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]

Intr SB 220 2023R1664

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

Be it enacted by the Legislature of West Virginia:

<u>ARTICLE 66. KRATOM CONSUMER PROTECTION ACT.</u>

§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:

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- (a) "Processor" means a person that sells, prepares, manufactures, distributes, or
 maintains kratom products, or advertises, represents, or holds itself out as selling, preparing, or
 maintaining kratom products.
 - (b) "Food" means a food, food product, food ingredient, dietary ingredient, dietary supplement, or beverage for human consumption.
 - (c) "Kratom product" means a food product or dietary ingredient containing any part of the leaf of the plant Mitragyna speciosa or an extract of it; is manufactured as a powder, capsule, pill, beverage, or other edible form; and all kratom products are foods.
 - (d) "Kratom Extract" means a food product or dietary ingredient containing any part of the leaf of the plant Mitragyna Speciosa that has been extracted and concentrated in order to provide more standardized dosing.
- (e) "Retailer" means any person that sells, distributes, advertises, represents, or holds
 itself out as selling or maintaining kratom products.

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	§16-66-3. Kratom	product	<u>limitations.</u>	
1	A processor shall not prepare, distribute,	sell, or expose for sale any	of the following:	
2	(a) A kratom product that is adulterated w	ith a dangerous non-kratom	substance. A kratom	
3	product is adulterated with a dangerous non-kra	tom substance if the kratom	n product is mixed or	
4	packed with a non-kratom substance and that	substance affects the quali	ty or strength of the	
5	kratom product to such a degree as to render the	e kratom product injurious to	a consumer.	
6	(b) A kratom product that is contaminat	(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 the	is code.		
10	(c) A Kratom Extract that contains levels	of residual solvents higher th	an is allowed in USP	
11	<u>467.</u>			
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 compos	sition of the product.		
14	(e) A kratom product containing any syr	nthetic alkaloids including sy	ynthetic mitragynine,	
15	synthetic 7-hydroxymitragynine, or any other syn	thetically derived compound	ls of the kratom plant	
16	that does not provide adequate labeling direc	tions necessary for safe a	and effective use by	
17	consumers, including a recommended serving size.			
	§16-66-4.	Age	limits.	
1	A processor shall not distribute, sell, or e	expose for sale a kratom pro	oduct to an individual	
2	under 18 years of age.			
	§16-66-5.		Violations.	
1	(a) A processor that violates §16-66-3 of t	his code is subject to an adn	ninistrative fine of not	
2	more than \$1,000 for the first offense and not m	nore than \$10,000 for the se	econd or subsequent	
3	offense. Upon the request of a person to whom an administrative fine is issued, the director shall			
4	conduct a hearing.			

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(b) A retailer does not violate §16-66-3 of this code if it is shown by a preponderance of the evidence that the retailer relied in good faith upon the representations of a manufacturer, processor, packer, or distributor of food represented to be a kratom product.

No financial institution, service, or entity including, but not limited to, a bank, credit union, credit card network, or credit card processing company shall refuse or terminate service to a dealer because the dealer engages in the preparation, distribution, or sale of kratom products. If a financial institution, service, or entity refuses or terminates service to a dealer because the dealer engages in the preparation, distribution, or sale of kratom products, the financial institution, service, or entity shall reestablish or accept service with the dealer upon the request of the dealer, regardless of whether the dealer appears on any report generated by a financial institution data match program or system.

NOTE: The purpose of this bill is to provide for the creation of the Kratom Consumer Protection Act. The bill regulates the preparation, distribution, and sale of kratom products. The bill prohibits the preparation, distribution, and sale of adulterated or contaminated kratom products. The bill prescribes fines and penalties. Finally, the bill provides for the powers and duties of certain state governmental officers and entities.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.