

HOUSE BILL 1229

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4lr2585

By: Delegates A. Jones and ~~Pena-Melnyk~~, Pena-Melnyk, Cullison, Alston, Bagnall, Bhandari, Chisholm, Guzzone, Hill, Hutchinson, S. Johnson, Kaiser, Kipke, R. Lewis, Lopez, Martinez, M. Morgan, Reilly, Rosenberg, Szeliga, Taveras, White Holland, and Woods

Introduced and read first time: February 8, 2024

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 1, 2024

CHAPTER _____

1 AN ACT concerning

2 **Public Health – Kratom Consumer Protection Act**

3 FOR the purpose of requiring a retailer that prepares, distributes, sells, or exposes for sale
4 ~~a food that is represented to be~~ a kratom product to disclose the factual basis on
5 which the representation is made; establishing prohibitions related to the
6 preparation, distribution, and sale of kratom products; requiring the Maryland
7 Department of Health, in collaboration with the Maryland Hospital Association, to
8 report to the General Assembly, on or before a certain date, on the number of adverse
9 health events observed in individuals after the use of opioid-like substances,
10 including kratom and tianeptine; and generally relating to kratom.

11 BY adding to

12 Article – Health – General

13 Section 21-2D-01 through 21-2D-04 to be under the new subtitle “Subtitle 2D.
14 Kratom Consumer Protection Act”

15 Annotated Code of Maryland

16 (2023 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – Health – General**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **SUBTITLE 2D. KRATOM CONSUMER PROTECTION ACT.**2 **21-2D-01.**

3 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (B) “KRATOM PRODUCT” MEANS A ~~FOOD PRODUCT OR DIETARY~~
6 ~~INGREDIENT~~ PRODUCT MARKETED FOR HUMAN CONSUMPTION CONTAINING ANY
7 PART OF THE LEAF OF THE PLANT *MITRAGYNA SPECIOSA*.

8 (C) (1) “RETAILER” MEANS A PERSON THAT:

9 (I) SELLS, PREPARES, OR MAINTAINS KRATOM PRODUCTS; OR

10 (II) ADVERTISES, REPRESENTS, OR HOLDS ITSELF OUT AS
11 SELLING, PREPARING, OR MAINTAINING KRATOM PRODUCTS.

12 (2) “RETAILER” INCLUDES A MANUFACTURER, WHOLESALER, STORE,
13 RESTAURANT, HOTEL, CATERING FACILITY, CAMP, BAKERY, DELICATESSEN,
14 SUPERMARKET, GROCERY STORE, CONVENIENCE STORE, GAS STATION, OR FOOD OR
15 DRINK COMPANY.

16 **21-2D-02.**

17 (A) (1) A RETAILER THAT PREPARES, DISTRIBUTES, SELLS, OR EXPOSES
18 FOR SALE ~~A FOOD THAT IS REPRESENTED TO BE~~ A KRATOM PRODUCT SHALL
19 DISCLOSE ON THE PRODUCT LABEL THE FACTUAL BASIS ON WHICH THE
20 REPRESENTATION IS MADE.

21 (2) A RETAILER MAY NOT PREPARE, DISTRIBUTE, SELL, OR EXPOSE
22 FOR SALE ~~A FOOD REPRESENTED TO BE~~ A KRATOM PRODUCT THAT ~~DOES~~:

23 (I) DOES NOT COMPLY WITH THE DISCLOSURE REQUIREMENT
24 ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR

25 (II) HAS NOT BEEN RECOGNIZED AS A DIETARY INGREDIENT OR
26 APPROVED DRUG BY THE U.S. FOOD AND DRUG ADMINISTRATION.

27 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A RETAILER
28 MAY NOT PREPARE, DISTRIBUTE, SELL, OR EXPOSE FOR SALE ANY OF THE
29 FOLLOWING:

1 (I) A KRATOM PRODUCT THAT IS ADULTERATED WITH A
2 DANGEROUS SUBSTANCE OTHER THAN KRATOM;

3 (II) A KRATOM PRODUCT THAT IS CONTAMINATED WITH A
4 DANGEROUS SUBSTANCE OTHER THAN KRATOM;

5 (III) A KRATOM PRODUCT CONTAINING A LEVEL OF
6 7-HYDROXYMITRAGYNINE IN THE ALKALOID FRACTION THAT IS GREATER THAN 2%
7 OF THE ALKALOID COMPOSITION OF THE PRODUCT;

8 (IV) A KRATOM PRODUCT CONTAINING A SYNTHETIC ALKALOID,
9 INCLUDING SYNTHETIC MITRAGYNINE, SYNTHETIC 7-HYDROXYMITRAGYNINE, OR
10 ANY OTHER SYNTHETICALLY DERIVED COMPOUND OF THE KRATOM PLANT; OR

11 (V) A PRODUCT CONTAINING KRATOM THAT DOES NOT
12 INCLUDE ON ITS PACKAGE OR LABEL THE AMOUNT OF MITRAGYNINE AND
13 7-HYDROXYMITRAGYNINE CONTAINED IN THE PRODUCT.

14 (2) (I) FOR THE PURPOSE OF PARAGRAPH (1)(I) OF THIS
15 SUBSECTION, A KRATOM PRODUCT IS ADULTERATED WITH A DANGEROUS
16 SUBSTANCE OTHER THAN KRATOM IF:

17 1. THE KRATOM PRODUCT IS MIXED OR PACKED WITH A
18 SUBSTANCE OTHER THAN KRATOM; AND

19 2. THAT SUBSTANCE AFFECTS THE QUALITY OR
20 STRENGTH OF THE KRATOM PRODUCT TO A DEGREE AS TO RENDER THE KRATOM
21 PRODUCT INJURIOUS TO A CONSUMER.

