

By: Representative Roberson

To: Drug Policy; Judiciary B

HOUSE BILL NO. 1437

1 AN ACT TO CREATE THE KRATOM CONSUMER PROTECTION ACT; TO
2 DEFINE CERTAIN TERMS THAT RELATE TO THE PROVISIONS OF THIS ACT; TO
3 REQUIRE THE DEPARTMENT OF REVENUE TO ISSUE LICENSES FOR CONSUMABLE
4 FOOD MANUFACTURING DISTRIBUTORS; TO REQUIRE THE DEPARTMENT OF
5 REVENUE TO ISSUE RETAIL KRATOM LICENSES FOR RETAILERS AND
6 WHOLESALE KRATOM LICENSES FOR WHOLESALERS; TO REQUIRE THE
7 DEPARTMENT OF HEALTH TO ISSUE PROCESSING KRATOM LICENSES FOR
8 PROCESSORS; TO REQUIRE A RETAILER TO DISPLAY AND STORE ALL KRATOM
9 PRODUCTS IN A LOCATION THAT IS NOT ACCESSIBLE BY THE PUBLIC
10 WITHOUT ASSISTANCE FROM SUCH RETAILER; TO PROVIDE THAT IT IS
11 UNLAWFUL FOR ANY PERSON UNDER TWENTY-ONE YEARS OF AGE TO POSSESS
12 ANY KRATOM PRODUCTS; TO PROHIBIT A RETAILER FROM DISTRIBUTING OR
13 SELLING ANY KRATOM PRODUCT TO A PERSON UNDER TWENTY-ONE YEARS OF
14 AGE; TO REQUIRE A RETAILER TO VERIFY THE AGE OF ANY PERSON
15 ATTEMPTING TO PURCHASE OR RECEIVE A KRATOM PRODUCT PRIOR TO THE
16 SALE OR TRANSFER OF SUCH PRODUCT; TO REQUIRE PROCESSORS,
17 RETAILERS, WHOLESALERS, AND CONSUMABLE FOOD MANUFACTURING
18 DISTRIBUTORS THAT ARE REGISTERED WITH EITHER THE DEPARTMENT OF
19 HEALTH OR THE DEPARTMENT OF REVENUE TO SUBMIT A REPORT THAT
20 CONTAINS CERTAIN INFORMATION ON A QUARTERLY BASIS; TO REQUIRE THE
21 DEPARTMENT OF REVENUE TO DEVELOP, IMPLEMENT AND PROVIDE AN
22 ELECTRONIC REPORTING SYSTEM FOR RETAILERS, WHOLESALERS AND
23 DISTRIBUTORS OF KRATOM PRODUCTS; TO REQUIRE THAT A FINALIZED
24 SAMPLE OF ANY FINISHED KRATOM PRODUCT HAVE A COMPLETE CERTIFICATE
25 OF ANALYSIS CONTAINING CERTAIN INFORMATION FROM AN ACCREDITED AND
26 CERTIFIED LAB; TO REQUIRE THAT THE DEPARTMENT OF REVENUE, APPROVE
27 ALL LABELS FOR KRATOM PRODUCTS; TO PROVIDE CERTAIN REQUIREMENTS
28 FOR LABELS OF KRATOM PRODUCTS; TO IMPOSED AN EXCISE TAX ON
29 RETAILERS OF KRATOM PRODUCTS AT THE RATE OF 3% OF THE RETAIL SALES
30 PRICE OF A KRATOM PRODUCT; AND FOR RELATED PURPOSES.

31 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:



32 **SECTION 1.** This act shall be known and may be cited as the
33 "Kratom Consumer Protection Act".

34 **SECTION 2.** As used in this act, the following terms have
35 the meanings as defined in this section, unless the context
36 clearly indicates otherwise:

37 (a) "Commissioner" means the Commissioner of the
38 Department of Revenue.

39 (b) "Kratom product" means a food product or dietary
40 ingredient containing any part of the leaf of the plant *Mitragyna*
41 *Speciosa*, or an extract of it processed as a powder, capsule,
42 pill, beverage, extract, or other edible or consumable form. For
43 purposes of this act, all kratom products are considered food.

44 (c) "Processor" means a GMP Certified entity who
45 applies for and obtains a processing kratom license from the
46 Department of Health, and prepares, processes or manufactures
47 kratom products, and holds itself out as selling only to licensed
48 consumable food manufacturing distributors.

49 (d) "Retailer" means any individual, partnership,
50 corporation, cooperative association, or other business entity who
51 applies for and obtains a retail kratom license from the
52 Department of Revenue, and sells, advertises, represents, or holds
53 itself out as selling, kratom products to consumers at retail, or
54 maintaining kratom products. All kratom products purchased for
55 resale at retail shall only be purchased from a licensed
56 consumable food manufacturing distributor, an authorized agent of



57 a licensed consumable food manufacturing distributor or a licensed
58 kratom wholesaler.

