

2020 Regular Session

HOUSE BILL NO. 523

BY REPRESENTATIVE MINCEY

CONSUMERS/PROTECTION: Provides relative to the distribution of kratom products

1 AN ACT

2 To enact Part X-G of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 40:1050.1 through 1050.6, and to repeal R.S. 40:989.3, relative  
4 to the distribution of kratom products; to provide for definitions; to provide for the  
5 labeling of kratom products; to provide for when kratom products shall not be  
6 distributed; to prohibit distribution to minors; to provide for penalties and  
7 exceptions; to provide for fines; to repeal the crime of unlawful distribution of  
8 products containing *Mitragyna speciosa* to a minor; and to provide for related  
9 matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Part X-G of Chapter 4 of Title 40 of the Louisiana Revised Statutes of  
12 1950, comprised of R.S. 40:1050.1 through 1050.6, is hereby enacted to read as follows:

13 PART X-G. KRATOM CONSUMER PROTECTION ACT

14 §1050.1. Short title

15 This Part shall be known and may be cited as the "Kratom Consumer  
16 Protection Act".

17 §1050.2. Definitions

18 As used in this Part, the following terms have the meaning ascribed to them  
19 in this Section unless the context clearly indicates otherwise:

1           (1) "Adulterated kratom product" means a kratom product with a dangerous  
2           non-kratom substance if the kratom product is mixed with a non-kratom substance  
3           and the substance affects the quality of the product to such a degree as to render the  
4           product to be dangerous to a consumer. Such non-kratom substances include but are  
5           not limited to those listed in R.S. 40:1050.4 and those listed in Schedules I, II, III,  
6           IV, or V of the Uniform Controlled Dangerous Substances Law, R.S. 40:961 et seq.

7           (2) "Department" means the Louisiana Department of Health.

8           (3) "Kratom product" means a food product, food ingredient, dietary  
9           supplement, or beverage containing any part of the leaf of the plant, Mitragyna  
10           speciosa.

11           (4) "Label" shall have the meaning ascribed in R.S. 40:602.

12           (5) "Labeling" shall have the meaning ascribed in R.S. 40:602.

13           (6) "Vendor" means a person or entity that sells, prepares, or maintains  
14           kratom products or advertises, represents, or holds itself out as selling, preparing, or  
15           maintaining kratom products. "Vendor" shall include a manufacturer, distributor, or  
16           retailer.

17           §1050.3. Labeling of kratom products

18           A. In order to sell, prepare, or maintain a kratom product, the product label  
19           shall be in compliance with the applicable labeling requirements provided in 21  
20           U.S.C. 301et seq. The product label shall also include the following information:

21           (1) A list of all ingredients in the product.

22           (2) A warning label for minors.

23           (3) A warning label for pregnant women.

24           (4) A warning label that the product may be hazardous to a consumer's health.

25           (5) A recommended serving size to be consumed by a consumer.

26           (6) The name of the business manufacturer, address, and telephone number.

27           (7) The amount of Mitragynine in the product.

28           (8) The amount of 7-Hydroxy-mitragynine in the product.

1           (9) A statement that the product contains less than two percent of 7-Hydroxy-  
2           mitragynine to the total alkaloid content allowed.

3           B. The department may promulgate rules in accordance with the  
4           Administrative Procedure Act to provide specifications for the labeling of kratom  
5           products.

6           §1050.4. Prohibited acts

7           A vendor shall not sell, prepare, distribute, or expose for sale any of the  
8           following:

9           (1) A kratom product that is adulterated with a dangerous non-kratom  
10          substance.

11          (2) A kratom product containing a level of 7-Hydroxy-mitragynine in the  
12          alkaloid fraction that is greater than two percent of the alkaloid composition of the  
13          product.

14          (3) A kratom product containing synthetic alkaloids including synthetic  
15          mitragynine, synthetic 7-Hydroxy-mitragynine, or any other synthetically derived  
16          compounds of Mitryagyna speciosa.

