

**SUBSTITUTE FOR
HOUSE BILL NO. 4969**

A bill to regulate certain conduct related to kratom and kratom products; to prohibit the manufacturing, processing, distribution, and sale of certain kratom products; to require labeling of certain kratom products; and to prescribe fines.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 Sec. 3. As used in this act:

4 (a) "Certified independent third-party laboratory" means a
5 laboratory that is accredited to the International Organization for
6 Standardization, ISO/IEC 17025 standard, by an accreditation body
7 recognized by the International Laboratory Accreditation
8 Cooperation.



(b) "Kratom extract" means a substance or compound that meets all of the following criteria:

(i) Is obtained by extraction of the *Mitragyna speciosa* leaf.

(ii) Contains more than trace amounts of *Mitragyna speciosa* and other alkaloids of the *Mitragyna speciosa* plant.

(iii) Is intended for ingestion.

(iv) Does not contain any controlled substances or levels of residual solvents higher than is allowed under the United States Pharmacopeia 467.

(c) "Kratom leaf" means the leaf of the *Mitragyna speciosa* plant in fresh or dehydrated form.

(d) "Kratom product" means a consumable product that contains any part of the kratom leaf or kratom extract. A kratom product is not considered a food under the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

Sec. 5. A person that sells a kratom product must label the kratom product, and the label must clearly and conspicuously provide the following information:

(a) The following statements:

(i) A statement against the use of the kratom product by individuals who are under 21 years, who are pregnant, or who are breastfeeding.

(ii) A statement that kratom may be habit forming.

(iii) A statement that reads as follows: "These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease."

(b) Directions for use of the kratom product that include, but are not limited to, all of the following:



(i) A recommended serving size that is clearly described on the label for each form of kratom product, such as capsules, gummies, prepacked single-serving units, or similar product forms. If the kratom product is a beverage, liquid, or loose powder, the label must include clear instructions or a mark on the package or container that clearly designates the recommended serving size.

(ii) The recommended number of servings that can be safely consumed in a 24-hour period.

(iii) The recommended number of servings per container.

(iv) A list of the kratom alkaloid content and other ingredients in the kratom product that includes quantitative, not to exceed declarations of the amount per serving of each of the following:

(A) Mitragynine.

(B) 7-hydroxymitragynine.

Sec. 7. A person shall not manufacture, process, distribute, sell, or offer for sale or distribution, in person or through an online website, any of the following:

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

(b) A kratom product that contains a synthesized material, such as an alkaloid, metabolite, or alkaloid derivative that is created by chemical synthesis or biosynthetic means, which includes, but is not limited to, fermentation, recombinant techniques, yeast-derived, or enzymatic techniques, rather than traditional food preparation techniques, such as heating or extracting, that synthetically alters the composition of kratom alkaloid or constituent.

1 (c) A kratom product that does not include on its package or
2 label the amount of mitragynine and 7-hydroxymitragynine contained
3 in the kratom product.

4 (d) A kratom product that contains a kratom extract that was
5 manufactured using extraction solvents that contain levels of
6 residual solvents higher than is allowed under the United States
7 Pharmacopeia 467 and not manufactured using food-grade solvents
8 approved by the United States Food and Drug Administration.

9 Sec. 9. (1) Before a kratom product can be distributed, sold,
10 or offered for distribution or sale, a person that manufactures or
11 processes a kratom product shall have the kratom product tested by
12 a certified independent third-party laboratory to ensure that the
13 kratom product complies with the requirements of this act. If the
14 kratom product complies with the requirements of this act, the
15 certified independent third-party laboratory shall issue the person
16 a certificate of analysis.

17 (2) The person shall maintain a certification of analysis
18 issued under this section for 10 years and make the certificate of
19 analysis available to a law enforcement officer on request. If a
20 law enforcement officer makes a request to review a certificate of
21 analysis issued under this section, the person shall produce the
22 certificate of analysis within 30 days after the request is made.

23 Sec. 11. A person that violates section 5, 7, or 9 may be
24 ordered to pay a civil fine of not more than \$1,000.00 for the
25 first offense and not more than \$5,000.00 for a second or
26 subsequent offense. The prosecutor of the county in which the
27 violation occurred or the attorney general may bring an action to
28 collect the fine. A fine collected under this section must be
29 exclusively applied to the support of public libraries and county



1 law libraries in the same manner as is provided by law for penal
2 fines assessed and collected for violation of a penal law of this
3 state.