

HOUSE No. 4985

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, August 5, 2024.

The committee on the Judiciary, to whom was referred the 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, reports recommending that the accompanying bill (House, No. 4985) ought to pass.

For the committee,

MICHAEL S. DAY.

HOUSE No. 4985

The Commonwealth of Massachusetts

**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 product", a food product or dietary ingredient containing any part of the leaf of
8 the *Mitragyna speciosa* plant, or a kratom extract, manufactured as a food, powder, capsule, pill,
9 beverage or other edible product including any material, compound, mixture or preparation
10 containing kratom.

11 "Kratom retailer", a person or entity who sells maintains or distributes kratom or
12 advertises, represents, or holds itself out as selling. maintaining or distributing kratom products.

13 “Manufacture” means the production, preparation, compounding, or processing of
14 kratom, either directly or indirectly or by extraction from substances of natural origin, or
15 independently by means of chemical synthesis or by a combination of extraction and chemical
16 synthesis, and includes, but is not limited to, any packaging or repackaging of such substance or
17 labeling or relabeling of its container.

18 (b) A kratom retailer shall not sell, distribute or offer for sale a kratom product without a
19 label clearly stating: (i) the name and address of its manufacturer; (ii) a full list of its ingredients;
20 and (iii) directions for its safe and effective use including the recommended serving size.

21 (c) A kratom retailer shall not distribute, advertise, sell or offer for sale:

22 (i) a kratom product that is adulterated with a dangerous non-kratom substance. A kratom
23 product is adulterated with a dangerous non-kratom substance if the kratom product is mixed or
24 packed with a non-kratom substance and that substance affects the quality or strength of the
25 kratom product to such a degree as to renders the kratom product injurious to a consumer;

26 (ii) a kratom product that is contaminated with a dangerous non-kratom substance. A
27 kratom product is contaminated with a dangerous non-kratom substance if the kratom product
28 contains a poisonous or otherwise deleterious non-kratom ingredient, including, but not limited
29 to, a controlled substance or controlled substance analogue as both are defined in section 1 of
30 chapter 94C;

31 (iii) a kratom product containing a level of 7-hydroxymitragynine in the alkaloid fraction
32 that is greater than 2 per cent of the overall alkaloid composition of the product; or

33 (iv) a kratom product containing any synthetic alkaloids including synthetic mitragynine,
34 synthetic 7-hydroxymitragynine or any other synthetically derived compounds of the kratom
35 plant.

36 (d) A kratom retailer shall not knowingly distribute, sell or offer for sale any kratom
37 product to an individual under 18 years of age. (e) A kratom retailer who violates
38 subsection (b) or subsection (c) shall subject to an administrative fine of not more than \$500 for
39 the first offense and not more than \$1,000 for subsequent offenses. Upon the request of a person
40 to whom an administrative fine is issued, the department shall conduct a hearing in accordance
41 with chapter 30A.

42 (2) A kratom retailer does not violate subsection (b) or subsection (c) if they can show by
43 a preponderance of the evidence that they relied in good faith upon the representations of a
44 manufacturer, processor, packer or distributor of a kratom product or food represented to be a
45 kratom product that such product was in compliance with this section.

46 (f) A kratom retailer who violates subsection (d) shall be punished by a fine of \$1,000 for
47 the first offense, \$2,000 for a second offense and \$5,000 for a third or subsequent offense.

48 (g) The department of public health shall promulgate rules and regulations for the
49 administration and enforcement of this section including standards for accurate labeling and for
50 testing kratom products for safety.

51 SECTION 2. This act shall take effect 180 days following its passage.