17          §1050.5. Unlawful sale of kratom to minors; penalty

18          A. No person shall distribute or cause to be distributed any kratom products  
19          to persons under the age of twenty-one.

20          B. A person who violates the provisions of this Section shall be fined no  
21          more than fifty dollars for each violation.

22          §1050.6. Violations; penalties

23          A. A vendor who violates R.S. 40:1050.3 or any rules and regulations  
24          promulgated pursuant thereto shall be subject to a civil fine of not more than five  
25          hundred dollars for the first offense and not more than one thousand dollars for the  
26          second or subsequent offense.

27          B. A vendor who violates R.S. 40:1050.4 shall be guilty of a misdemeanor  
28          and upon a plea of guilty, a plea of nolo contendere, or conviction, shall be punished  
29          by a fine of not more than one thousand dollars.

1                    C. A vendor does not violate this Part if it is proven by a preponderance of  
2                    the evidence that the vendor relied in good faith upon the representations of a  
3                    manufacturer, processor, or distributor of food represented to be a kratom product.

4                    D. Any person who is aggrieved by a violation of this Section may bring a  
5                    civil suit in a court of competent jurisdiction for damages.

6                    Section 2. R.S. 40:989.3 is hereby repealed in its entirety.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 523 Original

2020 Regular Session

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**Abstract:** Provides relative to the distribution and sale of kratom products.

Proposed law provides that proposed law shall be known as the "Kratom Consumer Protection Act".

Proposed law provides for the following definitions:

- (1) Adulterated kratom product.
- (2) Department.
- (3) Kratom product.
- (4) Label.
- (5) Labeling.
- (6) Vendor.

Proposed law provides that the labeling associated with kratom products shall be in compliance with federal law, 21 U.S.C. 301 et seq. Further provides that the following shall be included on the product label:

- (1) A list of all ingredients contained in the product.
- (2) A warning for minors and pregnant women who may consume the product.
- (3) A warning that the product may be hazardous to a consumer's health.
- (4) A recommended serving size to be consumed for safety purposes.
- (5) The manufacturer's business name, address, and telephone number.
- (6) The amount of Mitragynine and 7-Hydroxy-mitragynine contained in the product.
- (7) A statement that the kratom product contains less than 2% of 7-Hydroxy-mitragynine of the total alkaloid content.

Proposed law provides that the La. Dept. of Health may promulgate rules in accordance with the Administrative Procedure Act to provide for any additional labeling of kratom products.

Proposed law provides that a vendor may not sell, prepare, distribute, or expose for sale any of the following:

- (1) A kratom product that is adulterated with a dangerous substance. Further providing that a kratom product is considered adulterated when it is mixed with a non-kratom substance that causes the quality of the product to be rendered dangerous for a consumer. A dangerous substance includes, but is not limited to those controlled dangerous substances listed in present law.
- (2) The kratom product contains 7-Hydroxy-mitragynine that is greater than 2% of the alkaloid composition of the product.
- (3) The kratom product contains synthetic alkaloids derived from the *Mitragyna speciosa* leaf.

Proposed law provides that it is unlawful to distribute a kratom product to a minor. Further provides that if a person violates proposed law, they shall be fined no more than \$50.

Proposed law provides that a vendor who violates the labeling specification shall be subjected to a fine of no more than \$500 for the first offense and no more than \$1000 for the second or subsequent offense.

Proposed law provides that a vendor who sells an adulterated product or contains more than the allowable alkaloid content shall be guilty of a misdemeanor and punished by a fine of not to exceed \$1000.

Proposed law provides that a vendor does not violate proposed law if it is proven by a preponderance of the evidence that the vendor relied in good faith upon the representation that the product contains kratom.

Proposed law provides that any person aggrieved by proposed law may bring a civil suit in a court of competent jurisdiction for damages.

Proposed law repeals present law.

(Adds R.S. 40:1050.1-1050.6; Repeals R.S. 40:989.3)