

1 A bill to be entitled
2 An act relating to kratom products; amending s.
3 500.92, F.S.; including additional provisions in the
4 Florida Kratom Consumer Protection Act; providing
5 definitions; requiring the Department of Agriculture
6 and Consumer Services to certify certain laboratories;
7 providing for the distribution and retail sale of
8 kratom products; revising and providing penalties;
9 authorizing the department to take certain actions
10 against licensees and permittees; providing
11 jurisdiction for certain law enforcement agencies;
12 creating s. 500.93, F.S.; providing definitions;
13 providing for mail order, Internet, and remote sales
14 of kratom products; providing applicability; providing
15 penalties; creating s. 500.94, F.S.; providing for the
16 seizure and destruction of contraband kratom products;
17 creating s. 500.95, F.S.; prohibiting the ingestion of
18 kratom products near school properties; providing
19 exceptions; providing penalties; amending ss. 565.04
20 and 565.045, F.S.; authorizing specified businesses to
21 sell kratom products; amending ss. 569.006 and 569.35,
22 F.S.; conforming provisions to changes made by the
23 act; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 **Section 1. Section 500.92, Florida Statutes, is amended to**
28 **read:**

29 500.92 Florida Kratom Consumer Protection Act.—

30 (1) SHORT TITLE.—Sections 500.92-500.95 ~~This section~~ may
31 be cited as the "Florida Kratom Consumer Protection Act."

32 (2) DEFINITIONS.—As used in this act section, the term:

33 (a) "Attractive to children" means manufactured in the
34 shape of or packaged in containers displaying humans, cartoons,
35 animals, toys, or other features that target children;
36 manufactured in a form or packaged in a container that bears any
37 reasonable resemblance to an existing candy or snack product
38 that is familiar to the public; manufactured in a form or
39 packaged in a container that bears any reasonable resemblance to
40 a branded food product such that the product could be mistaken
41 for the branded food product, especially by children; or
42 containing any color additives.

43 (b) "Contaminants unsafe for human consumption" includes,
44 but is not limited to, any microbe, fungus, yeast, mildew,
45 herbicide, pesticide, fungicide, residual solvent, metal, or
46 other contaminant found in any amount that exceeds any of the
47 accepted limitations as determined by rules adopted by the
48 Department of Health in accordance with s. 381.986, or other
49 limitation pursuant to the laws of this state, whichever amount
50 is less.

51 (c) "Independent testing laboratory" means a laboratory
52 that:

53 1. Does not have a direct or indirect interest in the
54 entity whose product is being tested;

55 2. Does not have a direct or indirect interest in a
56 facility that processes, distributes, dispenses, or sells kratom
57 products in this state or in another jurisdiction or cultivates,
58 processes, distributes, dispenses, or sells marijuana, as
59 defined in s. 381.986(1); and

60 3. Is certified by the Department of Health as a medical
61 marijuana testing laboratory pursuant to s. 381.988 or is
62 certified by the department as being substantially equivalent to
63 a medical marijuana testing laboratory pursuant to subsection
64 (3).

65 (d) "Kratom product" means a food product, food
66 ingredient, dietary ingredient, dietary supplement, or beverage
67 intended for human consumption which contains any part of the
68 leaf of the plant Mitragyna speciosa or an extract, synthetic
69 alkaloid, or synthetically derived compound of such plant and is
70 manufactured as a powder, capsule, pill, beverage, or other
71 edible form.

72 (e) "Manufacturer" means any person or entity that engages
73 in the process of manufacturing, preparing, or packaging kratom
74 products.

75 (f) "Retailer" means any person or entity that sells

76 kratom products to consumers.

77 (g) "Wholesaler" means any person or entity located within
78 or outside this state which delivers or sells products
79 containing kratom to retailers or other persons in this state
80 for purposes of resale.

81 (3) CERTIFICATION OF LABORATORIES.—

82 (a) The department must certify any laboratory located
83 within this state or another state which meets the
84 qualifications of an independent testing laboratory. However, a
85 medical marijuana testing laboratory certified pursuant to s.
86 381.988 is not required to receive certification by the
87 department.

88 (b) The department must adopt rules establishing the
89 standards for certification of independent testing laboratories
90 and testing kratom products in accordance with this section. The
91 Department of Health must assist the department in developing
92 rules for the certification of independent testing laboratories,
93 which must include, but are not limited to:

94 1. Security standards.

95 2. Minimum standards for personnel.

96 3. Sample collection methods and process standards.

97 4. Proficiency testing for Mitragynine, 7-
98 hydroxymitragynine, and contaminants unsafe for human
99 consumption, as determined by department rule.

