

Amendment to SB 758-FN

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT regulating products containing kratom.
4

5 Amend the bill by replacing all after the enacting clause with the following:

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7 1 Short Title. This act shall be known and may be cited as the "Kratom Consumer Protection
8 Act."

9 2 New Subdivision; Products Containing Kratom. Amend RSA 146 by inserting after section 21
10 the following new subdivision:

11 Products Containing Kratom

12 146:22 Definitions.

13 I. "Dealer" means a person that sells, prepares, or maintains kratom products, or advertises,
14 represents, or holds itself out as selling, preparing, or maintaining kratom products. Dealer
15 includes, but is not limited to, a manufacturer, wholesaler, store, restaurant, hotel, catering facility,
16 camp, bakery, delicatessen, supermarket, grocery store, convenience store, nursing home, or food or
17 drink company.

18 II. "Department" means the department of health and human services.

19 III. "Food" means a food, food product, food ingredient, dietary ingredient, dietary
20 supplement, or beverage intended for human consumption. Pursuant to this subdivision, all kratom
21 products shall be considered to be food.

22 IV. "Kratom product" means a food product or dietary ingredient containing any part of the
23 leaf of the plant *Mitragyna speciosa*.

24 146:23 Kratom Distribution; Labeling Required. A dealer that prepares, distributes, or sells
25 food that is represented as a kratom product shall disclose on the product label the factual basis
26 upon which that representation is made.

27 146:24 Certain Kratom Products Prohibited. No dealer shall prepare, distribute, or sell any of
28 the following:

29 I. A kratom product that is adulterated with a dangerous non-kratom substance. A kratom
30 product is adulterated with a dangerous non-kratom substance if the kratom product is mixed or
31 packed with a non-kratom substance and that substance affects the quality or strength of the kratom
32 product to such a degree as to render the kratom product injurious to a consumer.

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1 II. A kratom product that is contaminated with a dangerous non-kratom substance. A
2 kratom product is contaminated with a dangerous non-kratom substance if the kratom product
3 contains a poisonous or otherwise deleterious non-kratom ingredient, including, but not limited to,
4 the substances listed in RSA 318-B.

5 III. A kratom product containing a level of 7-hydroxymitragynine in the alkaloid fraction
6 that is greater than 2 percent of the alkaloid composition of the product.

7 IV. A kratom product containing any synthetic alkaloids including synthetic mitragynine,
8 synthetic 7-hydroxymitragynine, or any other synthetically derived compounds of the kratom plant.

9 V. Any kratom containing product that does not include on its package or label the amount
10 of mitragynine and 7-hydroxymitragynine contained in the product; and that does not provide
11 adequate labeling directions necessary for safe and effective use by consumers.

12 146:25 Sale to Persons Under 18 Prohibited. No dealer shall distribute or sell a kratom product
13 to a person under 18 years of age.

14 146:26 Penalties.

15 I. A dealer that violates RSA 146:23 shall be subject to an administrative fine of not more
16 than \$500 for the first offense and not more than \$1,000 for the second or subsequent offense. Upon
17 the request of a person to whom an administrative fine is issued, the director shall conduct a hearing
18 in accordance with the RSA 541.

19 II. A dealer shall not violate this subdivision if it is shown by a preponderance of the
20 evidence that the dealer relied in good faith upon the representations of a manufacturer, processor,
21 packer, or distributor of food represented to be a kratom product.

22 146:27 Rulemaking. The department shall adopt rules, pursuant to RSA 541-A, for the
23 administration and enforcement of this subdivision including but not limited to:

24 I. Standards for registered kratom products.

25 II. Standards for testing to ensure such products are safe for human consumption.

26 III. Procedures for accurate labeling of kratom products.

27 IV. Fees and procedures for registration of kratom products to be sold in the state.

28 V. Fines for the distribution or sale of unregistered kratom products.

29 146:28 Registration of Kratom Products.

30 I. Any producer, manufacturer, or dealer of a kratom product shall register with the
31 department for a fee. No unregistered kratom product shall be sold within the state.

32 II. Any producer, manufacturer, or dealer that distributes, sells, or attempts to distribute or
33 sell an unregistered kratom product shall be guilty of a civil violation and assessed a fine by the
34 department.

35 3 Effective Date. This act shall take effect January 1, 2021.

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2020-1079s

AMENDED ANALYSIS

This bill requires products containing kratom to be registered with the department of health and human services.