

## CHAPTER 41

AN ACT

HB 4010

Relating to kratom; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

**SECTION 1.** Sections 2 to 7 of this 2022 Act shall be known and may be cited as the Oregon Kratom Consumer Protection Act.

**SECTION 2.** As used in sections 2 to 7 of this 2022 Act:

(1) "Kratom product" means a food, food product, food ingredient, dietary ingredient, dietary supplement or beverage for human consumption containing any part of the leaf of the plant *Mitragyna speciosa*.

(2) "Processor" means a person that sells, distributes or exposes for sale kratom products on a wholesale basis to a retailer.

(3) "Retailer" means a person that sells, distributes or exposes for sale kratom products to individuals for personal consumption.

**SECTION 3.** (1) A processor may not sell, distribute or expose for sale a kratom product prior to registering with the Department of Revenue under section 7 of this 2022 Act.

(2) A processor that violates subsection (1) of this section is subject to a civil penalty of not more than \$500 for the first offense and not more than \$1,000 for a second or subsequent offense.

(3) Except as otherwise provided by state tax law or the department by rule or order, a civil penalty imposed under this section may be appealed as a contested case proceeding under ORS chapter 183.

**SECTION 4.** (1) A retailer may not sell, distribute or expose for sale a kratom product to an individual under 21 years of age.

(2) A retailer that violates subsection (1) of this section is guilty of a Class C misdemeanor for each violation.

**SECTION 5.** The Department of Revenue shall deposit all moneys collected under sections 3 and 7 of this 2022 Act in a suspense account established under ORS 293.445. The department may pay expenses for the administration and enforcement of sections 2 to 7 of this 2022 Act with moneys from the suspense account. The department shall pay refunds, if any, with moneys in the suspense account. Moneys necessary to pay administrative and enforcement expenses and refunds are continuously appropriated to the department from the suspense account.

**SECTION 6.** Except as otherwise provided or where the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the determination and notice of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, stays of collection pending appeal, confidentiality of registration and the related civil penalties, and the related procedures, apply to the determination of civil penalties imposed under section 3 of this 2022 Act and registration fees imposed under section 7 of this 2022 Act.

**SECTION 7.** (1) The Department of Revenue shall adopt rules necessary to carry out sections 2 and 3 of this 2022 Act, including rules establishing:

(a) Procedures for a processor to register annually with the department, including a requirement that a processor certify that all of the kratom products the processor will sell, distribute or expose for sale are third-party tested to satisfy industry standards for adulteration;

(b) A reasonable registration fee to be paid to the department by a processor to support the administration and enforcement of sections 2 to 7 of this 2022 Act; and

(c) Any other requirements the department deems appropriate.

(2) Fees collected under subsection (1) of this section may not exceed the cost to administer and enforce sections 2 to 7 of this 2022 Act.

**SECTION 8.** (1) Sections 2 to 7 of this 2022 Act become operative on July 1, 2023.

(2) The Department of Revenue may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the department to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the department by sections 2 to 7 of this 2022 Act.

**SECTION 9.** Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Revenue by section 1 (4), chapter 441, Oregon Laws 2021, for the biennium ending June 30, 2023, for the Business Division, is increased by \$195,894 to implement sections 2 to 7 of this 2022 Act.

**SECTION 10.** This 2022 Act takes effect on the 91st day after the date on which the 2022 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Approved by the Governor March 23, 2022  
Filed in the office of Secretary of State March 30, 2022  
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