

SENATE BILL NO. 461

INTRODUCED BY S. NOVAK

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO INTOXICATING PRODUCTS INTENDED FOR HUMAN CONSUMPTION; ~~PROHIBITING CONSUMPTION OF INTOXICATING PRODUCTS THAT ARE NOT REGULATED IN THE STATE~~ PROVIDING REQUIREMENTS FOR KRATOM PRODUCTS; PROVIDING EXCEPTIONS TO ENTITIES THAT PROVIDE FRESH AND NON-SYNTHESIZED KRATOM PRODUCTS TO THE PUBLIC; PROHIBITING THE STATE AND LOCAL GOVERNMENTS FROM PROHIBITING CERTAIN ENTITIES THAT PROVIDE FRESH AND NON-SYNTHESIZED KRATOM PRODUCTS TO THE PUBLIC; REVISING THE DEFINITION OF "HEMP"; PUTTING HEMP PRODUCTS UNDER THE REGULATION OF THE DEPARTMENT OF REVENUE; AND PROVIDING CRIMINAL PENALTIES ; AND AMENDING SECTIONS 16-12-102, 16-12-117, AND 80-18-101, MCA AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to 1st Reading/Second Chamber (Blue) Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. **Section 1. Short title -- purpose.** (1) [Sections 1 through 3] may be cited as the "Kratom Consumer Protection Act".

(2) It is the purpose of [sections 1 through 3] to prohibit the selling, giving, or other distribution of kratom products to the public unless specifically authorized by [sections 1 through 3] or other statutory act of the legislature. It is the express purpose of [sections 1 through 3] to prohibit the sale of kratom products to persons under 21 years of age.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 3], unless context requires otherwise, the following definitions apply:

(1) "Kratom" means the plant *Mitragyna speciosa* or any part of that plant.

(2) "Kratom extract" means a substance or compound obtained by extraction of the *Mitragyna speciosa* leaf that is intended for ingestion and contains more than trace amounts of *Mitragyna speciosa* and contains other alkaloids of the kratom plant, and which does not contain any controlled substances or levels of residual solvents higher than is allowed in the United States Pharmacopeia 467.

(3) "Kratom processor" means a person who manufactures or produces kratom products.

(4) "Kratom product" means a finished article containing any part of a leaf of the plant *Mitragyna speciosa* in fresh, dehydrated, or dried form, or a kratom extract, including kratom beverages prepared and sold in food establishments.

(5) "Synthesized material" means an alkaloid, metabolite, or alkaloid derivative that has been created by chemical synthesis or biosynthetic means, including but not limited to fermentation, recombinant techniques, or yeast-derived, enzymatic techniques, rather than traditional food preparation techniques, such as heating or extracting, that synthetically alters the composition of any kratom alkaloid or constituent.

**NEW SECTION. Section 3. Kratom product restrictions -- exemption for entities that provide fresh kratom products to public.** (1) A kratom processor may not prepare, distribute, sell, or expose for sale a kratom product that:

(a) contains a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than 2% of the alkaloid composition of the kratom product;

(b) contains synthesized material;

(c) contains or is adulterated with a dangerous non-kratom substance if it contains a poisonous or otherwise deleterious non-kratom ingredient, including but not limited to the substances listed as a controlled substances under state or federal law; and

(d) is combustible, intended to be used for vaporization, or injectable.

(2) [Sections 1 through 3] also apply to entities that are open to the public in physical locations that serve kratom products meeting the requirements of this section, including but not limited to the prohibition on serving kratom products with synthesized material. Entities that serve fresh kratom products that meet the requirements of this section may not be prohibited by the state or any applicable local government.

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