

House Engrossed

kratom products; definitions

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HOUSE BILL 2601

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 AS DEFINED IN SECTION 36-901, food
7 product, food ingredient, dietary ingredient, dietary supplement or
8 beverage for human consumption.

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

11 ~~1. "Dealer":~~

12 ~~(a)~~ 3. "PROCESSOR" means a person that sells, prepares,
13 MANUFACTURES, DISTRIBUTES, WHOLESALES or maintains kratom products or that
14 advertises, represents or holds itself out as selling, preparing or
15 maintaining kratom products.

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

19 4. "RETAILER" MEANS A PERSON THAT SELLS OR DISTRIBUTES KRATOM
20 PRODUCTS OR THAT ADVERTISES, REPRESENTS OR HOLDS ITSELF OUT AS SELLING OR
21 MAINTAINING KRATOM PRODUCTS.

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

24 36-795.01. Kratom product disclosure; preparing,
25 distributing, selling or exposing for sale
26 without disclosure prohibited

27 A. A ~~dealer~~ A PROCESSOR OR RETAILER that prepares, distributes,
28 sells or exposes for sale a food that is represented to be a kratom
29 product shall disclose on the product label the factual basis on which
30 that representation is made.

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

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

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

38 A. A ~~dealer~~ PROCESSOR OR RETAILER may not prepare, distribute, sell
39 or expose for sale any of the following:

40 1. A kratom product that is adulterated with a dangerous nonkratom
41 substance. A kratom product is adulterated with a dangerous nonkratom
42 substance if the kratom product is mixed or packed with a nonkratom
43 substance and that substance affects the quality or strength of the kratom
44 product to such a degree as to render the kratom product injurious to a
45 consumer.

1 2. A kratom product that is contaminated with a dangerous nonkratom
2 substance. A kratom product is contaminated with a dangerous nonkratom
3 substance if the kratom product contains a poisonous or otherwise
4 deleterious nonkratom substance, including any controlled substance
5 prescribed by chapter 27 of this title **OR RULES ADOPTED PURSUANT TO**
6 **CHAPTER 27 OF THIS TITLE.**

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

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

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

16 B. A ~~dealer~~ **PROCESSOR OR RETAILER** may not distribute, sell or
17 expose for sale a kratom product to an individual **WHO IS** under eighteen
18 years of age.

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

21 **36-795.03. Enforcement; violations; classification**

22 **A. IN ADDITION TO THE VIOLATIONS AND REMEDIES SPECIFIED IN THIS**
23 **SECTION, VIOLATIONS AND ENFORCEMENT OF THIS ARTICLE ARE GOVERNED BY**
24 **CHAPTER 8 OF THIS TITLE.**

25 ~~A.~~ **B. A ~~dealer~~ PROCESSOR OR RETAILER** that violates section
26 36-795.01, subsection B or section 36-795.02 is guilty of a class 2
27 misdemeanor.

28 ~~B.~~ **C.** In addition to and distinct from any other remedy at law or
29 equity, a person aggrieved by a violation of section 36-795.01, subsection
30 B or section 36-795.02, subsection A may bring a private cause of action
31 in a court of competent jurisdiction for damages resulting from that
32 violation, including economic, noneconomic or consequential damages.

33 ~~C.~~ **D. A ~~dealer~~ PROCESSOR OR RETAILER** does not violate section
34 36-795.01, subsection B or section 36-795.02, subsection A if the court
35 finds by a preponderance of the evidence that the ~~dealer~~ **PROCESSOR OR**
36 **RETAILER** relied in good faith on the representation of a manufacturer,
37 ~~processor~~, packer or distributor that the food was a kratom product.