59 (e) "Wholesaler" means any individual, partnership,
60 corporation, cooperative association, or other business entity who
61 applies for and obtains a wholesale kratom license from the
62 Department of Revenue, and purchases kratom products for resale to
63 retail from a licensed Consumable Food Manufacturing Distributor.

64 (f) "Consumable food manufacturing distributor" means
65 any individual, partnership, corporation, cooperative association,
66 or other business entity that receives raw kratom or kratom
67 products, extract, distillates, isolates or any other form of
68 kratom. Consumable food manufacturing distributors may sell to
69 licensed wholesalers, licensed retailers, and directly to
70 consumers.

71 (g) "Department" means the State Department of Health
72 or the Department of Revenue.

73 **SECTION 3.** (1) The Department of Revenue shall issue
74 licenses for consumable food manufacturing distributors.

75 (a) To be eligible to receive a consumable food
76 manufacturing distributors license, the entity applying for such
77 license shall:

78 (i) Have a minimum of a pending GMP certification
79 from a certifying body that is accredited by the America National
80 Standards Institute (ANSI) as of December 31, 2023;



81 (ii) Have a state-approved current food
82 manufacturing license in the state that such entity resides, with
83 a facility specializing in a key specialty crop;

84 (iii) Be responsible for notifying the Department
85 of Health and Department of Revenue of any designated agents or
86 representatives; and

87 (iv) Offer for sale, anti-counterfeiting scan
88 codes for distribution for any kratom product approved by the
89 department.

90 Consumable food manufacturing distributors may designate
91 authorized agents for the purposes of wholesaling consumable
92 kratom products to a licensed wholesaler or retailer.

93 A consumable food manufacturing distributor shall be subject
94 to an annual license fee of Five Hundred Dollars (\$500.00), due by
95 December 31 of each year.

96 (b) The Department of Revenue shall issue retail kratom
97 licenses for retailers and wholesale kratom licenses for
98 wholesalers in a manner and form as prescribed by the department.

99 (i) A retailer shall be subject to an annual
100 license fee of One Hundred and Seventy-five Dollars (\$175.00), due
101 by December 31 of each year.

102 (ii) A wholesaler shall be subject to an annual
103 license fee of Five Hundred Dollars (\$500.00), due by December 31
104 of each year.



105 (2) The Department of Health shall issue processing kratom
106 licenses for processors in a manner and form as prescribed by the
107 department. A processor shall be subject to an annual license fee
108 of Five Hundred Dollars (\$500.00), due by December 31 of each
109 year.

110 **SECTION 4.** (1) A retailer shall display and store all
111 kratom products in a location that is not accessible by the public
112 without assistance from such retailer.

113 (2) It is unlawful for any person under twenty-one (21)
114 years of age to possess any kratom products.

115 (3) A retailer shall not distribute or sell any kratom
116 product to a person under twenty-one (21) years of age. No person
117 or entity shall distribute a promotional sample of kratom products
118 to a person under twenty-one (21) years of age.

119 (4) Prior to the sale or transfer of any kratom product, a
120 retailer shall verify the age of any person attempting to purchase
121 or receive such product by requiring the person to provide any one
122 (1) of the following methods to verify his or her identity and
123 age:

124 (a) A digitized identification card; or

125 (b) A valid government-issued identification card.

126 (5) Any kratom product that is found in this state, which
127 does not contain an anti-counterfeiting solution provided by a
128 consumable food manufacturing distributor, shall be considered
129 contraband, and any property interest in such product is vested in



130 the State of Mississippi and is subject to seizure and
131 destruction.

132 **SECTION 5.** (1) Any processor, retailer, wholesaler, or
133 consumable food manufacturing distributor that is registered with
134 either the Department of Health or the Department of Revenue, must
135 submit a report on a quarterly basis, due by the 20th day of the
136 following month, which contains the following:

137 (a) Processors shall report all purchases by consumable
138 food manufacturing distributors of kratom products;

139 (b) Retailers shall report all purchases of kratom
140 products from licensed wholesalers and licensed consumable food
141 manufacturing distributors, and all sales of kratom products to
142 the public;

143 (c) Wholesalers shall report all purchases of kratom
144 products from a consumable food manufacturing distributor, and all
145 resales of kratom products to other authorized wholesalers and
146 licensed retailers;

147 (d) Consumable food manufacturing distributors shall
148 report all kratom products received from licensed processors, and
149 all such products sold to authorized agents, wholesalers,
150 retailers, or to the public.

