AN ACT concerning food products; enacting the kratom consumer protection act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. The provisions of sections 1 through 8, and amendments thereto, shall be known and may be cited as the kratom consumer protection act.

Sec. 2. As used in sections 1 through 8, and amendments thereto:

(a) "Dealer" means a person that sells, prepares or maintains kratom products, or advertises or represents that such person sells, prepares or maintains kratom products, including, but not limited to, a manufacturer, wholesaler, retail store, restaurant, hotel, catering facility, camp, bakery, delicatessen, grocery store, convenience store or nursing home.

(b) "Food" means a food product, food ingredient, dietary ingredient, dietary supplement or beverage that is produced for human consumption.

(c) "Kratom product" means a food containing any part of the leaf of the plant mitragyna speciosa.

Sec. 3. (a) It shall be unlawful for any dealer to manufacture, prepare, distribute, sell or otherwise provide food that is represented to be a kratom product, unless the dealer discloses the factual basis for such representation on the label of such product.

(b) A violation of this section shall be punishable by a civil fine of not to exceed $500 for a first offense and not to exceed $1,000 for a second or subsequent offense.

(c) The provisions of this section shall be subject to the Kansas administrative procedure act.

Sec. 4. (a) It shall be unlawful for any dealer to manufacture, prepare, distribute, sell or otherwise provide any kratom product:

(1) That is mixed or packed with a non-kratom substance that affects the quality or strength of the kratom product to such a degree as to render the kratom product harmful if consumed;

(2) That contains a poisonous or otherwise harmful non-kratom substance, including, but not limited to, any controlled substance, as defined in K.S.A. 65-4101, and amendments thereto;

(3) That contains a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than 2% of the alkaloid composition of such
product;
(4) that contains any synthetic alkaloids including synthetic mitragynine, synthetic 7-hydroxymitragynine or any other synthetically derived compounds of the kratom plant; or
(5) that does not state the amount of mitragynine and 7-hydroxymitragynine contained in such product on the label of such product.
(b) Violation of this section is a class C misdemeanor.
(c) It shall not be a violation of this section, if it is shown by a preponderance of the evidence that the dealer relied in good faith upon the representations of a manufacturer, processor, packer or distributor who represented the food to be a kratom product.
Sec. 5. (a) It shall be unlawful for any dealer to distribute, sell or otherwise provide any kratom product to an individual under 18 years of age.
(b) Violation of this section is a class C misdemeanor.
Sec. 6. Any person aggrieved by a violation of section 4, and amendments thereto, may, in addition to any other remedy at law or equity, bring a cause of action against the dealer who violated section 4, and amendments thereto, for any damages resulting from such violation, including, but not limited to, economic, noneconomic and consequential damages.
Sec. 7. A dealer shall be deemed a food establishment or food processing plant, as such terms are defined in K.S.A. 65-656, and amendments thereto, dependent on the conduct of such dealer, and shall be subject to the provisions of the Kansas food, drug and cosmetic act, K.S.A. 65-619 et seq., and amendments thereto.
Sec. 8. The secretary of agriculture shall adopt rules and regulations for the administration and enforcement of sections 1 through 7, and amendments thereto, under the Kansas food, drug and cosmetic act, K.S.A. 65-619 et seq., and amendments thereto, including, but not limited to, the format, size and placement of labels, and the information required to be included on such labels.
Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.