20 amendments thereto, for any damages resulting from such violation,
21 including, but not limited to, economic, noneconomic and consequential
22 damages.

23 Sec. 7. A dealer shall be deemed a food establishment or food
24 processing plant, as such terms are defined in K.S.A. 65-656, and
25 amendments thereto, dependent on the conduct of such dealer, and shall be
26 subject to the provisions of the Kansas food, drug and cosmetic act, K.S.A.
27 65-619 et seq., and amendments thereto.

28 Sec. 8. The secretary of agriculture shall adopt rules and regulations
29 for the administration and enforcement of sections 1 through 7, and
30 amendments thereto, under the Kansas food, drug and cosmetic act, K.S.A.
31 65-619 et seq., and amendments thereto, including, but not limited to, the
32 format, size and placement of labels, and the information required to be
33 included on such labels.

34 Sec. 9. This act shall take effect and be in force from and after its
35 publication in the statute book.