100 5. Reporting content, format, and frequency.

101 6. Audits and onsite inspections.

102 7. Quality assurance.

103 8. Equipment and methodology.

104 9. Chain of custody.

105 10. Any other standard the department deems necessary.

106 (c) The department shall renew the certification
107 biennially if the laboratory meets the requirements of this
108 section or any rules adopted under this section. The department
109 shall adopt rules establishing a procedure for initial
110 certification and biennial renewal.

111 (d) The department must publish on its website a list of
112 all laboratories that have received certification.

113 (e) The department may refuse to issue or renew, or may
114 suspend or revoke, the certification of an independent testing
115 laboratory that is found to be in violation of this section or
116 any rules adopted by the department.

117 (f) A laboratory that receives certification from the
118 department under this subsection agrees to random unannounced
119 audits and onsite inspections by the department or its agents.

120 (4) DISTRIBUTION AND RETAIL SALE OF KRATOM PRODUCTS.—

121 (a) Kratom products may only be distributed and sold in
122 this state if all of the following conditions are met:

123 1. The kratom product:

124 a. Is not adulterated with a dangerous non-kratom
125 substance affecting the quality or strength of the product to a

126 degree that renders the product injurious to a consumer.

127 b. Is not contaminated with contaminants unsafe for human
128 consumption or an otherwise deleterious non-kratom substance,
129 including a controlled substance;

130 c. Contains a level of 7-hydroxymitragynine in the
131 alkaloid fraction that is no more than 2 percent of the overall
132 alkaloid composition of the product; and

133 d. Does not contain any synthetic alkaloids, including
134 synthetic 7-hydroxymitragynine and synthetically derived
135 compounds from a plant of the Mitragyna speciosa.

136 2. The kratom product is tested by the manufacturer, the
137 wholesaler, and the retailer by an independent testing
138 laboratory and the laboratory's certificate of analysis states
139 the kratom product was tested for:

140 a. Synthetic alkaloids.

141 b. 7-hydroxymitragynine.

142 c. Heavy metals.

143 d. Mycotoxins.

144 e. Pesticides.

145 f. Potency.

146 g. Residual solvents.

147 h. Any other controlled substance.

148 i. Any other substance the department deems necessary.

149 3. The kratom product is distributed or sold in a
150 container that includes:

151 a. A scannable barcode or quick response code linked to
152 the certificate of analysis of the kratom product;
153 b. The kratom product testing number; and
154 c. The expiration date of the kratom product.
155 4. The kratom product is distributed or sold in a
156 container that:
157 a. Is suitable to contain products for human consumption;
158 b. Is composed of materials designed to minimize exposure
159 to light;
160 c. Mitigates exposure to high temperatures;
161 d. Is a single color and is not transparent; however, this
162 does not apply to the universal symbol;
163 e. Does not contain any pictures or images other than a
164 single logo, which may not be attractive to children and may not
165 cover more than 20 percent of the container;
166 f. Contains a clear and conspicuous warning developed by
167 the department that the product is a kratom product;
168 g. Contains a universal symbol developed by the department
169 which indicates the presence of kratom;
170 h. Is not attractive to children; and
171 i. Is compliant with the United States Poison Prevention
172 Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq., without
173 regard to provided exemptions. For purposes of this sub-
174 subparagraph, a beverage in a sealed container is considered
175 compliant with the United States Poison Prevention Packaging Act

176 of 1970, 15 U.S.C. ss. 1471 et seq.

177 (b) A wholesaler or retailer is not required to test its
178 kratom product in accordance with paragraph (a) if the product
179 is packaged in a container in a manner that may be sold to the
180 ultimate consumer when the wholesaler or retailer receives the
181 product from the manufacturer or wholesaler, the product was
182 tested in accordance with paragraph (a) by the manufacturer or
183 wholesaler, and the wholesaler or retailer does not open the
184 container.

185 (c) The retail sale and delivery of kratom products is
186 prohibited, except:

187 1. At an establishment that has a food permit from the
188 department and prohibits the presence of persons under 21 years
189 of age on the establishment's premises;

190 2. At an establishment that has a food permit from the
191 department and a quota license issued under s. 565.02(1)(a)-(f).
192 An establishment with a quota license issued under s.
193 565.02(1)(a)-(f) which allows the presence of persons under 21
194 years of age on the establishment's premises must place kratom
195 products, not including beverages, in an area inaccessible to
196 customers. Such an establishment may place kratom products, not
197 including beverages, in an open display unit as long as the unit
198 is located in an area that is inaccessible to customers; or

199 3. In accordance with the mail order, Internet, and remote
200 sales of kratom products requirements in s. 500.93.

