

Requested by Representative POST

**PROPOSED AMENDMENTS TO  
HOUSE BILL 4013**

1 On page 1 of the printed bill, delete lines 4 through 27 and delete page  
2 2 and insert:

3 **“SECTION 1. As used in sections 1 to 5 of this 2020 Act:**

4 **“(1) ‘Food’ means:**

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

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

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

10 **“(2) ‘Kratom processor’ means a person that:**

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

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

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

18 **“SECTION 2. Notwithstanding ORS 659A.403, a kratom processor**  
19 **may not distribute, sell or offer for sale a kratom product to an indi-**  
20 **vidual under 21 years of age.**

21 **“SECTION 3. (1) A kratom processor shall disclose on the product**

1 label of each kratom product that the kratom processor prepares,  
2 distributes, sells or offers for sale, the factual basis upon which the  
3 kratom processor represents the food as a kratom product.

4 “(2) A kratom processor may not prepare, distribute, sell or offer  
5 for sale a kratom product:

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

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

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

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

17 “(e) That does not include a product label on the kratom product  
18 packaging that states the amount of mitragynine and  
19 7-hydroxymitragynine contained in the kratom product.

20 “SECTION 4. (1)(a) A kratom processor shall register a kratom  
21 product with the State Department of Agriculture if the kratom  
22 processor intends to prepare, distribute, sell or offer for sale the  
23 kratom product.

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

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

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

1 **for:**

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

4 **“(B) Accurate labeling.**

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

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

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

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

14 **“SECTION 5. In addition to and distinct from any other remedy at**  
15 **law, an individual may bring a civil action for damages resulting from**  
16 **a violation of sections 1 to 5 of this 2020 Act, including economic or**  
17 **noneconomic damages.**

18 **“SECTION 6. A kratom processor that violates section 2 of this 2020**  
19 **Act is guilty of a Class C misdemeanor for each violation.**

20 **“SECTION 7. (1) For a violation of section 3 (1) of this 2020 Act, a**  
21 **kratom processor is subject to a civil penalty of:**

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

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

24 **“(2) For a violation of section 4 (1) of this 2020 Act, a kratom**  
25 **processor is subject to a civil penalty greater than the fee described**  
26 **in section 4 (2)(c) of this 2020 Act.**

27 **“SECTION 8. (1) A kratom processor that violates section 3 (2)(a)**  
28 **of this 2020 Act is guilty of a Class C misdemeanor for each violation.**

29 **“(2) It is a defense to a charge of violating section 3 (2)(a) of this**  
30 **2020 Act if the kratom processor shows, by a preponderance of the**

1 evidence, that the kratom processor relied in good faith upon the  
2 representation of a manufacturer, processor, packer or distributor of  
3 food represented to be a kratom product.

4 **“SECTION 9. (1) Sections 3 to 5, 7 and 8 of this 2020 Act become**  
5 **operative on July 1, 2021.**

6 **“(2) The State Department of Agriculture may take any action be-**  
7 **fore the operative date specified in subsection (1) of this section that**  
8 **is necessary to enable the department to exercise, on and after the**  
9 **operative date specified in subsection (1) of this section, all of the du-**  
10 **ties, functions and powers conferred on the department by sections 3**  
11 **to 5, 7 and 8 of this 2020 Act.**

12 **“SECTION 10. This 2020 Act takes effect on the 91st day after the**  
13 **date on which the 2020 regular session of the Eightieth Legislative**  
14 **Assembly adjourns sine die.”.**

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