

HEALTH AND SAFETY CODE

TITLE 6. FOOD, DRUGS, ALCOHOL, AND HAZARDOUS SUBSTANCES

SUBTITLE A. FOOD AND DRUG HEALTH REGULATIONS

Chapter 444, consisting of Secs. 444.001 to 444.007, was added by

Acts 2023, 88th Leg., R.S., Ch. 2 (S.B. 497), Sec. 2.

For another Chapter 444, consisting of Secs. 444.001 to 444.007, added by Acts 2023, 88th Leg., R.S., Ch. 655 (H.B. 25), Sec. 2, see Sec. 444.001 et seq., post.

CHAPTER 444. MANUFACTURE, DISTRIBUTION, AND SALE OF KRATOM PRODUCTS

Sec. 444.001. DEFINITIONS. In this chapter:

(1) "Food" has the meaning assigned by Section 431.002.

(2) "Kratom" means any part of the leaf of the plant *Mitragyna speciosa*.

(3) "Kratom processor" means a person who:

(A) manufactures, prepares, distributes, or maintains kratom products for sale;

(B) advertises, represents, or holds oneself out as a manufacturer, preparer, or seller of kratom products;

(C) is responsible for ensuring the purity and proper labeling of kratom products; or

(D) packages or labels kratom products.

(4) "Kratom product" means a food, including an extract, capsule, or pill, containing any form of kratom.

(5) "Kratom retailer" means a kratom processor who sells kratom products to consumers or who advertises, represents, or holds oneself out as a person who sells kratom products to consumers.

Added by Acts 2023, 88th Leg., R.S., Ch. 2 (S.B. 497), Sec. 2, eff. September 1, 2023.

Sec. 444.002. LABEL REQUIRED. (a) A kratom processor shall label each kratom product with the product use directions necessary to ensure safe use of the product by a consumer, including the recommended serving size for the product.

(b) A kratom retailer may only sell a kratom product that is properly labeled in accordance with this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 2 (S.B. 497), Sec. 2, eff. September 1, 2023.

Sec. 444.003. ADULTERATED, CONTAMINATED, AND PROHIBITED KRATOM PRODUCTS. A kratom processor or kratom retailer may not prepare, distribute, sell, or offer to sell a kratom product that:

(1) is adulterated with a dangerous non-kratom substance affecting the quality or strength of the product to a degree that renders the product injurious to a consumer;

(2) is contaminated with a poisonous or otherwise deleterious non-kratom substance, including any substance designated as a controlled substance by Chapter 481 (Texas Controlled Substances Act);

(3) contains a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than two percent of the overall alkaloid composition of the product; or

(4) contains any synthetic alkaloids, including synthetic 7-hydroxymitragynine and synthetically derived compounds from a kratom plant.

Added by Acts 2023, 88th Leg., R.S., Ch. 2 (S.B. 497), Sec. 2, eff. September 1, 2023.

Sec. 444.004. OFFENSE FOR DISTRIBUTION OR SALE OF KRATOM PRODUCT TO MINOR. (a) A person commits an offense if the person distributes, sells, or exposes for sale a kratom product to an individual younger than 18 years of age.

(b) An offense under this section is a Class C misdemeanor.
Added by Acts 2023, 88th Leg., R.S., Ch. 2 (S.B. 497), Sec. 2, eff. September 1, 2023.

Sec. 444.005. CIVIL PENALTY. (a) A person who violates this chapter is subject to a civil penalty in the amount of:

(1) \$250 for the first violation;

(2) \$500 for the second violation; and

(3) \$1,000 for each subsequent violation.

(b) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under this section.

(c) A kratom retailer is not liable for a civil penalty under this section for a violation of Section 444.002 or 444.003 if the kratom retailer proves by a preponderance of the evidence that the violation was unintentional and due to the kratom retailer's good faith reliance on the representation of another kratom processor.

(d) The attorney general or the district or county attorney for the county or municipal attorney for the municipality in which the violation is alleged to have occurred may bring an action to recover a civil penalty under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 2 (S.B. 497), Sec. 2, eff. September 1, 2023.

Sec. 444.006. PENALTIES UNDER OTHER LAW. The penalties prescribed by this chapter are in addition to any other penalties prescribed by law, including penalties prescribed by Chapters 431 and 481.

Added by Acts 2023, 88th Leg., R.S., Ch. 2 (S.B. 497), Sec. 2, eff. September 1, 2023.

Sec. 444.007. RULES. The executive commissioner may adopt rules consistent with this chapter as necessary to ensure the safe consumption and distribution of kratom and kratom products.

Added by Acts 2023, 88th Leg., R.S., Ch. 2 (S.B. 497), Sec. 2, eff. September 1, 2023.