

AMENDMENTS TO LB230

Introduced by Judiciary.

1        1. Strike the original sections and insert the following new  
2 sections:

3        **Section 1.** Sections 1 to 16 of this act shall be known and may be  
4 cited as the Kratom Consumer Protection Act.

5        **Sec. 2.** For purposes of the Kratom Consumer Protection Act:

6        (1) Attractive to children means products:

7        (a) Manufactured in the shape of humans, cartoons, or animals; or

8        (b) Manufactured in a form that bears any reasonable resemblance to  
9 an existing candy product that is familiar to the public as a widely  
10 distributed or a branded food product such that a product could be  
11 mistaken for the branded food product, especially by children;

12        (2) Department means the Department of Revenue;

13        (3) Kratom extract means the material obtained by extraction of  
14 kratom leaves with a solvent consisting of water, ethanol, or food-grade  
15 carbon dioxide, or any other solvent allowed by federal or state  
16 regulation to be used in manufacturing a food ingredient;

17        (4) Kratom leaf means any part of the leaf of the mitragyna speciosa  
18 plant in a fresh, dehydrated, or dried form that has been subjected to no  
19 post-harvest processing other than drying or size reduction, including,  
20 but not limited to, cutting, milling, or a similar procedure, and  
21 cleaning or sterilization through the application of heat, steam,  
22 pressurization, irradiation, or other standard treatments applied to food  
23 ingredients;

24        (5) Kratom product means a food, ingredient, or dietary supplement  
25 that:

26        (a) Consists of or contains kratom leaf or kratom leaf extract;

27        (b) Does not contain any synthesized kratom alkaloids, other

1 synthesized kratom constituents, or synthesized metabolites of any kratom  
2 constituent; and

3 (c) Does not contain a level of 7-hydroxymitragynine in the alkaloid  
4 fraction that is greater than two percent of the alkaloid composition of  
5 the kratom product;

6 (6) Processor means a person that manufacturers, packages, labels,  
7 or distributes kratom products or advertises, represents, or holds itself  
8 out as manufacturing, preparing, packaging, labeling, or distributing  
9 kratom products;

10 (7) Retailer has the same meaning as in section 77-2701.32; and

11 (8) Synthesized means an alkaloid or alkaloid derivative that has  
12 been created, in full or in part, by directed chemical, physical, or  
13 biosynthetic conversion, including, but not limited to, fermentation,  
14 recombinant techniques, yeast-derived, or enzymatic techniques, rather  
15 than traditional food preparation techniques, such as heating or  
16 extracting.

17 **Sec. 3.** (1) No person shall sell, offer for sale, provide, or  
18 distribute kratom leaf or a kratom product to a person under twenty-one  
19 years of age.

20 (2) An online retailer or marketplace that sells or offers for sale  
21 kratom leaf or a kratom product shall implement an age-verification  
22 system to ensure compliance with this section.

23 **Sec. 4.** No person shall produce, manufacture, distribute, offer for  
24 sale, sell, or introduce into commerce a kratom product in the State of  
25 Nebraska if the product is manufactured in a manner that is attractive to  
26 children.

27 **Sec. 5.** A kratom product sold, offered for sale, or introduced into  
28 commerce in the State of Nebraska shall:

29 (1) Be manufactured, packaged, labeled, and held in compliance with  
30 federal regulations for current good manufacturing practice in  
31 manufacturing, packaging, labeling, or holding operations for dietary

1 supplements as codified in 21 C.F.R. Part 111, as such regulations  
2 existed on January 1, 2025; and

3 (2) Be manufactured, processed, packed, or held by a processor who  
4 has registered with the federal Food and Drug Administration as a food  
5 facility.

6 **Sec. 6.** A kratom product sold, offered for sale, or introduced into  
7 commerce in the State of Nebraska shall:

8 (1) Be labeled in compliance with all applicable federal food or  
9 dietary supplement labeling regulations, including, but not limited to,  
10 21 C.F.R. Part 101, as such regulations existed on January 1, 2025;

11 (2) Be labeled in compliance with all applicable federal retail  
12 package labeling requirements for allergen labeling; and

13 (3) Have a label on each retail package that clearly and  
14 conspicuously provides the following information:

15 (a) The product is not recommended for use by individuals who are  
16 under twenty-one years of age, who are pregnant, or who are  
17 breastfeeding;

18 (b) A health care practitioner should be consulted prior to using  
19 the product;

20 (c) The product may be habit-forming;

21 (d) The following statements: "These statements have not been  
22 evaluated by the federal Food and Drug Administration. This product is  
23 not intended to diagnose, treat, cure, or prevent any disease.";

24 (e) The name and place of business of the processor;

25 (f) Directions for use that include a recommended amount of the  
26 kratom product per serving that is:

27 (i) Clearly described on the label for product forms such as  
28 capsules, gummies, prepackaged, single-serving units, and similar product  
29 forms; or

30 (ii) A clear instruction or a mark on the package or container for  
31 beverages or liquids;

1       (g) A recommended number of servings that can be safely consumed in  
2       a twenty-four-hour period;

3       (h) A listing of the servings per container; and

4       (i) A listing of kratom alkaloids mitragynine and 7-  
5       hydroxymitragynine and other ingredients in the product, including  
6       quantitative declarations of the amount per serving of mitragynine.