22 (II) FOR THE PURPOSE OF PARAGRAPH (1)(II) OF THIS
23 SUBSECTION, A KRATOM PRODUCT IS CONTAMINATED WITH A DANGEROUS
24 SUBSTANCE OTHER THAN KRATOM IF THE KRATOM PRODUCT CONTAINS A
25 POISONOUS OR OTHERWISE DELETERIOUS INGREDIENT OTHER THAN KRATOM,
26 INCLUDING A DRUG THAT IS DESIGNATED AS A CONTROLLED DANGEROUS
27 SUBSTANCE UNDER TITLE 5 OF THE CRIMINAL LAW ARTICLE.

28 (C) A RETAILER MAY NOT DISTRIBUTE, SELL, OR EXPOSE FOR SALE A
29 KRATOM PRODUCT TO AN INDIVIDUAL UNDER THE AGE OF 21 YEARS.

30 (D) IN A PROSECUTION FOR A VIOLATION OF THIS SECTION, IT IS A DEFENSE
31 THAT THE DEFENDANT RELIED IN GOOD FAITH ON THE REPRESENTATIONS OF A
32 MANUFACTURER, PROCESSOR, PACKER, OR DISTRIBUTOR OF ~~FOOD REPRESENTED~~
33 ~~TO BE~~ A KRATOM PRODUCT.

1 (E) A RETAILER THAT VIOLATES SUBSECTION (A)(1) OF THIS SECTION IS
2 SUBJECT TO A CIVIL PENALTY NOT EXCEEDING:

3 (1) ~~\$500~~ \$1,000 FOR A FIRST VIOLATION; AND

4 (2) ~~\$1,000~~ \$2,000 FOR EACH SUBSEQUENT VIOLATION.

5 (F) A RETAILER THAT VIOLATES SUBSECTION (A)(2), (B), OR (C) OF THIS
6 SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE
7 NOT EXCEEDING ~~\$500~~ \$5,000, IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR
8 BOTH.

9 (G) IN ADDITION TO ANY OTHER PENALTIES SPECIFIED IN THIS SECTION, A
10 RETAILER WHO VIOLATES THIS SECTION IS LIABLE FOR ANY CIVIL DAMAGES
11 SUSTAINED BY THE INDIVIDUAL RESULTING FROM THE VIOLATION.

12 21-2D-03.

13 (A) A RETAILER MAY NOT DIRECTLY OR INDIRECTLY ADVERTISE A
14 THERAPEUTIC BENEFIT OF KRATOM.

15 ~~(A)~~ (B) A RETAILER MAY NOT DIRECTLY OR INDIRECTLY ADVERTISE OR
16 MARKET KRATOM PRODUCTS TO MINORS.

17 ~~(B)~~ (C) IT IS A VIOLATION OF SUBSECTION ~~(A)~~ (B) OF THIS SECTION FOR A
18 RETAILER TO USE ANY OF THE FOLLOWING IN THE ADVERTISING, PROMOTION,
19 PACKAGING, OR LABELING OF A KRATOM PRODUCT:

20 (1) A CARTOON;

21 (2) A SUPERHERO;

22 (3) A VIDEO GAME REFERENCE;

23 (4) AN IMAGE OF A FOOD PRODUCT PRIMARILY INTENDED FOR
24 MINORS;

25 (5) A TRADEMARK THAT IMITATES OR MIMICS THE TRADEMARK OF A
26 PRODUCT THAT HAS BEEN ADVERTISED OR MARKETED PRIMARILY TO MINORS;

27 (6) A SYMBOL OR CELEBRITY THAT IS PRIMARILY ASSOCIATED WITH
28 MINORS OR MEDIA PRIMARILY DIRECTED TO MINORS; AND

1 **(7) AN IMAGE OF AN INDIVIDUAL WHO APPEARS TO BE UNDER THE**
2 **AGE OF 27 YEARS.**

3 ~~**(C)**~~ **(D) IT IS A VIOLATION OF SUBSECTION ~~(A)~~ (B) OF THIS SECTION FOR A**
4 **RETAILER TO ADVERTISE OR PROMOTE A KRATOM PRODUCT:**

5 **(1) IN A NEWSPAPER, A MAGAZINE, A PERIODICAL, OR ANY OTHER**
6 **PUBLICATION FOR WHICH INDIVIDUALS UNDER THE AGE OF 21 YEARS CONSTITUTE**
7 **15% OR MORE OF THE TOTAL AUDIENCE, AS MEASURED BY COMPETENT AND**
8 **RELIABLE SURVEY EVIDENCE;**

9 **(2) AT A CONCERT, A STADIUM, A SPORTING EVENT, OR ANY OTHER**
10 **PUBLIC EVENT FOR WHICH INDIVIDUALS UNDER THE AGE OF 21 YEARS CONSTITUTE**
11 **15% OR MORE OF THE TOTAL AUDIENCE, AS MEASURED BY COMPETENT AND**
12 **RELIABLE SURVEY EVIDENCE; OR**

13 **(3) ON AN OUTDOOR BILLBOARD OR SIGN BOARD THAT IS WITHIN 500**
14 **FEET OF A SCHOOL.**

15 **21-2D-04.**

16 **THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS**
17 **SUBTITLE.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31,
19 2025, the Maryland Department of Health, in collaboration with the Maryland Hospital
20 Association, shall report to the General Assembly, in accordance with § 2-1257 of the State
21 Government Article, on the number of adverse health events observed in individuals after
22 the use of opioid-like substances, including kratom and tianeptine.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.