

House Engrossed

kratom products; definitions

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

## CHAPTER 253

# HOUSE BILL 2601

AN ACT

AMENDING SECTIONS 36-795, 36-795.01, 36-795.02 AND 36-795.03, ARIZONA  
REVISED STATUTES; RELATING TO KRATOM PRODUCTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-795, Arizona Revised Statutes, is amended to  
3 read:

4 36-795. Definitions

5 In this article, unless the context otherwise requires:

6 ~~2.~~ 1. "Food" means a food AS DEFINED IN SECTION 36-901, food  
7 product, food ingredient, dietary ingredient, dietary supplement or  
8 beverage for human consumption.

9 ~~3.~~ 2. "Kratom product" means a food product or dietary ingredient  
10 containing any part of the leaf of the plant mitragyna speciosa.

11 ~~1. "Dealer":~~

12 ~~(a)~~ 3. "PROCESSOR" means a person that sells, prepares,  
13 MANUFACTURES, DISTRIBUTES, WHOLESALS or maintains kratom products or that  
14 advertises, represents or holds itself out as selling, preparing or  
15 maintaining kratom products.

16 ~~(b) Includes a manufacturer, wholesaler, store, restaurant, hotel,~~  
17 ~~catering facility, camp, bakery, delicatessen, supermarket, grocery store,~~  
18 ~~convenience store, nursing home or food or drink company.~~

19 4. "RETAILER" MEANS A PERSON THAT SELLS OR DISTRIBUTES KRATOM  
20 PRODUCTS OR THAT ADVERTISES, REPRESENTS OR HOLDS ITSELF OUT AS SELLING OR  
21 MAINTAINING KRATOM PRODUCTS.

22 Sec. 2. Section 36-795.01, Arizona Revised Statutes, is amended to  
23 read:

24 36-795.01. Kratom product disclosure; preparing,  
25 distributing, selling or exposing for sale  
26 without disclosure prohibited

27 A. A ~~dealer~~ A PROCESSOR OR RETAILER that prepares, distributes,  
28 sells or exposes for sale a food that is represented to be a kratom  
29 product shall disclose on the product label the factual basis on which  
30 that representation is made.

31 B. A ~~dealer~~ PROCESSOR OR RETAILER may not prepare, distribute, sell  
32 or expose for sale a food represented to be a kratom product that does not  
33 conform to the disclosure required by this section.

34 Sec. 3. Section 36-795.02, Arizona Revised Statutes, is amended to  
35 read:

36 36-795.02. Kratom products; adulteration; contamination;  
37 sales to minors prohibited

38 A. A ~~dealer~~ PROCESSOR OR RETAILER may not prepare, distribute, sell  
39 or expose for sale any of the following:

40 1. A kratom product that is adulterated with a dangerous nonkratom  
41 substance. A kratom product is adulterated with a dangerous nonkratom  
42 substance if the kratom product is mixed or packed with a nonkratom  
43 substance and that substance affects the quality or strength of the kratom  
44 product to such a degree as to render the kratom product injurious to a  
45 consumer.

1           2. A kratom product that is contaminated with a dangerous nonkratom  
2 substance. A kratom product is contaminated with a dangerous nonkratom  
3 substance if the kratom product contains a poisonous or otherwise  
4 deleterious nonkratom substance, including any controlled substance  
5 prescribed by chapter 27 of this title **OR RULES ADOPTED PURSUANT TO**  
6 **CHAPTER 27 OF THIS TITLE.**

7           3. A kratom product containing a level of 7-hydroxymitragynine in  
8 the alkaloid fraction that is greater than two percent of the alkaloid  
9 composition of the product.

10          4. A kratom product containing any synthetic alkaloid, including  
11 synthetic mitragynine, synthetic 7-hydroxymitragynine or any other  
12 synthetically derived compounds of the kratom plant.

13          5. Any kratom-containing product that does not include on its  
14 package or label the amount of mitragynine and 7-hydroxymitragynine  
15 contained in the product.

16          B. A ~~dealer~~ **PROCESSOR OR RETAILER** may not distribute, sell or  
17 expose for sale a kratom product to an individual **WHO IS** under eighteen  
18 years of age.

19          Sec. 4. Section 36-795.03, Arizona Revised Statutes, is amended to  
20 read:

21           **36-795.03. Enforcement; violations; classification**

22           **A. IN ADDITION TO THE VIOLATIONS AND REMEDIES SPECIFIED IN THIS**  
23 **SECTION, VIOLATIONS AND ENFORCEMENT OF THIS ARTICLE ARE GOVERNED BY**  
24 **CHAPTER 8 OF THIS TITLE.**

25           ~~A.~~ **B. A ~~dealer~~ PROCESSOR OR RETAILER** that violates section  
26 36-795.01, subsection B or section 36-795.02 is guilty of a class 2  
27 misdemeanor.

28           ~~B.~~ **C.** In addition to and distinct from any other remedy at law or  
29 equity, a person aggrieved by a violation of section 36-795.01, subsection  
30 B or section 36-795.02, subsection A may bring a private cause of action  
31 in a court of competent jurisdiction for damages resulting from that  
32 violation, including economic, noneconomic or consequential damages.

33           ~~C.~~ **D. A ~~dealer~~ PROCESSOR OR RETAILER** does not violate section  
34 36-795.01, subsection B or section 36-795.02, subsection A if the court  
35 finds by a preponderance of the evidence that the ~~dealer~~ **PROCESSOR OR**  
36 **RETAILER** relied in good faith on the representation of a manufacturer,  
37 ~~processor~~, packer or distributor that the food was a kratom product.

APPROVED BY THE GOVERNOR MAY 23, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 23, 2022.