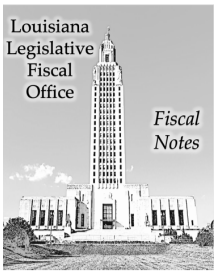


LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 655** HLS 23RS 2572

Bill Text Version: **ENGROSSED**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.: **HB 572**

Date: May 22, 2023	1:12 PM	Author: GOUDEAU
Dept./Agy.: Alcohol and Tobacco Control, LA Dept. of Health		Analyst: Patrice Thomas
Subject: Kratom Consumer Protection Act		

CONSUMERS/PROTECTION

EG SEE FISC NOTE SG EX See Note

Page 1 of 2

Provides relative to kratom products

Proposed law creates the Kratom Consumer Protection Act under the regulation of the Commissioner of the Office of Alcohol and Tobacco Control (ATC). Proposed law requires processors of kratom to adhere to product limitations that exclude dangerous non-kratom substances. Proposed law requires package of a kratom product to contain certain information. Proposed law prohibits the distribution and sale of kratom products to minors, under 18 years old. Proposed law requires kratom processors to register products annually, which includes paying a registration fee, providing a certificate of analysis (COA) from an university laboratory at University of LA Monroe, Southern University, and LA State University, noncompliance reports, and any adverse events (AE) reports to the LA Department of Health. If it has a reasonable basis, proposed law authorizes ATC to require a COA to show compliance, and the processor is responsible for payment of testing. Proposed law enacts violations as follows: (1) administration fine up to \$500 for 1st offenses; (2) administration fine up to \$1,000 for 2nd and subsequent offenses; and (3) revoke registration for one year upon 3rd offenses.

EXPENDITURES	2023-24	2024-25	2025-26	2026-27	2027-28	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						

REVENUES	2023-24	2024-25	2025-26	2026-27	2027-28	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						

EXPENDITURE EXPLANATION

Proposed law will increase SGR expenditures in the LA Department of Revenue, Office of Alcohol Tobacco and Control (ATC) by \$814,355 for the regulation of kratom processors and products. The proposed law creates the Kratom Consumer Protection Act and requires kratom processors to register annually with ATC. The proposed law authorizes ATC to require a certificate of analysis of each kratom product from a university laboratory at the University of LA Monroe, Southern University, or LA State University (paid by kratom processors) and assess administrative fines for violations of prohibited substances in kratom products. In addition, the proposed law requires kratom processors to report an adverse event related to registered kratom products to the LA Department of Health.

LA Department of Health (LDH)

There is no anticipated impact on expenditures within the LA Department of Health (LDH) as a result of this measure. The department reports receiving report filing from kratom processors required by this proposed law can be accomplished utilizing existing staffing and resources.

EXPENDITURE EXPLANATION Continues on Page 2

REVENUE EXPLANATION

Proposed law will increase SGR revenues within the Office of Alcohol and Tobacco Control (ATC) within the LA Department of Revenue from annual registration fees and administrative fines authorized under this measure. Although the proposed law authorizes ATC to assess annual registration fees for kratom processors, the proposed law does not specify the amount of the registration fee but does require a fee amount that will cover all administrative costs to the agency. The number of kratom processors that may register with the agency is speculative and indeterminable. Also, the proposed law provides for an administrative fine for violations as follows: (1) up to \$500 for 1st offense, and (2) up to \$1,000 for 2nd and subsequent offenses. The number of kratom processors that may violate the proposed law and be assessed administrative fines by the Commissioner of ATC is speculative and indeterminable.

The proposed law will increase SGR revenues in the University of LA at Monroe (ULM), Southern University (SU), and LA State University (LSU) as a result of laboratory analysis. Before registration, the proposed law requires processors of kratom products to obtain a certificate of analysis for each product from one of the three university laboratories. The amount of revenue collected from performing certificate of analyses is speculative and indeterminable.

Senate
 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
Evan Brasseaux
Interim Deputy Fiscal Officer



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CONTINUED EXPLANATION from page one:
EXPENDITURE EXPLANATION Continued from Page 1

LA Department of Revenue (LDR), Office of Alcohol and Tobacco Control (ATC)

The proposed law requires ATC to annually register new Kratom products and renew existing registration, produce non-compliance reports, and issue administrative violations. Since ATC does not currently monitor kratom businesses or products, the agency anticipates needing a new section, which consists of a Director, an Executive Staff Officer, a Revenue Tax Analyst, an Administrative Coordinator, an Attorney, and six (6) ATC Agents for a total annual personal services cost of \$572,741. Also, ATC anticipates equipment costs of \$40,269 for each ATC agent, totaling \$241,614 in FY 24. In subsequent fiscal years, this fiscal note assumes a 2% market rate adjustment in salaries and related benefits for staff. To the extent the additional workload is less than what ATC anticipates, the additional workload may be absorbable, either wholly or partially, using existing staff and resources or may be achievable with fewer positions. Alternatively, if kratom businesses or products expand dramatically, ATC may require additional resources over the estimate provided.

Although the proposed law authorizes ATC to assess annual registration fees for kratom processors, the proposed law does not specify the amount of the registration fee but does authorize a fee schedule that will cover all administrative costs to the department. The exact number of kratom in-state processors and out-of-state processors is unknown and the exact size and volume of the kratom industry sales are indeterminable. To the extent these costs are not fully funded by registration revenues, additional budgetary resources may be needed.

EXPENDITURES

	FY 2025	FY 2026	FY 2027	FY 2028	FY 2028
Positions					
ATC Agent (6 positions)	\$329,724	\$336,318	\$343,045	\$349,906	\$356,904
Attorney	\$46,138	\$47,061	\$48,002	\$48,962	\$49,941
Director	\$60,000	\$61,200	\$62,424	\$63,672	\$64,946
Revenue Tax Analyst	\$43,140	\$44,003	\$44,883	\$45,781	\$46,696
Executive Staff Officer	\$62,892	\$64,150	\$65,433	\$66,741	\$68,076
Administrative Coordinator	\$30,847	\$31,464	\$32,093	\$32,735	\$33,390
Personal Services Sub-total	\$572,741	\$584,196	\$595,880	\$607,797	\$619,953
Equipment	\$241,614	\$0	\$0	\$0	\$0
Total Expenditures	\$814,355	\$584,196	\$595,880	\$607,797	\$619,953
T.O.	11	11	11	11	11

University Laboratories

The proposed law requires kratom processors to include a certificate of analysis (COA) from a university laboratory when registering each kratom product. The COA shall be provided by university laboratories at the University of LA Monroe, Southern University, or LA State University. The LFO presumes university laboratories subject Kratom processors to the same fee schedule assessed to hemp and medical marijuana processors that covers all direct and indirect costs to its respective university.

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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Interim Deputy Fiscal Officer