

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 220

By Senators Woodrum, Deeds, Rucker, Stuart, and

Hamilton

[Introduced January 13, 2023; referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §16-66-1, §16-66-2, §16-66-3, §16-66-4, §16-66-5, and §16-66-6, all relating
 3 to the creation of the Kratom Consumer Protection Act; regulating the preparation,
 4 distribution, and sale of kratom products; prohibiting the preparation, distribution, and sale
 5 of adulterated or contaminated kratom products; prescribing fines and penalties; and
 6 providing for the powers and duties of certain state governmental officers and entities.

Be it enacted by the Legislature of West Virginia:

ARTICLE 66. KRATOM CONSUMER PROTECTION ACT.

§16-66-1. Short Title.

1 This act shall be known and may be cited as the "West Virginia Kratom Consumer
 2 Protection Act".

§16-66-2. **Definitions.**

1 As used in this act:

2 (a) "Processor" means a person that sells, prepares, manufactures, distributes, or
 3 maintains kratom products, or advertises, represents, or holds itself out as selling, preparing, or
 4 maintaining kratom products.

5 (b) "Food" means a food, food product, food ingredient, dietary ingredient, dietary
 6 supplement, or beverage for human consumption.

7 (c) "Kratom product" means a food product or dietary ingredient containing any part of the
 8 leaf of the plant *Mitragyna speciosa* or an extract of it; is manufactured as a powder, capsule, pill,
 9 beverage, or other edible form; and all kratom products are foods.

10 (d) "Kratom Extract" means a food product or dietary ingredient containing any part of the
 11 leaf of the plant *Mitragyna Speciosa* that has been extracted and concentrated in order to provide
 12 more standardized dosing.

13 (e) "Retailer" means any person that sells, distributes, advertises, represents, or holds
 14 itself out as selling or maintaining kratom products.

§16-66-3. Kratom product limitations.

1 A processor shall not prepare, distribute, sell, or expose for sale any of the following:

2 (a) A kratom product that is adulterated with a dangerous non-kratom substance. A kratom
3 product is adulterated with a dangerous non-kratom substance if the kratom product is mixed or
4 packed with a non-kratom substance and that substance affects the quality or strength of the
5 kratom product to such a degree as to render the kratom product injurious to a consumer.

6 (b) A kratom product that is contaminated with a dangerous non-kratom substance. A
7 kratom product is contaminated with a dangerous non-kratom substance if the kratom product
8 contains a poisonous or otherwise deleterious non-kratom ingredient, including, but not limited to,
9 the substances listed in §60A-2-201 et seq. of this code.

10 (c) A Kratom Extract that contains levels of residual solvents higher than is allowed in USP
11 467.

12 (d) A kratom product containing a level of 7-hydroxymitragynine in the alkaloid fraction that
13 is greater than 2% of the overall alkaloid composition of the product.

14 (e) A kratom product containing any synthetic alkaloids including synthetic mitragynine,
15 synthetic 7-hydroxymitragynine, or any other synthetically derived compounds of the kratom plant
16 that does not provide adequate labeling directions necessary for safe and effective use by
17 consumers, including a recommended serving size.

§16-66-4. Age limits.

1 A processor shall not distribute, sell, or expose for sale a kratom product to an individual
2 under 18 years of age.

§16-66-5. Violations.

1 (a) A processor that violates §16-66-3 of this code is subject to an administrative fine of not
2 more than \$1,000 for the first offense and not more than \$10,000 for the second or subsequent
3 offense. Upon the request of a person to whom an administrative fine is issued, the director shall
4 conduct a hearing.

