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**SENATE BILL 5941**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senator Honeyford

AN ACT Relating to the Washington kratom consumer protection act; adding a new chapter to Title 69 RCW; prescribing penalties; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  This act may be known and cited as the Washington kratom consumer protection act.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of health.

(2) "Food" has the meaning provided in RCW 69.07.010.

(3) "Kratom extract" means a substance or compound intended for human ingestion that is derived from, or made by, any part of the leaf of the plant *Mitragyna speciosa*.

(4) "Kratom processor" means a person who sells, prepares, manufactures, distributes, or maintains kratom products, or advertises, represents, or holds oneself out as selling, preparing, or maintaining kratom products.

(5) "Kratom product" means products that contain any part of the leaf of the plant *Mitragyna speciosa* or kratom extract, and are intended for human ingestion.

(6) "Retailer" means any person who sells, distributes, advertises, represents, or holds oneself out as selling or maintaining kratom products.

(7) "Secretary" means the secretary of the department of health.

NEW SECTION. **Sec.**  A kratom processor may not prepare, distribute, sell, or expose for sale any of the following:

(1) A kratom product that is adulterated with a dangerous nonkratom substance. A kratom product is adulterated with a dangerous nonkratom substance if the kratom product is mixed or packed with a nonkratom substance and that substance affects the quality or strength of the kratom product to such a degree as to render the kratom product injurious to a consumer;

(2) A kratom product that is contaminated with a dangerous nonkratom substance. A kratom product is contaminated with a dangerous nonkratom substance if the kratom product contains a poisonous or otherwise deleterious nonkratom ingredient including, but not limited to, the substances listed in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, and 69.50.212;

(3) A kratom extract that contains levels of residual solvents higher than is allowed in the United States pharmacopoeia general chapter 467;

(4) A kratom product containing a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than two percent of the overall alkaloid composition of the product;

(5) A kratom product containing any synthetic alkaloids including synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compounds of the kratom plant; or

(6) A kratom product that does not provide labeling directions necessary for safe and effective use by consumers, including a recommended serving size.

NEW SECTION. **Sec.**  A kratom processor may not distribute, sell, or expose for sale a kratom product to an individual under 21 years of age.

NEW SECTION. **Sec.**  (1) A kratom processor who violates section 3 or 4 of this act is subject to an administrative fine of not more than $500 for the first offense and not more than $10,000 for the second or subsequent offense. Upon the request of a person to whom an administrative fine is issued, the secretary must conduct a hearing in accordance with chapter 34.05 RCW.

(2) A retailer does not violate section 3 or 4 of this act if it is shown by a preponderance of the evidence that the retailer relied in good faith upon the representations of a manufacturer, kratom processor, packer, or distributor of food represented to be a kratom product.

NEW SECTION. **Sec.**  The department may adopt rules establishing:

(1) Standards for testing to ensure kratom products are safe for human consumption;

(2) Accurate labeling of kratom products; and

(3) Other rules necessary to administer this chapter.

NEW SECTION. **Sec.**  Sections 1 through 6 of this act constitute a new chapter in Title 69 RCW.

NEW SECTION. **Sec.**  This act takes effect January 1, 2023.

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