

**A-Engrossed**  
**House Bill 2646**

Ordered by the House April 8  
Including House Amendments dated April 8

Sponsored by Representatives POST, LIVELY, SMITH DB; Representatives BOSHART DAVIS, BREESE-IVERSON, EVANS, HAYDEN, LEIF, MOORE-GREEN, NOBLE, OWENS, PRUSAK, SANCHEZ, SMITH G, Senator KNOPP (Pre-session filed.)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Establishes regulations for kratom products, including **testing standards**, labeling requirements and minimum age for sale. **Prohibits sale of kratom products unless kratom product derives from processor registered with State Department of Agriculture.** Directs [*State Department of Agriculture*] **department** to adopt rules to carry out regulations. Authorizes imposition of civil penalty for certain violations.

Creates crime of unlawful distribution, sale or exposure for sale to individual under 21 years of age. Punishes by maximum of 30 days' imprisonment, \$1,250 fine, or both.

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to kratom; and prescribing an effective date.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Sections 2 to 5 of this 2021 Act shall be known and may be cited as the**  
5 **Oregon Kratom Consumer Protection Act.**

6 **SECTION 2. As used in sections 2 to 5 of this 2021 Act:**

7 (1) **"Kratom product" means a food, food product, food ingredient, dietary ingredient,**  
8 **dietary supplement or beverage for human consumption containing any part of the leaf of**  
9 **the plant *Mitragyna speciosa*.**

10 (2) **"Processor" means a person, excluding a retailer, that:**

11 (a) **Sells, prepares, processes, manufactures, distributes or maintains kratom products;**  
12 **or**

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

15 (3) **"Retailer" means a person that sells, distributes or exposes for sale kratom products**  
16 **to individuals for personal consumption.**

17 **SECTION 3. (1) A processor may not sell, prepare, process, manufacture, distribute,**  
18 **maintain or expose for sale a kratom product prior to registering with the State Department**  
19 **of Agriculture pursuant to section 5 of this 2021 Act.**

20 (2) **A retailer may not sell, distribute or expose for sale a kratom product sold, prepared,**  
21 **processed, manufactured, distributed or maintained by a processor that is not registered**  
22 **with the department.**

23 (3) **The following kratom products may not be sold, distributed or exposed for sale by a**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 processor or retailer:

2 (a) A kratom product that is adulterated with a dangerous nonkratom substance. A  
3 kratom product is adulterated with a dangerous nonkratom substance if the kratom product  
4 is mixed or packed with a nonkratom substance and that substance affects the quality or  
5 strength of the kratom product to such a degree as to render the kratom product injurious  
6 to a consumer.

7 (b) A kratom product that is contaminated with a dangerous nonkratom substance. A  
8 kratom product is contaminated with a dangerous nonkratom substance if the kratom  
9 product contains a poisonous or otherwise deleterious nonkratom ingredient, including, but  
10 not limited to, any of the substances listed in ORS 475.005 (6).

11 (c) A kratom product containing a level of 7-hydroxymitragynine in the alkaloid fraction  
12 that is greater than two percent of the overall alkaloid composition of the product.

13 (d) A kratom product containing any synthetic alkaloids including synthetic mitragynine,  
14 synthetic 7-hydroxymitragynine or any other synthetically derived compounds of the  
15 *Mitragyna speciosa* plant.

16 (4) A processor that violates subsection (1) of this section or a retailer that violates  
17 subsection (2) of this section is subject to a civil penalty of not more than \$500 for the first  
18 offense and not more than \$1,000 for the second or subsequent offense. Upon request by the  
19 processor or retailer to whom an administrative fine is issued, the Director of Agriculture  
20 shall conduct a hearing in accordance with contested case proceedings under ORS chapter  
21 183.

22 (5) A retailer does not violate subsection (2) of this section if it is shown by a prepon-  
23 derance of the evidence that the retailer relied in good faith upon the representation of a  
24 processor regarding the registration of the processor.

25 **SECTION 4.** (1) A retailer may not distribute, sell or expose for sale a kratom product  
26 to an individual under 21 years of age.

27 (2) A retailer that violates subsection (1) of this section is guilty of a Class C  
28 misdemeanor for each violation.

29 **SECTION 5.** The State Department of Agriculture shall adopt rules necessary to carry  
30 out sections 2 and 3 of this 2021 Act, including rules establishing:

31 (1) Standards for testing to ensure a kratom product is safe for human consumption;

32 (2) Standards for accurate labeling to ensure safe and effective use of a kratom product  
33 by consumers, including a recommended serving size;

34 (3) Procedures by which a processor may register with the department, including a re-  
35 quirement that the processor sign, under penalty of perjury, an affidavit certifying compli-  
36 ance with section 3 (1) and (3) of this 2021 Act and any rules adopted by the department  
37 under this section, including standards for testing and labeling;

38 (4) A model form for the affidavit described in subsection (3) of this section;

39 (5) A reasonable fee to be paid to the department by a processor to cover the cost of  
40 registering the processor; and

41 (6) Procedures by which a person may submit a complaint upon good-faith belief that:

42 (a) A processor has violated section 3 (1) or (3) of this 2021 Act or any rule adopted by  
43 the department under this section; or

44 (b) A retailer has violated section 3 (2) or (3) of this 2021 Act or any rule adopted by the  
45 department under this section.

1        **SECTION 6.** (1) Sections 2 to 5 of this 2021 Act become operative on January 1, 2022.

2        (2) The State Department of Agriculture may take any action before the operative date  
3 specified in subsection (1) of this section that is necessary to enable the department to ex-  
4 ercise, on and after the operative date specified in subsection (1) of this section, all of the  
5 duties, functions and powers conferred on the department by sections 2 to 5 of this 2021 Act.

6        **SECTION 7.** This 2021 Act takes effect on the 91st day after the date on which the 2021  
7 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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