

Requested by Representative POST

**PROPOSED AMENDMENTS TO
HOUSE BILL 2646**

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

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

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

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

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

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

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

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

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

1 “(2) A retailer may not sell, distribute or expose for sale a kratom
2 product sold, prepared, processed, manufactured, distributed or main-
3 tained by a processor that is not registered with the department.

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

6 “(a) A kratom product that is adulterated with a dangerous
7 nonkratom substance. A kratom product is adulterated with a dan-
8 gerous nonkratom substance if the kratom product is mixed or packed
9 with a nonkratom substance and that substance affects the quality or
10 strength of the kratom product to such a degree as to render the
11 kratom product injurious to a consumer.

12 “(b) A kratom product that is contaminated with a dangerous
13 nonkratom substance. A kratom product is contaminated with a dan-
14 gerous nonkratom substance if the kratom product contains a poi-
15 sonous or otherwise deleterious nonkratom ingredient, including, but
16 not limited to, any of the substances listed in ORS 475.005 (6).

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

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

23 “(4) A processor that violates subsection (1) of this section or a
24 retailer that violates subsection (2) of this section is subject to a civil
25 penalty of not more than \$500 for the first offense and not more than
26 \$1,000 for the second or subsequent offense. Upon request by the
27 processor or retailer to whom an administrative fine is issued, the
28 Director of Agriculture shall conduct a hearing in accordance with
29 contested case proceedings under ORS chapter 183.

30 “(5) A retailer does not violate subsection (2) of this section if it is

1 shown by a preponderance of the evidence that the retailer relied in
2 good faith upon the representation of a processor regarding the regis-
3 tration of the processor.

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

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

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

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

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

16 **“(3) Procedures by which a processor may register with the depart-**
17 **ment, including a requirement that the processor sign, under penalty**
18 **of perjury, an affidavit certifying compliance with section 3 (1) and (3)**
19 **of this 2021 Act and any rules adopted by the department under this**
20 **section, including standards for testing and labeling;**

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

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

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

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

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

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

3 **“(2) The State Department of Agriculture may take any action be-**
4 **fore the operative date specified in subsection (1) of this section that**
5 **is necessary to enable the department to exercise, on and after the**
6 **operative date specified in subsection (1) of this section, all of the du-**
7 **ties, functions and powers conferred on the department by sections 2**
8 **to 5 of this 2021 Act.**

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

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