201 (d) Kratom products may not be sold, given, bartered,
202 furnished, or delivered to consumers at festivals, fairs, trade
203 shows, farmers markets, expositions, or pop-up retail
204 establishments.

205 (5)(3) AGE RESTRICTION.—It is unlawful to sell, deliver,
206 barter, furnish, or give, directly or indirectly, any kratom
207 product to a person who is under 21 years of age.

208 (6)(4) PENALTIES.—A person who violates subsection (4) or
209 subsection (5) commits a misdemeanor of the second degree,
210 punishable as provided in s. 775.082 or s. 775.083 for the first
211 offense. A person who commits a second offense within 12 months
212 after the first offense commits a misdemeanor of the first
213 degree, punishable as provided in s. 775.082 or s. 775.083. A
214 person who commits a third or subsequent offense within 12
215 months after the second offense commits a felony of the third ~~A~~
216 ~~violation of subsection (3) is a misdemeanor of the second~~
217 degree, punishable as provided in s. 775.082 or s. 775.083.

218 (7) DEPARTMENTAL ACTION.—In addition to any other
219 penalties provided by law, the department may take any of the
220 following actions against any person licensed or permitted by
221 the department for a violation of this section:

222 (a) Place on probation or reprimand the licensee or
223 permitee;

224 (b) Revoke, suspend, or deny the issuance or renewal of
225 the license or permit; or

226 (c) Impose an administrative fine not to exceed \$5,000 per
227 violation and assess costs associated with investigation and
228 prosecution.

229 (8) ENFORCEMENT.—The department shall enforce this
230 section. Every state attorney, sheriff, police officer, and
231 other appropriate county or municipal officer shall enforce, or
232 assist any agent of the department in enforcing, this section
233 and rules adopted by the department.

234 (9) ~~(5)~~ RULES.—The department shall adopt rules to
235 administer this section.

236 **Section 2. Section 500.93, Florida Statutes, is created to**
237 **read:**

238 500.93 Mail order, Internet, and remote sales of kratom
239 products; age verification.—

240 (1) As used in this section, the term:

241 (a) "Consumer" means a person in this state who comes into
242 possession of any kratom products and who, at the time of
243 possession, does not intend to sell or distribute the kratom
244 products and is not a retailer.

245 (b) "Delivery sale" means any sale of kratom products to a
246 consumer in this state for which:

247 1. The consumer submits the order for the sale by
248 telephonic or other voice transmission, mail, delivery service,
249 or the Internet or other online service; or

250 2. The kratom products are delivered by use of mail or a

251 delivery service.

252 (c) "Delivery service" means any person engaged in the
253 commercial delivery of letters, packages, or other containers.

254 (d) "Legal minimum purchase age" means the minimum age at
255 which a person may legally purchase kratom products in this
256 state.

257 (e) "Shipping container" means a container in which kratom
258 products are shipped in connection with a delivery sale.

259 (f) "Shipping document" means a bill of lading, airbill,
260 United States Postal Service form, or any other document used to
261 verify the undertaking by a delivery service to deliver letters,
262 packages, or other containers.

263 (2) (a) A sale of kratom products constituting a delivery
264 sale under paragraph (1) (b) is a delivery sale regardless of
265 whether the person accepting the order for the delivery sale is
266 located within or outside this state.

267 (b) A retailer must obtain a food permit from the
268 department under chapter 500 before accepting an order for a
269 delivery sale.

270 (c) A person may not make a delivery sale of kratom
271 product to any person who is not 21 years of age or older.

272 (d) Each person accepting an order for a delivery sale
273 must comply with each of the following:

274 1. The age verification requirements set forth in
275 subsection (3).

276 2. The notice requirements set forth in subsection (4).

277 3. The shipping requirements set forth in subsection (5).

278 (3) A person may not mail, ship, or otherwise deliver
279 kratom products in connection with an order for a delivery sale
280 unless, before the first delivery to the consumer, the person
281 accepting the order for the delivery sale:

282 (a) Obtains from the person submitting the order a
283 certification that includes:

284 1. Reliable confirmation that the person is 21 years of
285 age or older; and

286 2. A statement signed by the person in writing and under
287 penalty of perjury which:

288 a. Certifies the address and date of birth of the person;
289 and

290 b. Confirms that the person wants to receive delivery
291 sales from a kratom product retailer and understands that, under
292 the laws of the state, the following actions are illegal:

293 (I) Signing another person's name to the certification;

294 (II) Selling kratom products to persons who are not 21
295 years of age or older; and

296 (III) Purchasing kratom products if the person making the
297 purchase is not 21 years of age or older.

