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**HOUSE FLOOR AMENDMENTS**

2023 Regular Session

Amendments proposed by Representative Goudeau to Engrossed Senate Bill No. 94 by  
Senator Kleinpeter

1 AMENDMENT NO. 1

2 Delete the set of amendments by the House Committee on Administration of Criminal  
3 Justice (#3842)

4 AMENDMENT NO. 2

5 On page 1, delete lines 2 through 5 in their entirety and insert the following:

6 "To enact R.S. 14:91.10 and Chapter 9 of Title 26 of the Louisiana Revised Statutes of 1950,  
7 to be comprised of R.S. 26:941 through 947, relative to kratom products; to provide  
8 for the unlawful sale of mitragynine speciosa; to provide for penalties; to provide for  
9 definitions; to prohibit the sale or distribution of kratom products to minors; to  
10 require a feasibility report by the commissioner of the office of alcohol and tobacco  
11 control; to provide for enforcement; to provide for seizure of certain kratom  
12 products; to provide for termination; to recodify existing law; and to provide for  
13 related matters."

14 AMENDMENT NO. 3

15 On page 1, delete lines 7 and 8 in their entirety and insert the following:

16 Section 1. R.S. 14:91.10 is hereby enacted to read as follows:

17 **§91.10. Unlawful sale or distribution of mitragynine speciosa to persons under**  
18 **age twenty-one; penalty**

19 **A. No person shall sell or distribute or cause to be sold or distributed a**  
20 **product containing mitragynine speciosa to any person under the age of twenty-**  
21 **one.**

22 **B. For purposes of this Section, "mitragynine speciosa" means a product**  
23 **containing either or both of the following:**

24 **(a) Mitragynine.**

25 **(b) 7-Hydroxy-mitragynine.**

26 **C. Whoever violates the provisions of this Section shall be fined not**  
27 **more than five hundred dollars, imprisoned for not more than six months, or**  
28 **both.**

29 Section 2. To enact Chapter 9 of Title 26 of the Louisiana Revised Statutes of 1950,  
30 comprised of R.S. 26:941 through 947, is hereby enacted to read as follows:

31 **CHAPTER 9. KRATOM CONSUMER PROTECTION ACT**

32 **§941. Short title**

33 **This Chapter shall be known and may be cited as the "Kratom**  
34 **Consumer Protection Act".**

35 **§942. Definitions**

36 **As used in this Chapter, the following terms have the meaning ascribed**  
37 **to them in this Section unless context clearly indicates otherwise:**

1           (1) "Commissioner" means the commissioner of the office of alcohol and  
 2 tobacco control.

3           (2) "Kratom product" means a food product or dietary ingredient  
 4 containing any part of the leaf of the plant *Mitragyna speciosa* or an extract of  
 5 it, manufactured as a powder, capsule, pill, beverage, extract, or other edible  
 6 form. For purposes of the provisions of this Chapter, all kratom products are  
 7 considered food.

8           (3) "Processor" means a person or entity that prepares, manufactures,  
 9 or maintains kratom products.

10          (4) "Retailer" means a person or entity that sells or distributes kratom  
 11 products to consumers.

12 **§943. Kratom products; requirements**

13          A. Any kratom product that is manufactured, distributed, imported, or  
 14 sold for use in this state shall contain all of the following:

15           (1) No dangerous nonkratom substance. For purposes of this Chapter,  
 16 a kratom product is adulterated with a dangerous nonkratom substance if the  
 17 kratom product is mixed or packed with a nonkratom substance that affects the  
 18 quality or strength of the kratom product to such a degree as to render the  
 19 kratom product injurious to a consumer.

20           (2) No synthetic alkaloids including synthetic mitragynine, synthetic 7-  
 21 hydroxymitragynine, or any other synthetically derived compounds of the  
 22 kratom plant.

23           (3) Levels of residual solvents below the amount that is allowed by the  
 24 United States Pharmacopeia Monograph 467.

25           (4) A concentration of 7-hydroxymitragynine not exceeding one percent  
 26 of the overall alkaloid composition of the kratom product.

27          B. The package of a kratom product shall contain all of the following  
 28 information:

29           (1) A recommended serving size.

30           (2) A recommended number of daily servings.

31           (3) The number of servings in a package.

32           (4) A disclaimer stating that the product has not been evaluated by the  
 33 United States Food and Drug Administration and is not intended to diagnose,  
 34 treat, cure, or prevent any disease.

35           (5) The name, address, and phone number of the manufacturer or  
 36 processor of the kratom product.

37 **§944. Requirements for the sale of kratom products; age verification**

38          A. A retailer shall not distribute or sell a kratom product to an  
 39 individual under twenty-one years of age.

40          B.(1) A retailer shall verify the age of any person attempting to purchase  
 41 or receive a kratom product prior to the sale or transfer of a kratom product,  
 42 including but not limited to a remote retailer that offers any kratom product for  
 43 sale at retail through a digital application, catalog, or the internet that can be  
 44 purchased and delivered to a consumer in this state.

45          (2) A retailer shall require a purchaser to provide any one of the  
 46 following methods to verify the age and identify of the purchaser:

47           (a) A digitized identification card as defined by R.S. 51:3211.

48           (b) A valid government-issued identification card.

49           (c) A commercially reasonable method that relies on public or private  
 50 transactional data to verify the age of the purchaser.

51          C. A retailer shall display and store any kratom product in a location  
 52 not accessible by the public without assistance from the retailer.

53 **§945. Kratom product feasibility report; adverse health event reporting**

54          A.(1) On or before February 1, 2024, the commissioner shall submit to  
 55 the legislature a report analyzing the feasibility of regulating kratom products,

kratom processors, and kratom retailers. The report shall identify, consider, and recommend legislative action addressing all of the following subjects:

(a) The appropriate state agency or agencies to regulate the manufacture, sale, offering for sale, or use of kratom products.

(b) A testing program by in-state universities or other in-state laboratories to independently verify product compliance when a kratom product is reported to be in violation.

(c) Adverse health event reporting requirements.

(d) Kratom product registration requirements, fees, or taxes for products introduced for sale in the state.

(e) Recommended fines, tiered fine penalties, or other enforcement provisions.

(2) The commissioner shall engage relevant stakeholders, including kratom processors, kratom consumer advocacy groups, kratom consumers, kratom retailers, public health officials, legislative members, relevant state agencies with expertise in similar regulatory fields, local governments, and other interested stakeholders in order to inform the feasibility report.

B. Upon report of an adverse health event related to a kratom product, a processor shall submit an adverse event report via certified mail to the Louisiana Department of Health and the United States Food and Drug Administration in accordance with federal law.

**§946. Enforcement**

A. Any kratom product found in this state in violation of this Chapter shall be considered contraband and any property interest in the kratom product is vested in the state of Louisiana and is subject to seizure and destruction.

B. A P.O.S.T. certified law enforcement officer in this state, in accordance with R.S. 40:2401 et seq., may enforce the provisions of this Chapter.

**§947. Termination Clause**

The provisions of this Chapter shall be null and void and have no effect if the United States Drug Enforcement Administration schedules mitragynine under the authority of the Controlled Substance Act, 21 U.S.C. §801 et seq.

Section 3. Act No. 231 of the 2019 Regular Session of the Legislature is hereby repealed in its entirety.

Section 4. The provisions of this Act shall not apply to any local governmental subdivision that enacts a prohibition or a more restrictive ordinance relative to kratom products than required by this Act.

Section 5. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval."