A bill to be entitled

An act relating to kratom products; amending s. 500.92, F.S.; adding sections to the Florida Kratom Consumer Protection Act; creating definitions; providing for the certification of certain laboratories; providing requirements for the sale and distribution of kratom products; providing that only certain businesses may sell kratom products at retail and under certain conditions; providing that kratom may nt be sold at certain places; revising criminal penalties; providing administrative penalties; providing jurisidiction for certain law enforcement agencies; creating s. 500.93, F.S.; defining terms; providing requirements for mail order, Internet, and remote sales of kratom products; providing applicability; providing criminal penalties; creating s. 500.94, F.S.; declaring certain kratom products as contraband subject to seizure and confiscation by certain persons under the Florida Contraband Forfeiture Act; providing procedures for the seizure and destruction of such kratom products; providing applicability; creating s. 500.95, F.S., prohibiting using kratom products within a certain distance from a school and at certain times; authorizing a law enforcement officer to issue citations; amending s.

565.04, F.S.; providing that certain alcoholic beverage licensees may sell kratom products; amending s. 565.045, F.S.; providing that certain alcoholic beverage licensees may sell kratom products; amending s. 569.006, F.S.,; providing that the division of alcoholic beverages and tobacco may discipline a retail tobacco products dealer for certain violations of the law; amending s. 569.35, F.S.; providing that the division of alcoholic beverages and tobacco may discipline a retail nicotine products dealer for certain violations of the law; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 500.92, Florida Statutes, is amended to read:

500.92 Florida Kratom Consumer Protection Act.—

(1) Sections 500.92-500.95 ~~This section~~ may be cited as the "Florida Kratom Consumer Protection Act."

(2) DEFINITIONS.-As used in this section, the term:

(a) "Attractive to children" means manufactured in the shape of or packaged in containers displaying humans, cartoons, animals, toys, or other features that target children; manufactured in a form or packaged in a container that bears any

reasonable resemblance to an existing candy or snack product that is familiar to the public; manufactured in a form or packaged in a container that bears any reasonable resemblance to a branded food product such that the product could be mistaken for the branded food product, especially by children; or containing any color additives.

(b) "Contaminants unsafe for human consumption" includes, but is not limited to, any microbe, fungus, yeast, mildew, herbicide, pesticide, fungicide, residual solvent, metal, or other contaminant found in any amount that exceeds any of the accepted limitations as determined by rules adopted by the Department of Health in accordance with s. 381.986, or other limitation pursuant to the laws of this state, whichever amount is less.

(c) "Independent testing laboratory" means a laboratory that:

1. Does not have a direct or indirect interest in the entity whose product is being tested;

2. Does not have a direct or indirect interest in a facility that processes, distributes, dispenses, or sells kratom products in the state or in another jurisdiction or cultivates, processes, distributes, dispenses, or sells marijuana, as defined in s. 381.986; and

3. Is certified by the Department of Health as a medical marijuana testing laboratory pursuant to s. 381.988, or is

certified by the department as being substantially equivalent to a medical marijuana testing laboratory pursuant to subsection (11).

(d) "kratom product" means a food product, food ingredient, dietary ingredient, dietary supplement, or beverage intended for human consumption which contains any part of the leaf of the plant Mitragyna speciosa or an extract, synthetic alkaloid, or synthetically derived compound of such plant and is manufactured as a powder, capsule, pill, beverage, or other edible form.

(e) "Manufacturer" means any person or entity that engages in the process of manufacturing, preparing, or packaging of Kratom products.

(f) "Retailer" means any person or entity who sells kratom products to consumers.

(g) "Wholesaler" means any person or entity located inside or outside this state that delivers or sells products containing Kratom to retailers or other persons for purposes of resale.

(3) CERTIFICATION OF LABORATORIES.-

(a) The department must certify any laboratory located within this state or another state which meets the qualifications of an independent testing laboratory. However, a medical marijuana testing laboratory certified pursuant to s. 381.988 is not required to receive certification by the department.

