

Kratom Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer Dailey-Provost

Senate Sponsor:

LONG TITLE**General Description:**

This bill amends provisions related to kratom.

Highlighted Provisions:

This bill:

- defines terms;
- requires a kratom processor and kratom retailer to register with the Department of Agriculture and Food;
- bans the sale of certain kratom products;
- amends provisions related to penalties and fees;
- amends the age for who can purchase a kratom product; and
- suspends the operation of the Kratom Consumer Protection Act if every alkaloid found in the *Mitragyna speciosa* plant is a controlled substances under state law.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-45-102, as enacted by Laws of Utah 2019, Chapter 329

4-45-103, as enacted by Laws of Utah 2019, Chapter 329

4-45-104, as enacted by Laws of Utah 2019, Chapter 329

4-45-105, as enacted by Laws of Utah 2019, Chapter 329

4-45-108, as enacted by Laws of Utah 2019, Chapter 329

ENACTS:

4-45-109, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **4-45-102** is amended to read:

4-45-102 . Definitions.

As used in this chapter:

[(1) "Commissioner" means the commissioner of the department.]

[(2) "Department" means the Department of Agriculture and Food created in Section 4-2-102.]

[(3) "Food" means:]

[(a) an article used for food or drink for human or animal consumption or the components of the article;]

[(b) chewing gum or chewing gum components; or]

[(c) a food supplement for special dietary use that is necessitated because of a physical, physiological, pathological, or other condition.]

(1) "Kratom extract" means a preparation containing any part of the Mitragyna speciosa plant in a concentrated form.

[(4)] (2) "Kratom processor" means a person who[:]

[(a) ~~sells, prepares, or maintains~~] prepares, processes, manufactures, or distributes a kratom product[; or] .

[(b) ~~advertises, represents, or holds oneself out as selling, preparing, or maintaining a~~ kratom product.]

(3) "Kratom retailer" means a person who sells a kratom product for retail sale in the state.

[(5)] (4) "Kratom product" [~~mean food~~] means a product containing any part of a leaf of the plant Mitragyna speciosa.

Section 2. Section **4-45-103** is amended to read:

4-45-103 . Factual basis for claim as kratom product required -- Administrative penalty -- Request for hearing.

(1) A kratom processor shall disclose on the product label of each kratom product that the kratom processor prepares, distributes, sells, or offers for sale the factual basis upon which the kratom processor represents the [~~food~~] product as a kratom product.

(2) For a violation of Subsection (1), a kratom processor is subject to an administrative fine [~~of~~] up to \$5,000.

[(a) ~~up to \$500 for the first offense; and~~]

[(b) ~~up to \$1,000 for a second or subsequent offense.~~]

(3) Upon the request of a kratom processor fined under this section, the commissioner shall conduct a hearing in accordance with Title 63G, Chapter 4, Administrative Procedures

Act.

Section 3. Section **4-45-104** is amended to read:

4-45-104 . Kratom processor and kratom retailer requirements -- Criminal penalty.

(1) A kratom processor or kratom retailer may not prepare, possess, distribute, sell, or offer for sale a kratom product:

(a) that is mixed or packed with a nonkratom substance[~~that affects the quality or strength of the kratom product to such a degree as to render the kratom product injurious to a consumer;~~] other than an inert encapsulating agent that:

(i) is composed of food-grade or pharmaceutical-grade materials with no pharmacological activity;

(ii) contains no psychoactive substances, stimulants, or adulterants; and

(iii) serves solely to contain or deliver the kratom product;

(b) that is not identifiable as plant matter;

(c) that includes any kratom extract;

~~[(b) that contains a poisonous or otherwise deleterious nonkratom ingredient, including a controlled substance as defined in Section 58-37-2;]~~

~~[(e)]~~ (d) containing a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than 2% of the alkaloid composition of the kratom product;

~~[(d)]~~ (e) containing a synthetic alkaloid, including synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compound of the kratom plant; or

~~[(e)]~~ (f) that does not include a product label on the kratom product packaging that states the amount of mitragynine and 7-hydroxymitragynine contained in the packaged kratom product.

(2) A kratom processor or kratom retailer who violates Subsection (1) is guilty of:

(a) a class [C] B misdemeanor for [each violation.] the first violation;

(b) a class A misdemeanor for a second violation; and

(c) a third degree felony for any subsequent violation.

~~[(3) A kratom processor does not violate Subsection (1) if the kratom processor shows by a preponderance of the evidence that the kratom processor relied in good faith upon the representation of a manufacturer, processor, packer, or distributor of food represented to be a kratom product.]~~

~~[(4)]~~ (3) A kratom processor or kratom retailer may not prepare, distribute, sell, or offer for

sale a kratom product that is not registered with the department in accordance with this chapter.

~~[(5)]~~ (4)(a) A kratom processor shall register as a food establishment in accordance with Section 4-5-301 and with the department as a kratom processor.

(b) A kratom retailer shall register with the department as kratom retailer.

(c) The department shall set a fee to register the following:

(i) a kratom processor; and

(ii) a kratom retailer.

(d) The department shall:

(i) set an administrative fine not to exceed \$5,000 for a person who sells a kratom product if the person is not registered as a kratom processor or kratom retailer with the department; and

(ii) assess the fine described in Subsection (4)(d)(i) against any person who offers a kratom product for sale in this state if the person is not registered as a kratom processor or kratom retailer.

Section 4. Section **4-45-105** is amended to read:

4-45-105 . Prohibition on sale to minors -- Criminal penalty.

(1) A kratom processor or kratom retailer may not distribute, sell, or offer for sale a kratom product to an individual under ~~[18]~~ 21 years~~[-of age]~~ old.

(2) A kratom processor or kratom retailer who violates this section is guilty of a class ~~[C]~~ A misdemeanor for each violation.

Section 5. Section **4-45-108** is amended to read:

4-45-108 . Registration of kratom products -- Department duties.

(1) The department shall set a fee to register a kratom product, in accordance with Section 4-2-103.

(2) The fee described in Subsection (1) may be paid by ~~[a producer, manufacturer, or distributor of a kratom product]~~ any person, but a kratom product may not be registered with the department until the fee is paid.

(3) The department shall:

(a) set an administrative fine~~[-larger than the fee described in Subsection (1),]~~ not to exceed \$5,000 for a person who sells a kratom product that is not registered with the department; and

(b) assess the fine described in Subsection (3)(a) against any person who offers an unregistered kratom product for sale in this state.

133 (4) The department may seize and destroy any unregistered kratom product offered for sale
134 in this state.

135 Section 6. Section **4-45-109** is enacted to read:

136 **4-45-109 . Chapter inoperative.**

137 If every alkaloid found in Mitragyna speciosa is considered a controlled substance under
138 Section 58-37-4, then this chapter is inoperative.

139 Section 7. **Effective Date.**

140 This bill takes effect on May 6, 2026.