

Senate Engrossed

kratom products; enforcement; financial institutions

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SENATE BILL 1339

AN ACT

AMENDING SECTIONS 36-795, 36-795.01, 36-795.02 AND 36-795.03, ARIZONA
REVISED STATUTES; RELATING TO KRATOM PRODUCTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-795, Arizona Revised Statutes, is amended to
3 read:

4 36-795. Definitions

5 In this article, unless the context otherwise requires:

6 ~~2.~~ 1. "Food" means a food, food product, food ingredient, dietary
7 ingredient, dietary supplement or beverage for human consumption.

8 ~~3.~~ 2. "Kratom product" means a food product or dietary ingredient
9 containing any part of the leaf of the plant mitragyna speciosa.

10 ~~1.~~ 3. "~~Dealer~~ RETAILER":

11 (a) Means a person that sells, prepares or maintains kratom
12 products or that advertises, represents or holds itself out as selling,
13 preparing or maintaining kratom products.

14 (b) Includes a manufacturer, wholesaler, store, restaurant, hotel,
15 catering facility, camp, bakery, delicatessen, supermarket, grocery store,
16 convenience store, nursing home or food or drink company.

17 Sec. 2. Section 36-795.01, Arizona Revised Statutes, is amended to
18 read:

19 36-795.01. Kratom product disclosure; preparing,
20 distributing, selling or exposing for sale
21 without disclosure prohibited

22 A. A ~~dealer~~ RETAILER that prepares, distributes, sells or exposes
23 for sale a food that is represented to be a kratom product shall disclose
24 on the product label the factual basis on which that representation is
25 made.

26 B. A ~~dealer~~ RETAILER may not prepare, distribute, sell or expose
27 for sale a food represented to be a kratom product that does not conform
28 to the disclosure required by this section.

29 Sec. 3. Section 36-795.02, Arizona Revised Statutes, is amended to
30 read:

31 36-795.02. Kratom product; adulteration; contamination; sales
32 to minors prohibited

33 A. A ~~dealer~~ RETAILER may not prepare, distribute, sell or expose
34 for sale any of the following:

35 1. A kratom product that is adulterated with a dangerous nonkratom
36 substance. A kratom product is adulterated with a dangerous nonkratom
37 substance if the kratom product is mixed or packed with a nonkratom
38 substance and that substance affects the quality or strength of the kratom
39 product to such a degree as to render the kratom product injurious to a
40 consumer.

41 2. A kratom product that is contaminated with a dangerous nonkratom
42 substance. A kratom product is contaminated with a dangerous nonkratom
43 substance if the kratom product contains a poisonous or otherwise
44 deleterious nonkratom substance, including any controlled substance
45 prescribed by chapter 27 of this title.

1 3. A kratom product containing a level of 7-hydroxymitragynine in
2 the alkaloid fraction that is greater than two percent of the alkaloid
3 composition of the product.

4 4. A kratom product containing any synthetic alkaloid, including
5 synthetic mitragynine, synthetic 7-hydroxymitragynine or any other
6 synthetically derived compounds of the kratom plant.

7 5. Any kratom-containing product that does not include on its
8 package or label the amount of mitragynine and 7-hydroxymitragynine
9 contained in the product.

10 B. A ~~dealer~~ RETAILER may not distribute, sell or expose for sale a
11 kratom product to an individual under eighteen years of age.

12 Sec. 4. Section 36-795.03, Arizona Revised Statutes, is amended to
13 read:

14 36-795.03. Violations; classification; prohibition

15 A. A ~~dealer~~ RETAILER that violates section 36-795.01, subsection B
16 or section 36-795.02 is guilty of a class 2 misdemeanor.

17 B. In addition to and distinct from any other remedy at law or
18 equity, a person aggrieved by a violation of section 36-795.01, subsection
19 B or section 36-795.02, subsection A may bring a private cause of action
20 in a court of competent jurisdiction for damages resulting from that
21 violation, including economic, noneconomic or consequential damages.

22 C. A ~~dealer~~ RETAILER does not violate section 36-795.01, subsection
23 B or section 36-795.02, subsection A if the court finds by a preponderance
24 of the evidence that the ~~dealer~~ RETAILER relied in good faith on the
25 representation of a manufacturer, processor, packer or distributor that
26 the food was a kratom product.

27 D. A STATE AGENCY MAY NOT TAKE ANY ENFORCEMENT ACTION PURSUANT TO
28 THIS ARTICLE, INCLUDING SEIZURE OF PRODUCT, AGAINST A PERSON THAT SELLS
29 PRODUCTS CONTAINING KRATOM OR ITS CONSTITUENT ALKALOIDS WHEN THE PRODUCTS
30 ARE OFFERED FOR SALE AS A FOOD OR DIETARY INGREDIENT, UNLESS THE UNITED
31 STATES DRUG ENFORCEMENT ADMINISTRATION CLASSIFIES KRATOM OR ITS
32 CONSTITUENT ALKALOIDS AS A SCHEDULE I SUBSTANCE.