(b) The department must adopt rules establishing the standards for certification of independent testing laboratories, and adopt rules for the testing of kratom products in accordance with this section. The Department of Health must assist the department in developing rules for the certification of independent testing laboratories, which must include, but are not limited to:

1. Security standards.

2. Minimum standards for personnel.

3. Sample collection methods and process standards.

4. Proficiency testing for Mitragynine, 7-hydroxymitragynine, and contaminants unsafe for human consumption, as determined by department rule.

5. Reporting content, format, and frequency.

6. Audits and onsite inspections.

7. Quality assurance.

8. Equipment and methodology.

9. Chain of custody.

10. Any other standard the department deems necessary.

(c) The department shall renew the certification biennially if the laboratory meets the requirements of this section or any rules adopted hereunder. The department shall adopt rules establishing a procedure for initial certification and biennial renewal.

(d) The department must publish on its website a list of

all laboratories that have received certification.

(e) The department may refuse to issue or renew, or may suspend or revoke, the certification of an independent testing laboratory that is found to be in violation of this section or any rules adopted by the department.

(f) Any laboratory that receives certification under this subsection from the department agrees to random unannounced audits and onsite inspections by the department or agents thereof.

(4) DISTRIBUTION AND RETAIL SALE OF KRATOM PRODUCTS.—

(a) Kratom products may only be distributed and sold in the state if all of the following conditions are met:

1. The kratom product:

a. Is not adulterated with a dangerous non-kratom substance affecting the quality or strength of the product to a degree that renders the product injurious to a consumer.

b. Is not contaminated with contaminants unsafe for human consumption or an otherwise deleterious non-kratom substance, including a controlled substance;

c. Contains a level of 7-hydroxymitragynine in the alkaloid fraction that is no more than two percent of the overall alkaloid composition of the product; and

d. Does not contain any synthetic alkaloids, including synthetic 7-hydroxymitragynine and synthetically derived compounds from a plant of the Mitragyna speciosa.

2. The kratom product is tested by the manufacturer, the wholesaler, and the retailer by an independent testing laboratory and the laboratory's certificate of analysis states:

a. The Kratom product was tested for:

b. Synthetic alkaloids.

c. 7-hydroxymitragynine.

d. Heavy metals.

e. Mycotoxins.

f. Pesticides.

g. Potency.

h. Residual solvents.

i. Any other controlled substance.

j. Any other substance the department deems necessary.

3. The kratom product is distributed or sold in a container that includes:

a. A scannable barcode or quick response code linked to the certificate of analysis of the kratom product;

b. The kratom product testing number;

c. The expiration date of the kratom product.

4. The kratom product is distributed or sold in a container that:

a. Is suitable to contain products for human consumption;

b. Is composed of materials designed to minimize exposure to light;

c. Mitigates exposure to high temperatures;

d. Is a single color and is not transparent. However, this does not apply to the universal symbol;

e. Does not contain any pictures or images other than a single logo, which may not be attractive to children and no more than 20 percent of the container;

f. Contains a clear and conspicuous warning developed by the department that the product is a kratom product;

g. Contains a universal symbol that indicates the presence of kratom, which must be developed by the department;

h. Is not attractive to children; and

i. Is compliant with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq., without regard to provided exemptions. For purposes of this subparagraph, a beverage in a sealed container is considered compliant with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq.

(b) A wholesaler or retailer is not required to test their kratom products in accordance with paragraph (a), if the product is packaged in a container in a manner that may be sold to the ultimate consumer when the wholesaler or retailer receives the product from the manufacturer or wholesaler, the product was tested in accordance with paragraph (a) by the manufacturer or wholesaler, and the wholesaler or retailer does not open the container.

(c) The retail sale and delivery of kratom products is

prohibited, except:

1. At establishments that have a food permit from the department and prohibit persons under 21 years of age on the establishment's premises;

2. At establishments that have a food permit from the department and a quota license issued under s. 565.02(1)(a)-(f). Establishments with a quota license issued under s. 565.02(1)(a)-(f), that allow persons under 21 years of age on the establishment's premises, must place kratom products, not including beverages, in an area inaccessable to customers. Such establishments may place kratom products, not including beverages, in an open display unit as long as the unit is located in an area that is inaccessible to customers; or

3. In accordance with the mail order, internet, and remote sales of kratom products requirements in s. 500.93.

(d) Kratom products may not be sold, given, bartered, furnished, or delivered to consumers at festivals, fairs, trade shows, farmers markets, expositions, or pop-up retail establishments.