7       **Sec. 7.** (1) The department shall establish, operate, and administer  
8       a program to register kratom products. The Tax Commissioner shall  
9       designate an implementation date for such program which date is on or  
10       before January 1, 2026.

11       (2) Beginning on the implementation date designated by the Tax  
12       Commissioner pursuant to subsection (1) of this section:

13       (a) No processor may manufacture, package, label, or distribute a  
14       kratom product to be offered for sale in the State of Nebraska unless the  
15       product has been registered with the department;

16       (b) Applications for product registration shall be submitted on a  
17       form prescribed by the department. Each application shall include:

18       (i) The name, address, and state of organization for the processor  
19       of the product;

20       (ii) A principal point of contact for the processor and contact  
21       information for the point of contact;

22       (iii) The name of the product;

23       (iv) The product label;

24       (v) A certificate of analysis for the kratom product that states the  
25       kratom product's alkaloid content and certifies that the kratom product  
26       has a level of 7-hydroxymitragynine that is less than two percent of the  
27       alkaloid composition of the kratom product from an independent  
28       laboratory. Such laboratory shall obtain and maintain an International  
29       Organization for Standardization and International Electrotechnical  
30       Commission (ISO/IEC) 17025 accreditation for testing and calibration  
31       laboratories from an accreditation body that is a signatory to the

1 International Laboratory Accreditation Cooperation Mutual Recognition  
2 Arrangement;

3 (vi) A valid good manufacturing practice certificate issued by an  
4 accredited third-party certification body in compliance with 21 C.F.R.  
5 Part 117; and

6 (vii) A current food facility registration certificate issued by the  
7 federal Food and Drug Administration for all facilities where kratom  
8 products are manufactured, prepared, packaged, or labeled;

9 (c) A certificate of registration shall be valid for one calendar  
10 year after the date of issue and shall not be transferable; and

11 (d) The department may charge a fee for product registration  
12 applications and may adjust such fee annually. The fee shall be  
13 reasonable and shall not exceed any reasonable or necessary costs to  
14 administer the Kratom Consumer Protection Act.

15 (3) If an application is incomplete or deficient, the department  
16 shall, in a timely manner, notify the applicant in writing describing the  
17 reason or reasons and request additional information. If such application  
18 is not corrected or supplemented within thirty days after the  
19 department's request, the department shall deny the application.

20 (4) If any false statement is made in any part of an application,  
21 the department shall deny the application.

22 (5) A person aggrieved by the denial of an application may request a  
23 hearing pursuant to section 11 of this act.

24 (6) A processor or retailer is not prohibited from selling,  
25 preparing, manufacturing, distributing, maintaining, advertising,  
26 representing, or holding itself out as selling, preparing, or maintaining  
27 kratom products in the State of Nebraska prior to the implementation date  
28 designated by the Tax Commissioner pursuant to subsection (1) of this  
29 section, or while the first product registration applications submitted  
30 by processors operating in the State of Nebraska as of January 1, 2025,  
31 are pending approval or denial by the department.

1       **Sec. 8.** Beginning on the implementation date designated by the Tax  
2 Commissioner pursuant to subsection (1) of section 7 of this act, the  
3 department shall make public a list of all registered kratom products on  
4 its website.

5       **Sec. 9.** (1) No person shall sell, offer for sale, provide, or  
6 distribute an adulterated kratom product in the State of Nebraska.

7       (2) A product shall be deemed adulterated if:

8       (a) It contains any kratom alkaloid or metabolite, including 7-  
9 hydroxymitragynine, and does not meet the definition of a kratom product  
10 under section 2 of this act; or

11       (b) The kratom product is combined with a dangerous nonkratom  
12 substance that contains a poisonous or otherwise deleterious nonkratom  
13 ingredient, including, but not limited to, any substance listed as a  
14 controlled substance under the laws of this state or federal law.

15       (3) Upon receipt of evidence that suggests a product may be an  
16 adulterated kratom product, the department may require the person  
17 selling, providing, or distributing the product to obtain an independent  
18 third-party test of the product by a laboratory of the department's  
19 choosing.

