

## HOUSE AMENDMENTS TO HOUSE BILL 2646

By COMMITTEE ON GENERAL GOVERNMENT

April 8

1 On page 1 of the printed bill, delete lines 4 through 28 and delete page 2 and insert:

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

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

5 “(1) ‘Kratom product’ means a food, food product, food ingredient, dietary ingredient,  
6 dietary supplement or beverage for human consumption containing any part of the leaf of  
7 the plant *Mitragyna speciosa*.

8 “(2) ‘Processor’ means a person, excluding a retailer, that:

9 “(a) Sells, prepares, processes, manufactures, distributes or maintains kratom products;  
10 or

11 “(b) Advertises, represents or holds out as being a person that sells, prepares, processes,  
12 manufacturers, distributes or maintains a kratom product.

13 “(3) ‘Retailer’ means a person that sells, distributes or exposes for sale kratom products  
14 to individuals for personal consumption.

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

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

21 “(3) The following kratom products may not be sold, distributed or exposed for sale by a  
22 processor or retailer:

23 “(a) A kratom product that is adulterated with a dangerous nonkratom substance. A  
24 kratom product is adulterated with a dangerous nonkratom substance if the kratom product  
25 is mixed or packed with a nonkratom substance and that substance affects the quality or  
26 strength of the kratom product to such a degree as to render the kratom product injurious  
27 to a consumer.

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

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

34 “(d) A kratom product containing any synthetic alkaloids including synthetic  
35 mitragynine, synthetic 7-hydroxymitragynine or any other synthetically derived compounds

1 of the *Mitragyna speciosa* plant.

2 “(4) A processor that violates subsection (1) of this section or a retailer that violates  
3 subsection (2) of this section is subject to a civil penalty of not more than \$500 for the first  
4 offense and not more than \$1,000 for the second or subsequent offense. Upon request by the  
5 processor or retailer to whom an administrative fine is issued, the Director of Agriculture  
6 shall conduct a hearing in accordance with contested case proceedings under ORS chapter  
7 183.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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