

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 1005**

1 On page 1 of the printed bill, delete lines 4 through 9 and insert:

2 **“SECTION 1. As used in sections 1 to 6 of this 2019 Act:**

3 **“(1) ‘Food’ means:**

4 **“(a) An item used for food or drink for human or animal con-**
5 **sumption or the components of the item;**

6 **“(b) Chewing gum or chewing gum components; or**

7 **“(c) A food supplement for special dietary use that is necessitated**
8 **because of a physical, physiological, pathological or other condition.**

9 **“(2) ‘Kratom processor’ means a person who:**

10 **“(a) Sells, prepares, processes, manufactures, distributes or main-**
11 **tains a kratom product; or**

12 **“(b) Advertises, represents or holds out as being a person who sells,**
13 **prepares, processes, manufactures, distributes or maintains a kratom**
14 **product.**

15 **“(3) ‘Kratom product’ means a food containing any part of the leaf**
16 **of the plant *Mitragyna speciosa*.**

17 **“SECTION 2. (1) On the product label of each kratom product that**
18 **a kratom processor prepares, distributes, sells or offers for sale, the**
19 **kratom processor shall disclose the factual basis upon which the**
20 **kratom processor represents the food as a kratom product.**

21 **“(2) A kratom processor may not prepare, distribute, sell or offer**

1 for sale a kratom product:

2 “(a) That is mixed or packed with a nonkratom substance that af-
3 fects the quality or strength of the kratom product to such a degree
4 as to render the kratom product injurious to a consumer;

5 “(b) That contains a poisonous or otherwise deleterious nonkratom
6 ingredient, including a controlled substance as defined in ORS 475.005;

7 “(c) That contains a level of 7-hydroxymitragynine in the alkaloid
8 fraction that is greater than two percent of the alkaloid composition
9 of the kratom product;

10 “(d) That contains a synthetic alkaloid, including synthetic
11 mitragynine, synthetic 7-hydroxymitragynine or any other synthet-
12 ically derived compound of the plant *Mitragyna speciosa*; or

13 “(e) That does not include a product label on the kratom product
14 packaging that states the amount of mitragynine and
15 7-hydroxymitragynine contained in the kratom product.

16 “(3) Notwithstanding ORS 659A.403, a kratom processor may not
17 distribute, sell or offer for sale a kratom product to an individual un-
18 der 21 years of age.

19 “SECTION 3. (1)(a) A kratom processor shall register a kratom
20 product with the State Department of Agriculture if the kratom
21 processor intends to prepare, distribute, sell or offer for sale the
22 kratom product.

23 “(b) A kratom processor may not prepare, distribute, sell or offer
24 for sale a kratom product that is not registered with the department
25 as described in this section.

26 “(2)(a) The department shall by rule create procedures for register-
27 ing a kratom product under this section.

28 “(b) The rules described in paragraph (a) of this subsection shall
29 include standards for a registered kratom product, including standards
30 for:

1 “(A) Testing to ensure the kratom product is safe for human con-
2 sumption; and

3 “(B) Accurate labeling.

4 “(c) The department shall by rule set a fee to register a kratom
5 product.

6 “(d) The fee described in paragraph (c) of this subsection must be
7 paid by a kratom processor before a kratom product may be registered
8 with the department.

9 “(3) The department may seize and destroy any unregistered kratom
10 product offered for sale in this state.

11 “(4) The department may adopt other rules necessary to carry out
12 the provisions of this section.

13 “SECTION 4. In addition to and distinct from any other remedy at
14 law, an individual may bring a civil action for damages resulting from
15 a violation of sections 1 to 6 of this 2019 Act, including economic or
16 noneconomic damages.

17 “SECTION 5. (1) For a violation of section 2 (1) of this 2019 Act, a
18 kratom processor is subject to a civil penalty of:

19 “(a) No more than \$500 for the first offense; and

20 “(b) No more than \$1,000 for a second or subsequent offense.

21 “(2) For a violation of section 3 (1) of this 2019 Act, a kratom
22 processor is subject to a civil penalty greater than the fee described
23 in section 3 (2)(c) of this 2019 Act.

24 “SECTION 6. (1)(a) A kratom processor who violates section 2 (2)(a)
25 of this 2019 Act is guilty of a Class C misdemeanor for each violation.

26 “(b) It is a defense to a charge of violating section 2 (2)(a) of this
27 2019 Act if the kratom processor shows, by a preponderance of the
28 evidence, that the kratom processor relied in good faith upon the
29 representation of a manufacturer, processor, packer or distributor of
30 food represented to be a kratom product.

1 **“(2) A kratom processor who violates section 2 (3) of this 2019 Act**
2 **is guilty of a Class C misdemeanor for each violation.”.**

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