151 (2) A processor, retailer, wholesaler or consumable food
152 manufacturing distributor of kratom products that fails to file a
153 quarterly report by the 20th day of the following month



154 shall be subject to a fine of not less than One Thousand Dollars
155 (\$1,000.00).

156 **SECTION 6.** (1) An electronic reporting system shall be
157 developed, implemented and provided by the Department of Revenue.

158 (2) The department shall provide a list of licensed
159 processors, wholesalers, retailers and consumable food
160 manufacturing distributors that is accessible to the public on its
161 website. Such list shall be updated each month, and contain the
162 following information of licensed processors, wholesalers,
163 retailers and consumable food manufacturing distributors:

- 164 (a) Name;
- 165 (b) Address;
- 166 (c) Phone number;
- 167 (d) Email;
- 168 (e) Date of license; and
- 169 (f) Date of expiration of such license.

170 **SECTION 7.** A finalized sample of any finished kratom product
171 shall have a complete certificate of analysis from an accredited
172 and certified lab, which contains detailed information regarding
173 the following:

- 174 (a) Mitragynine and 7-Hydroxymitragynine;
- 175 (b) Metals, such as As, Cd, Hg, Pb;
- 176 (c) Salmonella spp.;
- 177 (d) STEC;
- 178 (e) Aerobic plate count;



- 179 (f) Coliforms and E. coli;
- 180 (g) S. aureus;
- 181 (h) Yeast and mold;
- 182 (i) Pesticides;
- 183 (j) Mycotoxins;
- 184 (k) Residual solvents; and
- 185 (l) Nickel.

186 **SECTION 8.** (1) In order to receive approval from the
187 Department of Revenue, all labels for kratom products shall:

188 (a) Contain an anti-counterfeit label that is purchased
189 from a licensed consumable food manufacturing distributor;

190 (b) Contain a scannable QR code linked to the
191 processor's website, or a document containing a certificate of
192 analysis for such kratom product;

193 (c) Be affixed to a tamper-evident container or package
194 that clearly indicates prior access to such container or package;

195 (d) (i) Have packaging and/or labeling that contains
196 the following information:

197 1. Net weight or contents with the correct
198 corresponding units for the product whether it is a liquid, semi
199 solid or solid:

200 a. Liquids shall have the contents
201 listed as (example, Net Weight Zfl ozl60mL);

202 b. Semi Solids shall have the contents
203 listed as (example, Net Weight 2oz I 57g);



204 c. Solids shall have the contents listed
205 as (example, Net Weight 2oz I 57g);

206 2. Number of servings;

207 3. Total servings per package;

208 4. List of ingredients;

209 5. A statement, of exact wording, declaring,
210 "These statements have not been evaluated by the Food and Drug
211 Administration, this product is not intended to diagnose, treat,
212 cure or prevent any disease";

213 6. Allergen information corresponding to the
214 facility of manufacture;

215 7. A unique UPC code identifying the product;

216 8. Manufacturing information that includes
217 the name and address of the manufacturer; and

218 9. Indication this product shall not be sold
219 to anyone under the age of twenty-one (21) years.

220 (e) Have packaging and/or labeling that does not
221 contain any medical claims;

222 (f) Not contain any active pharmaceutical ingredient
223 (API) recognized by the United States Food and Drug
224 Administration; and

225 (g) Not contain any synthetic kratom product, or a
226 kratom product that is not natural.



227 (2) The department shall charge and collect a fee of not
228 more than Fifty Dollars (\$50.00) for each separate and distinct
229 kratom product registered by the department.

230 **SECTION 9.** A processor, retailer, wholesaler or consumable
231 food manufacturing distributor that stores, purchases, sells, or
232 distributes unlawful kratom products shall be subject to a fine of
233 not less than One Thousand Dollars (\$1,000.00) per item.

234 **SECTION 10.** (1) There is hereby imposed, levied and
235 assessed an excise tax on retailers of kratom products. Such
236 excise tax shall be three percent (3%) of the retail sales price
237 of any kratom product.

238 A retailer shall collect and remit an excise tax on forms and
239 in a manner specified by the Commissioner of Revenue.

240 (2) All administrative provisions of the sales tax law and
241 amendments thereto, including those which fix damages, penalties
242 and interest for nonpayment of taxes and for noncompliance with
243 the provision of said sales tax law, and all other requirements
244 and duties imposed upon a taxpayer, shall apply to all persons
245 liable for taxes under the provisions of this section. The
246 commissioner shall exercise all power and authority and perform
247 all duties with respect to taxpayers under this section as are
248 provided in said sales tax law, except where there is conflict,
249 then the provisions of this section shall control.

250 (3) All excise taxes collected under the provisions of this
251 section shall be deposited into the State General Fund.



252 **SECTION 11.** This act shall take effect and be in force from
253 and after July 1, 2024.

