

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 1784

By: Pae of the House

and

Paxton of the Senate

7
8
9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to public health and safety; creating
12 the Oklahoma Kratom Consumer Protection Act; defining
13 terms; requiring kratom vendors to disclose certain
14 information on product label; prohibiting kratom
15 vendors from certain activities if disclosure
16 requirement is not met; prohibiting kratom vendors
17 from preparing, distributing or selling kratom
18 products under certain circumstances; stating label
19 requirements for kratom products; prohibiting kratom
20 vendors from distributing or selling kratom products
21 to minors; requiring vendors to provide test results;
22 providing administrative penalties for certain
23 violations; authorizing aggrieved person to bring
24 cause of action under certain circumstances; making
certain declaration upon a specific finding by the
court; providing for codification; and providing an
effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-1432.1 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

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

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1-1432.2 of Title 63, unless
8 there is created a duplication in numbering, reads as follows:

9 As used in this act:

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

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

14 3. "Vendor" means a person that sells, prepares or maintains
15 kratom products or that advertises, represents or holds itself out
16 as selling, preparing or maintaining kratom products and includes a
17 manufacturer, wholesaler, store, restaurant, hotel, catering
18 facility, camp, bakery, delicatessen, supermarket, grocery store,
19 convenience store, nursing home or food or drink company.

20 SECTION 3. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1-1432.3 of Title 63, unless
22 there is created a duplication in numbering, reads as follows:

23 A. A vendor that prepares, distributes, sells or exposes for
24 sale a food or product that contains kratom as an ingredient or that

1 is represented to be a kratom product shall disclose on the product
2 label, website, or a quick response (QR) code on the product label
3 linked to a website, the factual basis on which that representation
4 is made.

5 B. A vendor shall not prepare, distribute, sell or expose for
6 sale a food or ingredient that contains kratom as an ingredient or
7 that is represented to be a kratom product that does not conform to
8 the disclosure required by this section.

9 SECTION 4. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1-1432.4 of Title 63, unless
11 there is created a duplication in numbering, reads as follows:

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

14 1. A kratom product that is adulterated with a nonkratom
15 substance. A kratom product is adulterated with a nonkratom
16 substance if the kratom product is mixed or packed with a nonkratom
17 substance and that substance affects the quality or strength of the
18 kratom product to such a degree as to render the kratom product
19 injurious to a consumer;

20 2. A kratom product that is contaminated with a dangerous
21 nonkratom substance. A kratom product is contaminated with a
22 dangerous nonkratom substance if the kratom product contains a
23 substance that is not safe for human consumption;

24

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

4 4. A kratom product containing any synthetic alkaloid including
5 synthetic mitragynine, synthetic 7-hydroxymitragynine or any other
6 synthetically derived compounds of the kratom plant; or

7 5. A kratom product containing any controlled substance listed
8 in the Uniform Controlled Dangerous Substances Act, unless the
9 product is compounded by a licensed pharmacist with the controlled
10 substance dispensed in accordance with a valid prescription.

11 B. Kratom products shall be accompanied by a label, or a quick
12 response (QR) code on the product label linked to a website, bearing
13 the following information prior to its sale in this state:

14 1. A list of the ingredients which shall include the common or
15 usual name of each ingredient used in the manufacture of the
16 product, listed in descending order of predominance;

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

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

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

23 5. The name and the principal street address of the vendor or
24 the person responsible for distributing the product;

1 6. The suggested use of the product; and

2 7. Any precautionary statements as to the safety and
3 effectiveness of the product.

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

6 D. Upon request by the State Department of Health, the vendor
7 shall provide test results from a United States-based testing
8 facility to confirm the items listed on the product label.

9 SECTION 5. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1-1432.5 of Title 63, unless
11 there is created a duplication in numbering, reads as follows:

12 A. The owner or manager of a vendor who violates any of the
13 provisions of Section 3 or 4 of this act shall be punished by an
14 administrative penalty of not more than Five Hundred Dollars
15 (\$500.00) for a first offense and not more than One Thousand Dollars
16 (\$1,000.00) for a second offense. Upon a third offense, the vendor
17 shall be prohibited from selling kratom products for a period of
18 three (3) years. If the State Department of Health receives a
19 complaint that the owner or manager of a vendor is selling kratom
20 products during the period of suspension, then the State Department
21 of Health shall forward the information to the applicable district
22 attorney's office. If the owner or manager of a vendor commits such
23 violation during the three-year period, the person shall, upon
24 conviction, be guilty of a misdemeanor punishable by imprisonment in

1 a county jail for a term of not more than one (1) year, or by a fine
2 of not more than Two Thousand Dollars (\$2,000.00), or by both such
3 fine and imprisonment.

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

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

13 SECTION 6. This act shall become effective November 1, 2021.

14

15 58-1-8238 GRS 05/05/21

16

17

18

19

20

21

22

23

24