20       **Sec. 10.** (1) Any processor or retailer that violates any section of  
21 the Kratom Consumer Protection Act, including those related to the  
22 application or registration, or any of the rules and regulations adopted  
23 and promulgated by the department that apply to processors or kratom  
24 products shall be subject to the penalties provided in this section.

25       (2) For the first violation, the department shall impose a civil  
26 penalty of up to one thousand dollars. For the second violation, the  
27 department shall impose a civil penalty of up to five thousand dollars.  
28 For a third violation and any subsequent violations, the department shall  
29 impose a civil penalty of at least five thousand dollars and no more than  
30 twenty thousand dollars and, if the violator is a processor, the  
31 department shall prohibit the sale of any kratom products of such

1 processor within the State of Nebraska for a period of three years.

2 (3) For any processor or retailer that has no violation for a period  
3 of four consecutive years, any violation shall be treated as a new first  
4 violation.

5 (4) No determination that a violation has occurred shall be made  
6 until notice has been given and a hearing has been held by the Tax  
7 Commissioner as provided in section 11 of this act if requested by the  
8 processor or retailer.

9 (5) A retailer shall not be found to be in violation of the Kratom  
10 Consumer Protection Act if it is shown by a preponderance of the evidence  
11 that the retailer relied in good faith upon the representation of a  
12 processor that a product is not an adulterated kratom product as defined  
13 in section 9 of this act or otherwise conformed to the act.

14 **Sec. 11.** (1) Any person aggrieved by a notice of denial of an  
15 application issued under section 7 of this act or a notice of violation  
16 issued under section 10 of this act may request a hearing on any such  
17 notice issued by the Tax Commissioner.

18 (2) Such request shall be made within twenty days after the receipt  
19 of any such notice.

20 (3) At such hearing the Tax Commissioner, or any officer or employee  
21 of the Tax Commissioner designated in writing, may examine any books,  
22 papers, memoranda, or other evidence bearing upon the matter at issue and  
23 require the attendance of any officer or employee of the processor or  
24 retailer or any person having knowledge pertinent to such hearing. The  
25 Tax Commissioner or the Tax Commissioner's designee may administer oaths  
26 to persons testifying at such hearing.

27 (4) During the hearing, the Tax Commissioner or the Tax  
28 Commissioner's designee shall not be bound by the technical rules of  
29 evidence, and no informality in any proceeding or in the manner of taking  
30 testimony shall invalidate any order or decision made or approved by the  
31 Tax Commissioner.

1       **Sec. 12.** (1) Within a reasonable time after the hearing pursuant to  
2 section 11 of this act, the Tax Commissioner shall make a final decision  
3 or final determination and notify the processor or retailer by mail of  
4 such decision or determination.

5       (2) If it is determined that a processor intentionally and  
6 materially falsified any information contained in an application under  
7 the Kratom Consumer Protection Act, the processor shall be ineligible to  
8 obtain a certification of registration for a period of twelve months  
9 after the date of such determination.

10       (3) A processor or retailer may appeal the decision of the Tax  
11 Commissioner, and the appeal shall be in accordance with the  
12 Administrative Procedure Act.

13       **Sec. 13.** The Attorney General shall have authority to enforce the  
14 Kratom Consumer Protection Act pursuant to the Consumer Protection Act  
15 and the Uniform Deceptive Trade Practices Act. This section shall not be  
16 construed to allow for a private right of action under the Kratom  
17 Consumer Protection Act even though such action is authorized under the  
18 Consumer Protection Act and the Uniform Deceptive Trade Practices Act.

19       **Sec. 14.** (1) If a registered processor has been convicted by any  
20 court of a violation of the Kratom Consumer Protection Act, the processor  
21 may, in addition to the penalties for such offense, incur a forfeiture of  
22 the certificate of registration for its kratom products and all money  
23 that had been paid for such certificate of registration.

24       (2) If any false statement is made in any part of an application  
25 submitted under section 7 of this act, the applicant shall be subject to  
26 prosecution for perjury and if convicted may, in addition to the  
27 penalties for such offense, incur a forfeiture of any certificate of  
28 registration that was issued for the applicant's kratom products and all  
29 money that had been paid for such certificate of registration.

30       **Sec. 15.** Except as otherwise provided in the Kratom Consumer  
31 Protection Act, no political subdivision shall impose additional



1 restrictions on the manufacturing, packaging, labeling, distribution, or  
2 sale of kratom leaves, kratom leaf extracts, or kratom products greater  
3 than or in addition to those enumerated in the act.

4       **Sec. 16.**   The department may adopt and promulgate rules and  
5 regulations to carry out the Kratom Consumer Protection Act.

6       **Sec. 17.**   This act becomes operative on July 1, 2025.

7       **Sec. 18.**   Since an emergency exists, this act takes effect when  
8 passed and approved according to law.