(5)~~(3)~~ It is unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, any kratom product to a person who is under 21 years of age.

(6)~~(4)~~ A person who violates subsections (4) or (5) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for the first offense. A

person commits a second offense within 12 months of the first offense commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits a third or subsequent offense within 12 months of the second offense commits a felony of the third-degree, punishable as provided in s. 775.082 or s. 775.083.

~~A violation of subsection (3) is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

(7) In addition to any other penalties provided by law, the department may take any of the following actions against any person licensed or permitted by the department for a violation of this section: place on probation or reprimand the licensee or permit, revoke, suspend, or deny the issuance or renewal of the license or permit, impose an administrative fine not to exceed $5,000 per violation or assess costs associated with investigation and prosecution.

(8) The department shall enforce this section. Every state attorney, sheriff, police officer, and other appropriate county or municipal officer shall enforce, or assist any agent of the department in enforcing, this section and rules adopted by the department.

(9)~~(5)~~ The department shall adopt rules to administer this section.

Section 2. Section 500.93, Florida Statutes, is created to read:

500.93 Mail order, Internet, and remote sales of Kratom products; age verification.—

(1) For purposes of this section, the term:

(a) "Consumer" means a person in the state who comes into possession of any kratom product who, at the time of possession, is not intending to sell or distribute the kratom product, or is not a retailer.

(b) "Delivery sale" means any sale of a kratom product to a consumer in the state for which:

1. The consumer submits the order for the sale by telephonic or other voice transmission, mail, delivery service, or the Internet or other online service; or

2. The kratom product is delivered by use of mail or a delivery service.

(c) "Delivery service" means any person engaged in the commercial delivery of letters, packages, or other containers.

(d) "Legal minimum purchase age" means the minimum age at which an individual may legally purchase kratom products in the state.

(e) "Retailer" has the same meaning as provided in s. 581.217.

(f) "Shipping container" means a container in which Kratom product is shipped in connection with a delivery sale.

(g) "Shipping document" means a bill of lading, airbill, United States Postal Service form, or any other document used to

verify the undertaking by a delivery service to deliver letters, packages, or other containers.

(h) "Kratom Product" has the same meaning as provided in s. 500.92.

(i) "Wholesaler" has the same meaning as provided in s. 500.92.

(2)(a) A sale of Kratom products constituting a delivery sale under paragraph (1)(b) is a delivery sale regardless of whether the person accepting the order for the delivery sale is located inside or outside the state.

(b) A retailer must obtain a food permit from the department under the requirements of chapter 500 before accepting an order for a delivery sale.

(c) A person may not make a delivery sale of Kratom product to any individual who is not 21 years of age or older.

(d) Each person accepting an order for a delivery sale must comply with each of the following:

1. The age verification requirements set forth in subsection (3).

2. The disclosure requirements set forth in subsection (4).

3. The shipping requirements set forth in subsection (5).

(3) A person may not mail, ship, or otherwise deliver Kratom product in connection with an order for a delivery sale unless, before the first delivery to the consumer, the person

accepting the order for the delivery sale:

(a) Obtains from the person submitting the order a certification that includes:

1. Reliable confirmation that the person is 21 years of age or older; and

2. A statement signed by the person in writing and under penalty of perjury which:

a. Certifies the address and date of birth of the person; and

b. Confirms that the person wants to receive delivery sales from a Kratom product retailer and understands that, under the laws of the state, the following actions are illegal:

(I) Signing another person's name to the certification;

(II) Selling Kratom products to individuals who are not 21 years of age or older; and

(III) Purchasing Kratom products, if the person making the purchase is not 21 years of age or older.

(b) Makes a good faith effort to verify the information contained in the certification provided by the individual under paragraph (a) against a commercially available database that may be reasonably relied upon for accurate age information or obtains a photocopy or other image of a valid government-issued identification card stating the date of birth or age of the individual.

(c) Provides to the individual, via electronic mail or

other means, a notice meeting the requirements of subsection (4).

(d) If an order for Kratom products is made pursuant to an advertisement on the Internet, receives payment for the delivery sale from the consumer by a credit or debit card issued in the name of the consumer, or by personal or company check of the consumer.

(e) Submits, to each credit card acquiring company with which the person has credit card sales, identification information in an appropriate form and format so that the words "Kratom product" may be printed in the purchaser's credit card statement when a purchase of Kratom products is made by credit card payment.

(f) Makes a telephone call after 5 p.m. to the purchaser confirming the order before shipping the Kratom product. The telephone call may be a person-to-person call or a recorded message. The person accepting the order for delivery sale is not required to speak directly with a person and may leave a message on an answering machine or through voice mail.

In addition to the requirements of this subsection, a person accepting an order for a delivery sale may request that a consumer provide an electronic mail address.

(4) The notice described in paragraph (3)(c) must include prominent and clearly legible statements that sales of Kratom

products are:

(a) Illegal if made to individuals who are not 21 years of age or older.

(b) Restricted to those individuals who provide verifiable proof of age in accordance with subsection (3).

(5) Each person who mails, ships, or otherwise delivers Kratom products in connection with an order for a delivery sale must:

(a) Ship the Kratom product in a container that complies with the container requirements in s. 500.92.

(b) Include as part of the shipping documents, in a clear and conspicuous manner, the following statement: "Kratom product: Florida law prohibits shipping to individuals under 21 years of age."

(c) Use a method of mailing, shipping, or delivery which obligates the delivery service to require proof that the individual accepting the order for the delivery sale is 21 years of age or older and resides at the address listed on the order label, by reviewing a valid, government-issued identification card bearing a photograph of the individual who signs to accept delivery of the shipping container.

If the person accepting a purchase order for a delivery sale delivers the Kratom product without using a delivery service, the person must comply with all of the requirements of this

section which apply to a delivery service. Any failure to comply with a requirement of this section constitutes a violation thereof.

(6) This section does not apply to delivery sales of kratom products to a retailer or wholesaler.

(7) An individual 21 years of age or older who knowingly violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) The Attorney General, the Attorney General's designee, or a state attorney may bring an action in the appropriate court in the state to prevent or restrain violations of this section by any person.

Section 3. Section 500.94, Florida Statutes, is created to read:

500.94 Seizure and destruction of contraband kratom products.—

All kratom products sold, offered for sale, delivered, or distributed contrary to any provision of ss. 500.92-500.93 are declared to be contraband, are subject to seizure and confiscation under the Florida Contraband Forfeiture Act by any person whose duty it is to enforce those sections, and must be disposed of as follows:

(1) A court having jurisdiction shall order such kratom products forfeited upon a showing that, by a preponderance of

the evidence, such devices were sold, offered for sale, delivered, or distributed contrary to any provision of ss. 500.92-500.93. Once any chapter 120 proceedings related to such products have been completed, the court shall order any seized kratom products destroyed except as provided by applicable court orders. A record of the place where such products were seized, the kinds and quantities of such products destroyed, and the time, place, and manner of the destruction of such products must be kept, and a return under oath reporting the destruction must be made to the court by the officer who destroys such products.

(2) The department or seizing law enforcement agency shall keep a full and complete record of all products seized under this section showing:

(a) The exact kinds, quantities, and forms of such products;

(b) The persons from whom such products were seized and to whom they were delivered;

(c) By whose authority such products were seized, delivered, and destroyed; and

(d) The dates of the seizure, disposal, or destruction of such products.

Such record must be open to inspection by all persons charged with the enforcement of ss. 581.217 through 581.218.

(3) The cost of seizure, confiscation, and destruction of

contraband kratom products is borne by the person from whom such products are seized.

(4) Except as otherwise provided in this section, the procedures of the Florida Contraband Forfeiture Act apply to this section.

(5) For purposes of this section kratom products has the same meaning as provided in s. 500.92.