298 (b) Makes a good faith effort to verify the information
299 contained in the certification provided by the person under
300 paragraph (a) against a commercially available database that may

301 be reasonably relied upon for accurate age information or
302 obtains a photocopy or other image of a valid government-issued
303 identification card stating the date of birth or age of the
304 person.

305 (c) Provides to the person, by e-mail or other means, a
306 notice meeting the requirements of subsection (4).

307 (d) If an order for kratom products is made pursuant to an
308 advertisement on the Internet, receives payment for the delivery
309 sale from the consumer by a credit or debit card issued in the
310 name of the consumer, or by personal or company check of the
311 consumer.

312 (e) Submits, to each credit card acquiring company with
313 which the person has credit card sales, identification
314 information in an appropriate form and format so that the words
315 "kratom product" may be printed in the purchaser's credit card
316 statement when a purchase of kratom products is made by credit
317 card payment.

318 (f) Makes a telephone call after 5 p.m. to the purchaser
319 confirming the order before shipping the kratom products. The
320 telephone call may be a person-to-person call or a recorded
321 message. The person accepting the order for delivery sale is not
322 required to speak directly with a person and may leave a
323 recorded message.

324
325 In addition to the requirements of this subsection, a person

326 accepting an order for a delivery sale may request that a
327 consumer provide an e-mail address.

328 (4) The notice described in paragraph (3)(c) must include
329 prominent and clearly legible statements that sales of kratom
330 products are:

331 (a) Illegal if made to persons who are not 21 years of age
332 or older.

333 (b) Restricted to those persons who provide verifiable
334 proof of age in accordance with subsection (3).

335 (5) Each person who mails, ships, or otherwise delivers
336 kratom products in connection with an order for a delivery sale
337 must:

338 (a) Ship the kratom products in a container that complies
339 with the container requirements in s. 500.92.

340 (b) Include as part of the shipping documents, in a clear
341 and conspicuous manner, the following statement: "Kratom
342 product: Florida law prohibits shipping to persons under 21
343 years of age."

344 (c) Use a method of mailing, shipping, or delivery which
345 obligates the delivery service to require proof that the person
346 accepting the order for the delivery sale is 21 years of age or
347 older and resides at the address listed on the order label, by
348 reviewing a valid government-issued identification card bearing
349 a photograph of the person who signs to accept delivery of the
350 shipping container.

If the person accepting a purchase order for a delivery sale delivers the kratom products without using a delivery service, the person must comply with all of the requirements of this section which apply to a delivery service. Any failure to comply with a requirement of this section constitutes a violation thereof.

(6) This section does not apply to delivery sales of kratom products to a retailer or wholesaler.

(7) A person 21 years of age or older who knowingly violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) The Attorney General, the Attorney General's designee, or a state attorney may bring an action in the appropriate court in the state to prevent or restrain violations of this section by any person.

Section 3. Section 500.94, Florida Statutes, is created to read:

500.94 Seizure and destruction of contraband kratom products.—All kratom products sold, offered for sale, delivered, or distributed contrary to any provision of s. 500.92 or s. 500.93 are declared to be contraband, are subject to seizure and confiscation under the Florida Contraband Forfeiture Act by any person whose duty it is to enforce those sections, and must be

376 disposed of as follows:

377 (1) A court having jurisdiction shall order such kratom
378 products forfeited upon a showing that, by a preponderance of
379 the evidence, such products were sold, offered for sale,
380 delivered, or distributed contrary to any provision of s. 500.92
381 or s. 500.93. Upon completion of any chapter 120 proceedings
382 related to such products, the court shall order any seized
383 kratom products destroyed, except as provided by applicable
384 court orders. The officer who destroys such products shall keep
385 a record of the place at which such products were seized, the
386 kinds and quantities of such products destroyed, and the time,
387 place, and manner of the destruction of such products and shall
388 make a return under oath reporting such destruction.

389 (2) The department or seizing law enforcement agency shall
390 keep a full and complete record of all products seized under
391 this section showing:

392 (a) The exact kinds, quantities, and forms of such
393 products;

394 (b) The persons from whom such products were seized and to
395 whom such products were delivered;

396 (c) By whose authority such products were seized,
397 delivered, and destroyed; and

398 (d) The dates of the seizure, disposal, or destruction of
399 such products.

