

1 **SENATE FLOOR VERSION**

2 April 5, 2021

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

By: Pae of the House

and

Paxton of the Senate

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9 [public health and safety - Oklahoma Kratom Consumer
10 Protection Act - information on product label -
11 codification - effective date]

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

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

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

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

22 As used in this act:

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

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

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

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

12 A. A vendor that prepares, distributes, sells or exposes for
13 sale a food or ingredient that contains kratom as an ingredient or
14 that is represented to be a kratom product shall disclose on the
15 product label, or a quick response (QR) code on the product label
16 linked to a website, the factual basis on which that representation
17 is made.

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

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

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 nonkratom
4 substance. A kratom product is adulterated with a nonkratom
5 substance if the kratom product is mixed or packed with a nonkratom
6 substance and that substance affects the quality or strength of the
7 kratom product to such a degree as to render the kratom product
8 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 any
13 controlled substance listed in the Uniform Controlled Dangerous
14 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, or a quick
22 response (QR) code on the product label linked to a website, bearing
23 the following information prior to its sale in this state:

24 1. A list of the ingredients;

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. The suggested use of the product; and

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

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

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

20 A. The owner or manager of a vendor who violates any of the
21 provisions of Section 3 or 4 of this act shall, upon conviction, be
22 guilty of a misdemeanor punishable by a fine of not more than Five
23 Hundred Dollars (\$500.00) for a first offense and a fine of not more
24 than One Thousand Dollars (\$1,000.00) for a second offense. Upon

1 conviction for a third offense, the vendor shall be prohibited from
2 selling kratom products for a period of three (3) years. The owner
3 or manager of a vendor who sells kratom products during the period
4 of suspension shall, upon conviction, be guilty of a misdemeanor
5 punishable by imprisonment in a county jail for a term of not more
6 than one (1) year, or by a fine of not more than Two Thousand
7 Dollars (\$2,000.00), or by both such fine and imprisonment.

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

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

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

18 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
19 April 5, 2021 - DO PASS AS AMENDED
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