

JAN 26 2022

A BILL FOR AN ACT

RELATING TO KRATOM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 328, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART .**

5 **HAWAII KRATOM CONSUMER PROTECTION ACT**

6 **§328- Short title.** This part shall be known and may be
7 cited as the Hawaii Kratom Consumer Protection Act.

8 **§328- Definitions.** As used in this part, unless the
9 context otherwise requires:

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

13 "Kratom" means any part of the leaf of the plant *Mitragyna*
14 *speciosa*.

15 "Kratom product" means a food product or ingredient
16 containing kratom.



1 "Vendor" means any person who sells, prepares, or maintains
2 kratom products or that advertises, represents, or holds oneself
3 out as selling, preparing, or maintaining kratom products.

4 "Vendor" includes a manufacturer, wholesaler, store, restaurant,
5 hotel, catering facility, camp, bakery, delicatessen,
6 supermarket, grocery store, convenience store, nursing home, or
7 food or drink company.

8 **\$328- Vendor disclosure requirements.** (a) A vendor
9 who prepares, distributes, sells, or exposes for sale a food or
10 product that contains kratom as an ingredient or that is
11 represented to be a kratom product shall disclose on the product
12 label or website, or on a quick response code on the product
13 label linked to a website, the factual basis on which that
14 representation is made.

15 (b) A vendor shall not prepare, distribute, sell, or
16 expose for sale a food or product that contains kratom as an
17 ingredient or that is represented to be a kratom product that
18 does not conform to the disclosure required by this section.

19 **\$328- Prohibited kratom products; labeling**
20 **requirements; sale to minors prohibited; test results.** (a) A



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

3 (1) A kratom product that is adulterated with a nonkratom
4 substance. For purposes of this paragraph,
5 "adulterated with a nonkratom substance" means the
6 kratom product is mixed or packed with a nonkratom
7 substance and that substance affects the quality or
8 strength of the kratom product to such a degree as to
9 render the kratom product injurious to a consumer;

10 (2) A kratom product that is contaminated with a dangerous
11 nonkratom substance. For purposes of this paragraph,
12 "contaminated with a dangerous nonkratom substance"
13 means the kratom product contains a substance that is
14 not safe for human consumption;

15 (3) A kratom product containing a level of
16 7-hydroxymitragynine in the alkaloid fraction that is
17 greater than two per cent of the alkaloid composition
18 of the product;

19 (4) A kratom product containing any synthetic alkaloid,
20 including synthetic mitragynine, synthetic



1 7-hydroxymitragynine, or any other synthetically
2 derived compounds of the kratom plant; or

3 (5) A kratom product containing any controlled substance
4 listed in any of the schedules under chapter 329,
5 unless the product is compounded by a licensed
6 pharmacist with the controlled substance dispensed in
7 accordance with a valid prescription.

8 (b) Kratom products shall be accompanied by a product
9 label, or on a quick response code on the product label linked
10 to a website, bearing the following information prior to sale in
11 the State:

12 (1) A list of the ingredients, including the common or
13 usual name of each ingredient used in the manufacture
14 of the kratom product, listed in descending order of
15 predominance;

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

18 (3) The amount of mitragynine and 7-hydroxymitragynine
19 contained in the kratom product;

20 (4) The amount of mitragynine and 7-hydroxymitragynine
21 contained in packaging for the kratom product;



(5) The name and the principal street address of the vendor or the person responsible for distributing the kratom product;

(6) The suggested use of the kratom product; and

(7) Any precautionary statements as to the safety and effectiveness of the kratom product.

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

(d) Upon request by the department, a vendor shall provide test results from a United States-based testing facility to confirm the items listed on the kratom product label.

§328- Penalties; cause of action; standard of proof.

(a) The owner or manager of a vendor who violates any of the provisions of this part shall subject to the following penalties:

(1) For the first offense, a fine of not more than \$500;

(2) For the second offense, a fine of not more than \$1,000; and



1 (3) For any subsequent offense, the vendor shall be
2 prohibited from selling kratom products for a period
3 of three years.

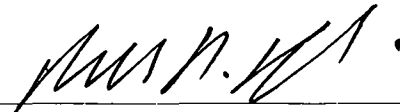
4 (b) The owner or manager of a vendor who violates the
5 prohibition against selling kratom products during the three-
6 year period under subsection (a) (3) shall be guilty of a
7 misdemeanor and, upon conviction, be fined not more than \$2,000,
8 or imprisoned for not more than one year, or both.

9 (c) A person aggrieved by a violation of this part may
10 bring a cause of action in a court of competent jurisdiction for
11 damages resulting from that violation including but not limited
12 to economic, noneconomic, or consequential damages.

13 (d) A vendor shall be immune from liability for actions
14 arising under this part if the court finds by a preponderance of
15 the evidence that the vendor relied in good faith on the
16 representation of a manufacturer, processor, packager, or
17 distributor that the food was a kratom product."

18 SECTION 2. This Act shall take effect on January 1, 2023.

19 INTRODUCED BY: _____



By Request



S.B. NO. 3307

Report Title:

Kratom; Kratom Products; Labeling; Penalties; Sale to Minors
Prohibited

Description:

Establishes certain disclosure and labelling requirements for food, products, and dietary supplements containing kratom. Prohibits the distribution and sale of kratom products to minors. Imposes civil and criminal penalties for violations. Effective 1/1/2023.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

