

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 2846

By: Pae

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5  
6 AS INTRODUCED

7 An Act relating to public health and safety; creating  
8 the Oklahoma Kratom Consumer Protection Act; defining  
9 terms; requiring kratom vendors to disclose certain  
10 information on product label; making certain acts  
11 unlawful; providing penalties; authorizing aggrieved  
12 person to bring private cause of action under certain  
13 circumstances; providing for codification; and  
14 providing an effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 2-351 of Title 63, unless there  
18 is created a duplication in numbering, reads as follows:

19 Sections 1 through 5 of this act shall be known and may be cited  
20 as the "Oklahoma Kratom Consumer Protection Act".

21 SECTION 2. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 2-352 of Title 63, unless there  
23 is created a duplication in numbering, reads as follows:

24 As used in this act:

1 1. "Food" means a food, food product, food ingredient, dietary  
2 ingredient, dietary supplement or beverage for human consumption;

3 2. "Kratom product" means a food product or dietary ingredient  
4 containing any part of the leaf of the plant *Mitragyna speciosa*; and

5 3. "Vendor" means a person that sells, prepares or maintains  
6 kratom products or that advertises, represents or holds itself out  
7 as selling, preparing or maintaining kratom products and includes a  
8 manufacturer, wholesaler, store, restaurant, hotel, catering  
9 facility, camp, bakery, delicatessen, supermarket, grocery store,  
10 convenience store, nursing home or food or drink company.

11 SECTION 3. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 2-353 of Title 63, unless there  
13 is created a duplication in numbering, reads as follows:

14 A. A vendor that prepares, distributes, sells or exposes for  
15 sale a food that is represented to be a kratom product shall  
16 disclose on the product label the factual basis on which that  
17 representation is made.

18 B. A vendor shall not prepare, distribute, sell or expose for  
19 sale a food represented to be a kratom product that does not conform  
20 to the disclosure required by this section.

21 SECTION 4. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 2-354 of Title 63, unless there  
23 is created a duplication in numbering, reads as follows:

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1 A. A vendor shall not prepare, distribute, sell or expose for  
2 sale any of the following:

3 1. A kratom product that is adulterated with a dangerous  
4 nonkratom substance. A kratom product is adulterated with a  
5 dangerous nonkratom substance if the kratom product is mixed or  
6 packed with a nonkratom substance and that substance affects the  
7 quality or strength of the kratom product to such a degree as to  
8 render the kratom product injurious to a consumer;

9 2. A kratom product that is contaminated with a dangerous  
10 nonkratom substance. A kratom product is contaminated with a  
11 dangerous nonkratom substance if the kratom product contains a  
12 poisonous or otherwise deleterious nonkratom substance, including  
13 any controlled substance prescribed by the Uniform Controlled  
14 Dangerous Substances Act;

15 3. A kratom product containing a level of 7-hydroxymitragynine  
16 in the alkaloid fraction that is greater than two percent (2%) of  
17 the alkaloid composition of the product; and

18 4. A kratom product containing any synthetic alkaloid including  
19 synthetic mitragynine, synthetic 7-hydroxymitragynine or any other  
20 synthetically derived compounds of the kratom plant.

21 B. Kratom packaging shall be accompanied by a label bearing the  
22 following information prior to its sale in this state:

23 1. A list of the ingredients;

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1           2. That the sale or transfer of kratom to a person under  
2 eighteen (18) years of age is prohibited;

3           3. The amount of mitragynine and 7-hydroxymitragynine contained  
4 in the product;

5           4. The amount of mitragynine and 7-hydroxymitragynine contained  
6 in the packaging for the product;

7           5. The common or usual name of each ingredient used in the  
8 manufacture of the product listed in descending order of  
9 predominance;

10          6. The name and the principal mailing address of the  
11 manufacturer or the person responsible for distributing the product;

12          7. Clear and adequate directions for the consumption and safe  
13 and effective use of the product; and

14          8. Any precautionary statements as to the safety and  
15 effectiveness of the product.

16          C. A vendor shall not distribute, sell or expose for sale a  
17 kratom product to an individual under eighteen (18) years of age.

18          SECTION 5.        NEW LAW        A new section of law to be codified  
19 in the Oklahoma Statutes as Section 2-355 of Title 63, unless there  
20 is created a duplication in numbering, reads as follows:

21          A. A vendor who violates any of the provisions set forth in  
22 Section 3 or 4 of this act shall, upon conviction, be guilty of a  
23 misdemeanor punishable by imprisonment in a county jail for a term  
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1 of not more than one (1) year, or by a fine of not more than One  
2 Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

3 B. A person aggrieved by a violation of Section 3 or 4 of this  
4 act may bring a cause of action in a court of competent jurisdiction  
5 for damages resulting from that violation including, but not limited  
6 to, economic, noneconomic or consequential damages.

7 C. A vendor does not violate the provisions of Section 3 or 4  
8 of this act if the court finds by a preponderance of the evidence  
9 that the vendor relied in good faith on the representation of a  
10 manufacturer, processor, packer or distributor that the food product  
11 or dietary ingredient was a kratom product.

12 SECTION 6. This act shall become effective November 1, 2020.

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14 57-2-9039 GRS 11/15/19

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