Such record must be open to inspection by all persons charged with the enforcement of ss. 500.92 and 500.93.

(3) The cost of seizure, confiscation, and destruction of contraband kratom products is borne by the person from whom such products are seized.

(4) Except as otherwise provided in this section, the procedures of the Florida Contraband Forfeiture Act apply to this section.

Section 4. Section 500.95, Florida Statutes, is created to read:

500.95 Ingesting kratom products prohibited near school property; penalty.—

(1) A person may not ingest kratom products in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight. This section does not apply to any person in a moving vehicle or within a private residence.

(2) A law enforcement officer may issue a citation in such form as prescribed by a county or municipality to any person who violates this section. Such citation must contain:

(a) The date and time of issuance.

(b) The name and address of the person cited.

(c) The date and time the civil infraction was committed.

(d) The statute violated.

(e) The facts constituting the violation.

426 (f) The name and authority of the law enforcement officer.

427 (g) The procedure for the person to follow to pay the
428 civil penalty, to contest the citation, or to appear in court.

429 (h) The applicable civil penalty if the person elects not
430 to contest the citation.

431 (i) The applicable civil penalty if the person elects to
432 contest the citation.

433 (3) Any person issued a citation pursuant to this section
434 is charged with a civil infraction, punishable by a civil
435 penalty of up to \$25, 50 hours of community service, or, if
436 available, successful completion of a school-approved, anti-
437 drug, alternative-to-suspension program.

438 (4) Any person who fails to comply with the directions on
439 the citation waives his or her right to contest the citation,
440 and an order to show cause may be issued by the court.

441 **Section 5. Subsection (1) of section 565.04, Florida**
442 **Statutes, is amended to read:**

443 565.04 Package store restrictions.—

444 (1) Vendors licensed under s. 565.02(1)(a) shall not in
445 said place of business sell, offer, or expose for sale any
446 merchandise other than such beverages, and such places of
447 business shall be devoted exclusively to such sales; provided,
448 however, that such vendors shall be permitted to sell bitters;
449 grenadine; nonalcoholic mixer-type beverages, not to include
450 fruit juices produced outside this state; fruit juices produced

in this state; home bar and party supplies and equipment, including but not limited to glassware and party-type foods; miniatures of no alcoholic content; nicotine products; and tobacco products. Such places of business shall have no openings permitting direct access to any other building or room, except to a private office or storage room of the place of business from which patrons are excluded. Vendors licensed under 565.02(1)(a) may sell kratom products in accordance with the Florida Kratom Consumer Protection Act.

Section 6. Paragraph (a) of subsection (2) of section 565.045, Florida Statutes, is amended to read:

565.045 Regulations for consumption on premises; penalty; exemptions.—

(2)(a) There shall not be sold at such places of business anything other than the beverages permitted, home bar and party supplies and equipment (including, but not limited to, glassware and party-type foods), cigarettes, kratom products in accordance with the Florida Kratom Consumer Protection Act, and what is customarily sold in a restaurant.

Section 7. Section 569.006, Florida Statutes, is amended to read:

569.006 Retail tobacco products dealers; administrative penalties.—The division may suspend or revoke the permit of the dealer upon sufficient cause appearing of the violation of any of the provisions of s. 500.92, s. 500.93, or this chapter,

including part II of this chapter if the dealer deals, at retail, in nicotine products within the state or allows a nicotine products vending machine to be located on its premises within the state, by a dealer or by a dealer's agent or employee. The division may also assess and accept administrative fines of up to \$1,000 against a dealer for each violation. The division shall deposit all fines collected into the General Revenue Fund as collected. An order imposing an administrative fine becomes effective 15 days after the date of the order. The division may suspend the imposition of a penalty against a dealer, conditioned upon the dealer's compliance with terms the division considers appropriate.

Section 8. Section 569.35, Florida Statutes, is amended to read:

569.35 Retail nicotine product dealers; administrative penalties.—The division may suspend or revoke the permit of a dealer, including the retail tobacco products dealer permit of a retail tobacco products dealer as defined in s. 569.002(4), upon sufficient cause appearing of the violation of any of the provisions of s. 500.92, s. 500.93, or this part, by a dealer, or by a dealer's agent or employee. The division may also assess and accept an administrative fine of up to \$1,000 against a dealer for each violation. The division shall deposit all fines collected into the General Revenue Fund as collected. An order imposing an administrative fine becomes effective 15 days after

the date of the order. The division may suspend the imposition of a penalty against a dealer, conditioned upon the dealer's compliance with terms the division considers appropriate.

Section 9. This act shall take effect July 1, 2025.