HOUSE No. 3762

The Commonwealth of Massachusetts

PRESENTED BY:

Daniel J. Hunt

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act concerning the regulation of Kratom.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Daniel J. Hunt	13th Suffolk	1/18/2023
Jacob R. Oliveira	Hampden, Hampshire and Worcester	2/6/2024

HOUSE No. 3762

By Representative Hunt of Boston, a petition (accompanied by bill, House, No. 3762) of Daniel J. Hunt relative to establishing a penalty for the sale, preparation, manufacturing, or distribution of kratom products that are contaminated with dangerous non-kratom substances. The Judiciary.

The Commonwealth of Alassachusetts

In the One Hundred and Ninety-Third General Court (2023-2024)

An Act concerning the regulation of Kratom.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Chapter 270 of the General Laws is hereby amended by adding the
- 2 following section:-
- 3 Section 30. (a) For the purposes of this section, the following words shall, unless the
- 4 context clearly requires otherwise, have the following meanings:
- 5 "Food", a food, food product, food ingredient, dietary ingredient, dietary supplement or
- 6 beverage for human consumption.
- 7 "Kratom extract", a food product or dietary ingredient containing any part of the leaf of
- 8 the plant Mitragyna speciosa that has been extracted or concentrated in order to provide more
- 9 standardized product content.

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

"Processor", a person that sells, prepares, manufactures, distributes or maintains kratom products, or advertises, represents, or holds itself out as selling, preparing or maintaining kratom products.

"Retailer", a person that sells, distributes, advertises, represents, or holds itself out as selling or maintaining kratom products.

- (b) A processor shall not prepare, distribute, sell or expose for sale:
- (i) a kratom product that is adulterated with a dangerous non-kratom substance. A kratom product is adulterated with a dangerous non-kratom substance if the kratom product is mixed or packed with a non-kratom substance and that substance affects the quality or strength of the kratom product to such a degree as to render the kratom product injurious to a consumer;
- (ii) a kratom product that is contaminated with a dangerous non-kratom substance. A kratom product is contaminated with a dangerous non-kratom substance if the kratom product contains a poisonous or otherwise deleterious non-kratom ingredient, including, but not limited to, the substances listed in section 31 and analogues of those substances;
- 27 (iii) a kratom extract that contains levels of residual solvents higher than is allowed in USP-NF chapter 467, as published by the United States Pharmacopeia;
 - (iv) a kratom product containing a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than 1 per cent of the overall alkaloid composition of the product;

- (v) a kratom product containing any synthetic alkaloids including synthetic mitragynine,
 synthetic 7-hydroxymitragynine or any other synthetically-derived compounds of the kratom
 plant.
 - (vi) a kratom product that does not provide labeling directions necessary for safe use by consumers, including a recommended serving size, and the name and address of the manufacturer.

- (c) A processor shall not distribute, sell or expose for sale a kratom product to an individual under 21 years of age.
- (d) (1) A person who violates subsection (b) shall subject to an administrative fine of not more than \$500 for the first offense and not more than \$1,000 for subsequent offenses. Upon the request of a person to whom an administrative fine is issued, the department shall conduct a hearing in accordance with chapter 30A.
- (2) A retailer does not violate subsection (b) if they can show 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.
- (e) A person who violates subsection (c) shall be punished by a fine of \$1,000 for the first offense, \$2,000 for a second offense and \$5,000 for a third or subsequent offense.
- 48 SECTION 2. This act shall take effect 180 days following its passage.