

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 523** HLS 20RS 767

Bill Text Version: **ORIGINAL**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: May 12, 2020	11:27 AM	Author: MINCEY
Dept./Agy.: Statewide		Analyst: Monique Appeaning
Subject: Kratom		

CONSUMERS/PROTECTION OR +\$1,286,784 GF EX See Note
Provides relative to the distribution of kratom products

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Proposed law provides for the distribution of kratom products, provides for definitions, labeling of kratom products, provides for when kratom products shall not be distributed, prohibit distribution to minors, provide for penalties and exceptions, provides for fines, and repeals crime of unlawful distribution of products containing *Mitragyna speciosa* to a minor. Proposed law provides that the Louisiana Department of Health (LDH) may promulgate rules.

EXPENDITURES	2020-21	2021-22	2022-23	2023-24	2024-25	5 -YEAR TOTAL
State Gen. Fd.	\$1,286,784	\$821,065	\$821,065	\$827,965	\$824,443	\$4,581,322
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total	\$1,286,784	\$821,065	\$821,065	\$827,965	\$824,443	\$4,581,322

REVENUES	2020-21	2021-22	2022-23	2023-24	2024-25	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	SEE BELOW					
Annual Total						

EXPENDITURE EXPLANATION

Proposed law will result in an increase in SGF expenditures to the Department of Public Safety and Corrections - Public Safety Services (DPSC) to perform testing of kratom products for the identification of other substances, the quantification of specific elements and the determination of the origin of the kratom alkaloids. Proposed law will result in an increase in SGF expenditures for the Louisiana Department of Health (LDH) to perform testing of kratom products for the identification of other substances, the quantification of specific elements and the determination of the origin of kratom alkaloids.

Department of Public Safety and Corrections - Public Safety Services

DPSC reports that it will need three (3) T.O. positions to implement proposed law to create a new Quantifying Program. The positions are two Crime Lab Analyst 1 (\$87,561 personal services cost for each analyst, including related benefits) to analyze the samples and one Crime Analyst 4 (\$111,363 including benefits) to be the quantification technical lead. DPSC reports that the current crime lab is at full capacity and due to the increasing caseload of seized drugs, the new program would require additional equipment: one Liquid Chromatography/Mass Spectrometry instrument and service contract, two Gas

Expenditure Explanation Continued on Page Two

REVENUE EXPLANATION

Proposed law may result in an indeterminable increase in Local Funds revenue as a result of potential fines if a person is convicted is distributing or causing to be distributed any kratom products to persons under the age of twenty-one for a maximum fine of \$50. The potential revenue will accrue to the local governing authority. The potential net effect on sentencing decisions cannot be determined and the potential revenue impact is therefore unknown.

Proposed law may result in an indeterminable increase in Local Funds revenue as a result of potential fines if a person is convicted is violating the labeling specification or any specific rules and regulations with a civil fine of a maximum fine of \$500 for a first offense and maximum fine of \$1,000 with second or subsequent offenses.

Proposed law may result in an indeterminable increase in Local Funds revenue as a result of potential fines if a person is convicted of selling an adulterated product or contains more than the allowable alkaloid content for a maximum civil fine of \$1,000.

Proposed law may result in an indeterminable increase in Local Funds revenue as a result of potential fines if a person is convicted of selling, preparing or distribute or expose for sale of any kratom products or composition for a maximum civil fine of \$1,000.

Senate Dual Referral Rules
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Evan Brasseaux
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Staff Director

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CONTINUED EXPLANATION from page one:

Expenditure Explanation Continued from Page One

Chromatography/Mass Spectrometry instruments and service contracts, and various pipettes, balances, and extractor equipment that would be dedicated to the program. DPSC reports annual recurring non-personal services expenditures as follows: Travel - \$7,500, Operating Services/Supplies - \$36,425, Acquisitions - \$25,342, and Interagency Transfer (IAT) - \$900. DPSC also reports one-time acquisitions expenditures of \$565,350 in FY 21, and \$6,900 in FY 24 for the previously referenced lab equipment. DPSC estimates the total annual expenditures at approximately \$922,000 for FY21, and \$357,000 for the outyears except FY 24 at \$364,000. NOTE: DPSC's reported expenditure assumptions do not incorporate potential market rate adjustments in the out years. To the extent that such adjustments are awarded, the personal services costs in the out years would potentially increase between 2% to 4% annually.

NOTE: DPSC reports the crime lab would be unable to determine the origin (e.g. synthetic versus naturally-occurring) of kratom alkaloids because certified reference materials do not exist and there is no known scientifically-vetted features to determine molecular origin. Additionally, DPSC reports that it is their viewpoint that LDH is currently responsible for the regulation of these products and these products should be submitted to their laboratories for testing. DPSC also notes that La R.S. 40:964, which covers the composition of schedules of controlled dangerous substances, does not include purity (quantification of substances), and mitragynine and 7-hydroxy-mitragynine are not currently listed as scheduled controlled dangerous substances in Louisiana.

Louisiana Department of Health

LDH reports that it will require four (4) T.O. positions (\$464,413 total annually including related benefits) to incorporate kratom testing into the Sanitarian Services, Food and Drug unit in order to regulate a new product. This entails all avenues of work, including label review and inspection. For purposes of this fiscal note, LDH assumed first year personal services costs of \$364,782 as it anticipates only partial funding will be required in FY 21 to reflect approximately a two to three month delay before candidates are hired to fill the new positions. Additional estimated expenditures provided by LDH include annual recurring operating expenses such as supplies and staff training (\$40,513). LDH also reports one-time expenditures of \$800 to cover rule promulgation in FY 21 and acquisitions expenditures of \$5,544 in FY 21 and \$3,378 in FY 25 for office equipment. LDH estimates the total annual expenditures at approximately \$365,000 for FY 21, and \$464,000 for the outyears except FY 25 at \$468,000.

Senate Dual Referral Rules

13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}

13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House

6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}

6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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