

SENATE BILL No. 1236

November 29, 2018, Introduced by Senator JONES and referred to the Committee on Agriculture.

A bill to regulate the preparation, distribution, and sale of kratom products; to prohibit the preparation, distribution, and sale of adulterated or contaminated kratom products; to prescribe fines and penalties; to provide remedies; and to provide for the powers and duties of certain state governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "kratom consumer protection act".

3 Sec. 2. As used in this act:

4 (a) "Dealer" means a person that sells, prepares, or maintains
5 kratom products, or advertises, represents, or holds itself out as

1 selling, preparing, or maintaining kratom products. Dealer
2 includes, but is not limited to, a manufacturer, wholesaler, store,
3 restaurant, hotel, catering facility, camp, bakery, delicatessen,
4 supermarket, grocery store, convenience store, nursing home, or
5 food or drink company.

6 (b) "Department" means the department of agriculture and rural
7 development.

8 (c) "Director" means the director of the department or his or
9 her designee.

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

12 (e) "Kratom product" means a food product containing any part
13 of the leaf of the plant *Mitragyna speciosa*.

14 Sec. 3. (1) A dealer that prepares, distributes, sells, or
15 exposes for sale a food that is represented to be a kratom product
16 shall disclose on the product label the factual basis upon which
17 that representation is made.

18 (2) A dealer shall not prepare, distribute, sell, or expose
19 for sale a food represented to be a kratom product that does not
20 conform to the disclosure required under subsection (1).

21 Sec. 4. A dealer shall not prepare, distribute, sell, or
22 expose for sale any of the following:

23 (a) A kratom product that is adulterated with a dangerous non-
24 kratom substance. A kratom product is adulterated with a dangerous
25 non-kratom substance if the kratom product is mixed or packed with
26 a non-kratom substance and that substance affects the quality or
27 strength of the kratom product to such a degree as to render the

1 kratom product injurious to a consumer.

2 (b) A kratom product that is contaminated with a dangerous
3 non-kratom substance. A kratom product is contaminated with a
4 dangerous non-kratom substance if the kratom product contains a
5 poisonous or otherwise deleterious non-kratom ingredient,
6 including, but not limited to, the substances listed in section
7 7212 of the public health code, 1978 PA 368, MCL 333.7212.

8 (c) A kratom product that contains a level of 7-
9 hydroxymitragynine in the alkaloid fraction that is greater than 2%
10 of the alkaloid composition of the product.

11 (d) A kratom product that contains a synthetic alkaloid,
12 including, but not limited to, synthetic mitragynine, synthetic 7-
13 hydroxymitragynine, or any other synthetically derived compound of
14 the kratom plant.

15 (e) A kratom product that does not include on its package or
16 label the amount of mitragynine and 7-hydroxymitragynine contained
17 in the product.

18 Sec. 5. A dealer shall not distribute, sell, or expose for
19 sale a kratom product to an individual under 18 years of age.

20 Sec. 6. (1) A dealer that violates section 3(1) is subject to
21 an administrative fine of not more than \$500.00 for the first
22 offense and not more than \$1,000.00 for a second or subsequent
23 offense. Upon the request of a person to whom an administrative
24 fine is issued, the director shall conduct a hearing in accordance
25 with the administrative procedures act of 1969, 1969 PA 306, MCL
26 24.201 to 24.328.

27 (2) A dealer that violates section 3(2), 4, or 5 is guilty of

1 a misdemeanor punishable by imprisonment for not more than 90 days
2 or a fine of not more than \$500.00, or both.

3 (3) A person aggrieved by a violation of section 3(2) or 4
4 may, in addition to, and distinct from any other remedy at law or
5 equity, bring a private cause of action, in a competent court of
6 jurisdiction, for damages resulting from that violation, including,
7 but not limited to, economic, noneconomic, or consequential
8 damages.

9 (4) A dealer does not violate section 3(2) or 4 if it is shown
10 by a preponderance of the evidence that the dealer relied in good
11 faith upon the representations of a manufacturer, processor,
12 packer, or distributor of food represented to be a kratom product.

13 Sec. 7. The department shall promulgate rules for the
14 administration and enforcement of this act under the administrative
15 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328,
16 including, but not limited to, the format, size, and placement of
17 the disclosure label required under section 3(1) and the
18 information that must be included in the disclosure.

19 Enacting section 1. This act takes effect 90 days after the
20 date it is enacted into law.