

REFERENCE TITLE: kratom products; definitions

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

HB 2601

Introduced by
Representatives Kavanagh: Blackman, Payne

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)

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

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

36-795. Definitions

In this article, unless the context otherwise requires:

~~2.~~ 1. "Food" means a food AS DEFINED IN SECTION 36-901, food product, food ingredient, dietary ingredient, dietary supplement or beverage for human consumption.

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

~~1. "Dealer":~~

~~(a)~~ 3. "PROCESSOR" means a person that sells, prepares, MANUFACTURES, DISTRIBUTES, WHOLESALES 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.~~

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

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

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

A. A ~~dealer~~ A PROCESSOR OR RETAILER 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~~ PROCESSOR OR RETAILER 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.

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

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

A. A ~~dealer~~ PROCESSOR OR RETAILER 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.

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.