Section 4. Section 500.95, Florida Statutes, is created to read:

500.95 Ingesting kratom products prohibited near school property; penalty.—

(1) It is unlawful for any person to ingest kratom products in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight. This section does not apply to any person occupying a moving vehicle or within a private residence.

(2) A law enforcement officer may issue a citation in such form as prescribed by a county or municipality to any person violating this section. Any such citation must contain:

(a) The date and time of issuance.

(b) The name and address of the person cited.

(c) The date and time the civil infraction was committed.

(d) The statute violated.

(e) The facts constituting the violation.

(f) The name and authority of the law enforcement officer.

(g) The procedure for the person to follow to pay the civil penalty, to contest the citation, or to appear in court.

(h) The applicable civil penalty if the person elects not to contest the citation.

(i) The applicable civil penalty if the person elects to contest the citation.

(3) Any person issued a citation pursuant to this section shall be deemed to be charged with a civil infraction punishable by a maximum civil penalty not to exceed $25, or 50 hours of community service or, where available, successful completion of a school-approved anti-drug "alternative to suspension" program.

(4) Any person who fails to comply with the directions on the citation shall be deemed to waive his or her right to contest the citation and an order to show cause may be issued by the court.

(5) For purposes of this section “kratom product” has the same meaning as provided in s. 500.92.

Section 5. Subsection (1) of section 565.04, Florida Statutes, is amended to read:

565.04 Package store restrictions.—

(1) Vendors licensed under s. 565.02(1)(a) shall not in said place of business sell, offer, or expose for sale any merchandise other than such beverages, and such places of business shall be devoted exclusively to such sales; provided,

however, that such vendors shall be permitted to sell bitters; grenadine; nonalcoholic mixer-type beverages, not to include fruit juices produced outside this state; fruit juices produced in this state; home bar and party supplies and equipment, including but not limited to glassware and party-type foods; miniatures of no alcoholic content; nicotine products; and tobacco products. Such places of business shall have no openings permitting direct access to any other building or room, except to a private office or storage room of the place of business from which patrons are excluded. Vendors licensed under 565.02(1)(a) may sell kratom products in accordance with the Florida Kratom Consumer Protection Act.

Section 6. Paragraph (a) of subsection (2) of section 565.045, Florida Statutes, is amended to read:

565.045 Regulations for consumption on premises; penalty; exemptions.—

(2)(a) There shall not be sold at such places of business anything other than the beverages permitted, home bar and party supplies and equipment (including but not limited to glassware and party-type foods), cigarettes, kratom products in accordance with the Florida Kratom Consumer Protection Act, and what is customarily sold in a restaurant.

Section 7. Section 569.006, Florida Statutes, is amended to read:

569.006 Retail tobacco products dealers; administrative

penalties.—The division may suspend or revoke the permit of the dealer upon sufficient cause appearing of the violation of any of the provisions of s. 500.92, s. 500.93, this chapter, including part II of this chapter if the dealer deals, at retail, in nicotine products within the state or allows a nicotine products vending machine to be located on its premises within the state, by a dealer or by a dealer's agent or employee. The division may also assess and accept administrative fines of up to $1,000 against a dealer for each violation. The division shall deposit all fines collected into the General Revenue Fund as collected. An order imposing an administrative fine becomes effective 15 days after the date of the order. The division may suspend the imposition of a penalty against a dealer, conditioned upon the dealer's compliance with terms the division considers appropriate.

Section 8. Section 569.35, Florida Statutes, is amended to read:

569.35 Retail nicotine product dealers; administrative penalties.—The division may suspend or revoke the permit of a dealer, including the retail tobacco products dealer permit of a retail tobacco products dealer as defined in s. 569.002(4), upon sufficient cause appearing of the violation of any of the provisions of s. 500.92, s. 500.93, this part, by a dealer, or by a dealer's agent or employee. The division may also assess and accept an administrative fine of up to $1,000 against a

dealer for each violation. The division shall deposit all fines collected into the General Revenue Fund as collected. An order imposing an administrative fine becomes effective 15 days after the date of the order. The division may suspend the imposition of a penalty against a dealer, conditioned upon the dealer's compliance with terms the division considers appropriate.

Section 9. This act shall take effect January 1, 2026.