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HOUSE BILL NO. 1521

Offered January 11, 2023

Prefiled January 5, 2023

A *BILL to amend the Code of Virginia by adding in Chapter 34 of Title 54.1 an article numbered 8, consisting of sections numbered 54.1-3472.1, 54.1-3472.2, and 54.1-3472.3, relating to kratom; prohibited acts; civil penalty.*

Patron—Fowler

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 34 of Title 54.1 an article numbered 8, consisting of sections numbered 54.1-3472.1, 54.1-3472.2, and 54.1-3472.3, as follows:

*Article 8.**Kratom Consumer Protection.***§ 54.1-3472.1. Definitions.***As used in this article:*

"Food" means any article intended for human consumption and introduction into commerce, whether the article is simple, mixed, or compound, and all substances or ingredients used in the preparation thereof. "Food" includes a food, food product, food ingredient, dietary ingredient, dietary supplement, or beverage for human consumption.

"Kratom" means any part of the leaf of the plant *Mitragyna speciosa* or any extract thereof.

"Kratom extract" means a food product containing kratom that has been extracted or concentrated in order to provide more standardized product content.

"Kratom product" means any food product containing kratom, including any powder, capsule, tablet, beverage, or other edible form of kratom.

"Processor" means a person that sells, prepares, manufactures, distributes, or maintains kratom products, or advertises, represents, or holds itself out as selling, preparing, manufacturing, distributing, or maintaining kratom products.

§ 54.1-3472.2. Prohibition act.

A. No processor shall prepare, distribute, sell, or expose for sale:

1. Any kratom product that includes or is packed with a substance that is not kratom and that affects the quality or strength of the kratom product to such a degree as to render the kratom product injurious to a consumer;

2. Any kratom product that contains a poisonous or otherwise deleterious ingredient that is not kratom, including any substance included on Schedules I through VI;

3. Any kratom extract that contains levels of residual solvents that are higher than is allowed in Chapter 467 of the current edition of the United States Pharmacopeia;

4. Any kratom product containing a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than two percent of the overall alkaloid composition of the product;

5. Any kratom product containing any synthetic alkaloids, including synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compounds of the kratom plant; and

6. Any kratom product that does not provide labeling directions necessary for safe and effective use by consumers, including a recommended serving size.

B. No processor shall distribute, sell, or expose for sale a kratom product or kratom extract to any person who is younger than 21 years of age.

§ 54.1-3472.3. Violations; civil penalties.

A. Any person that violates the provisions of this article is subject to a civil penalty in the amount of \$100 for a first violation, a civil penalty in the amount of \$200 for a second violation, and a civil penalty in the amount of \$500 for a third or subsequent violation. Any attorney for the Commonwealth of the county or city in which the alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the Literary Fund.

B. No liability shall be imposed upon a person that distributes, sells, or exposes for sale a kratom product or kratom extract in violation of subsection A of § 54.1-3472.2 who shows, by a preponderance of evidence, that he relied in good faith upon the representations of a processor regarding the content of a food purported to be a kratom product or kratom extract.

INTRODUCED

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