State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HOUSE BILL 2550

AN ACT

AMENDING TITLE 36, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 10; RELATING TO PUBLIC HEALTH AND SAFETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 36, chapter 6, Arizona Revised Statutes, is amended by adding article 10, to read:

ARTICLE 10. KRATOM PRODUCTS

36-795. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "DEALER":
(a) MEANS A PERSON THAT SELLS, PREPARES OR MAINTAINS KRATOM PRODUCTS OR THAT ADVERTISES, REPRESENTS OR HOLDS ITSELF OUT AS SELLING, PREPARING OR MAINTAINING KRATOM PRODUCTS.
(b) INCLUDES A MANUFACTURER, WHOLESALER, STORE, RESTAURANT, HOTEL, CATERING FACILITY, CAMP, BAKERY, DELICATESSEN, SUPERMARKET, GROCERY STORE, CONVENIENCE STORE, NURSING HOME OR FOOD OR DRINK COMPANY.

2. "FOOD" MEANS A FOOD, FOOD PRODUCT, FOOD INGREDIENT, DIETARY INGREDIENT, DIETARY SUPPLEMENT OR BEVERAGE FOR HUMAN CONSUMPTION.

3. "KRATOM PRODUCT" MEANS A FOOD PRODUCT OR DIETARY INGREDIENT CONTAINING ANY PART OF THE LEAF OF THE PLANT MITRAGYNA SPECIOSA.

36-795.01. Kratom product disclosure; preparing, distributing, selling or exposing for sale without disclosure prohibited

A. A DEALER THAT PREPARES, DISTRIBUTES, SELLS OR EXPOSES FOR SALE A FOOD THAT IS REPRESENTED TO BE A KRATOM PRODUCT SHALL DISCLOSE ON THE PRODUCT LABEL THE FACTUAL BASIS ON WHICH THAT REPRESENTATION IS MADE.

B. A DEALER MAY NOT PREPARE, DISTRIBUTE, SELL OR EXPOSE FOR SALE A FOOD REPRESENTED TO BE A KRATOM PRODUCT THAT DOES NOT CONFORM TO THE DISCLOSURE REQUIRED BY THIS SECTION.

36-795.02. Kratom product; adulteration; contamination; sales to minors prohibited

A. A DEALER 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 SUBSTANCE, INCLUDING ANY CONTROLLED SUBSTANCE PRESCRIBED BY CHAPTER 27 OF THIS TITLE.

3. A KRATOM PRODUCT CONTAINING A LEVEL OF 7-HYDROXYMITRAGYNYNE IN THE ALKALOID FRACTION THAT IS GREATER THAN TWO PERCENT OF THE ALKALOID COMPOSITION OF THE PRODUCT.
4. A KRATOM PRODUCT CONTAINING ANY SYNTHETIC ALKALOID, INCLUDING SYNTHETIC MITRAGYNINE, SYNTHETIC 7-HYDROXYMITRAGYNINE OR ANY OTHER SYNTHETICALLY DERIVED COMPOUNDS OF THE KRATOM PLANT.

5. ANY KRATOM-CONTAINING PRODUCT THAT DOES NOT INCLUDE ON ITS PACKAGE OR LABEL THE AMOUNT OF MITRAGYNINE AND 7-HYDROXYMITRAGYNINE CONTAINED IN THE PRODUCT.

B. A DEALER MAY NOT DISTRIBUTE, SELL OR EXPOSE FOR SALE A KRATOM PRODUCT TO AN INDIVIDUAL UNDER EIGHTEEN YEARS OF AGE.

36-795.03. Violations; classification

A. A DEALER THAT VIOLATES SECTION 36-795.01, SUBSECTION B OR SECTION 36-795.02 IS GUILTY OF A CLASS 2 MISDEMEANOR.

B. IN ADDITION TO AND DISTINCT FROM ANY OTHER REMEDY AT LAW OR EQUITY, A PERSON AGGRIEVED BY A VIOLATION OF SECTION 36-795.01, SUBSECTION B OR SECTION 36-795.02, SUBSECTION A MAY BRING A PRIVATE CAUSE OF ACTION IN A COURT OF COMPETENT JURISDICTION FOR DAMAGES RESULTING FROM THAT VIOLATION, INCLUDING ECONOMIC, NONECONOMIC OR CONSEQUENTIAL DAMAGES.

C. A DEALER DOES NOT VIOLATE SECTION 36-795.01, SUBSECTION B OR SECTION 36-795.02, SUBSECTION A IF THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT THE DEALER RELIED IN GOOD FAITH ON THE REPRESENTATION OF A MANUFACTURER, PROCESSOR, PACKER OR DISTRIBUTOR THAT THE FOOD WAS A KRATOM PRODUCT.

Sec. 2. Short title

This act may be cited and known as the "Kratom Consumer Protection Act".