

Effective 5/14/2019

Chapter 45

Kratom Consumer Protection Act

4-45-101 Title.

This chapter is known as the "Kratom Consumer Protection Act."

Enacted by Chapter 329, 2019 General Session

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.
- (4) "Kratom processor" means a person who:
 - (a) sells, prepares, or maintains a kratom product; or
 - (b) advertises, represents, or holds oneself out as selling, preparing, or maintaining a kratom product.
- (5) "Kratom product" mean food containing any part of a leaf of the plant *Mitragyna speciosa*.

Enacted by Chapter 329, 2019 General Session

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 as a kratom product.
- (2) For a violation of Subsection (1), a kratom processor is subject to an administrative fine of:
 - (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.

Enacted by Chapter 329, 2019 General Session

4-45-104 Kratom processor requirements -- Criminal penalty.

- (1) A kratom processor may not prepare, 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;
 - (b) that contains a poisonous or otherwise deleterious nonkratom ingredient, including a controlled substance as defined in Section 58-37-2;

- (c) containing a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than 2% of the alkaloid composition of the kratom product;
 - (d) containing a synthetic alkaloid, including synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compound of the kratom plant; or
 - (e) 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 who violates Subsection (1) is guilty of a class C misdemeanor for each 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) A kratom processor 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) A kratom processor shall register as a food establishment in accordance with Section 4-5-301.

Enacted by Chapter 329, 2019 General Session

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

- (1) A kratom processor may not distribute, sell, or offer for sale a kratom product to an individual under 18 years of age.
- (2) A kratom processor who violates this section is guilty of a class C misdemeanor for each violation.

Enacted by Chapter 329, 2019 General Session

4-45-106 Civil action available.

In addition to and distinct from any other remedy at law, an individual may bring a civil action, in a competent court of jurisdiction, for damages resulting from a violation of this chapter, including economic, noneconomic, or consequential damages.

Enacted by Chapter 329, 2019 General Session

4-45-107 Rulemaking.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the administration and enforcement of this chapter.
- (2) The rules described in Subsection (1) shall include standards for a registered kratom product, including standards for:
- (a) testing to ensure the product is safe for human consumption;
 - (b) accurate labeling; and
 - (c) any other issue the department considers necessary.

Enacted by Chapter 329, 2019 General Session

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

Enacted by Chapter 329, 2019 General Session