

1

Kratom Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer Dailey-Provost

Senate Sponsor:

2

LONG TITLE

3

General Description:

4

This bill amends provisions related to kratom.

5

Highlighted Provisions:

6

This bill:

7

- ▶ defines terms;

8

- ▶ requires a kratom processor and kratom retailer to register with the Department of

9

Agriculture and Food;

10

- ▶ bans the sale of certain kratom products;

11

- ▶ amends provisions related to penalties and fees;

12

- ▶ amends the age for who can purchase a kratom product; and

13

- ▶ 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.

14

Money Appropriated in this Bill:

15

None

16

Other Special Clauses:

17

None

18

Utah Code Sections Affected:

19

AMENDS:

20

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

21

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

22

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

23

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

24

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

25

ENACTS:

26

4-45-109, Utah Code Annotated 1953

27

28

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

29

30

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

32 **4-45-102 . Definitions.**

33 As used in this chapter:

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

35 [(2) "Department" means the Department of Agriculture and Food created in Section
36 4-2-102.]

37 [(3) "Food" means:]

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

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

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

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

45 [(4)] (2) "Kratom processor" means a person who[:]

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

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

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

51 [(5)] (4) "Kratom product" [mean food] means a product containing any part of a leaf of the
52 plant Mitragyna speciosa.

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

54 **4-45-103 . Factual basis for claim as kratom product required -- Administrative
55 penalty -- Request for hearing.**

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

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

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

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

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

65 Act.

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

67 **4-45-104 . Kratom processor and kratom retailer requirements -- Criminal**
68 **penalty.**

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

71 (a) that is mixed or packed with a nonkratom substance[that affects the quality or
72 strength of the kratom product to such a degree as to render the kratom product
73 injurious to a consumer;] other than an inert encapsulating agent that:
74 (i) is composed of food-grade or pharmaceutical-grade materials with no
75 pharmacological activity;
76 (ii) contains no psychoactive substances, stimulants, or adulterants; and
77 (iii) serves solely to contain or deliver the kratom product;

78 (b) that is not identifiable as plant matter;

79 (c) that includes any kratom extract;

80 [(b) that contains a poisonous or otherwise deleterious nonkratom ingredient, including a
81 controlled substance as defined in Section 58-37-2;]
82 [(e)] (d) containing a level of 7-hydroxymitragynine in the alkaloid fraction that is
83 greater than 2% of the alkaloid composition of the kratom product;

84 [(d)] (e) containing a synthetic alkaloid, including synthetic mitragynine, synthetic
85 7-hydroxymitragynine, or any other synthetically derived compound of the kratom
86 plant; or

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

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

91 (a) a class [E] B misdemeanor for [each violation.] the first violation;
92 (b) a class A misdemeanor for a second violation; and
93 (c) a third degree felony for any subsequent violation.

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

98 [(4)] (3) A kratom processor or kratom retailer may not prepare, distribute, sell, or offer for

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

101 [(5)] (4)(a) A kratom processor shall register as a food establishment in accordance with
102 Section 4-5-301 and with the department as a kratom processor.

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

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

105 (i) a kratom processor; and

106 (ii) a kratom retailer.

107 (d) The department shall:

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

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

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

115 **4-45-105 . Prohibition on sale to minors -- Criminal penalty.**

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

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

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

121 **4-45-108 . Registration of kratom products -- Department duties.**

122 (1) The department shall set a fee to register a kratom product, in accordance with Section
123 4-2-103.

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

127 (3) The department shall:

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

131 (b) assess the fine described in Subsection (3)(a) against any person who offers an
132 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.