

"AN ORDINANCE WITH PENALTIES AS ADOPTED BY THE ST CHARLES COUNTY COUNCIL"

Amended Substitute Bill No. 4721 Ordinance No. 19-070

Requested by: Joe Cronin, Joe Brazil, Mike Elam, Dave Hammond,  
Mike Klinghammer

Sponsored by: Joe Cronin, Joe Brazil, Mike Elam, Dave Hammond,  
Mike Klinghammer

AN ORDINANCE CREATING A NEW CHAPTER 237 IN THE ORDINANCES OF ST. CHARLES COUNTY, MISSOURI ("OSCCMo.") IN ORDER TO REGISTER THOSE ENGAGED IN THE SALE OF KRATOM.

WHEREAS, Kratom is a plant grown naturally in Southeast Asian countries including Thailand and Malaysia; and

WHEREAS, natural Kratom comes from the mitragyna speciosa, a tropical evergreen tree in the coffee family native to Southeast Asia whose leaves have been used for centuries as an herbal supplement in traditional medicines; and

WHEREAS, leaves from the plant have long been used for pain relief in traditional medicines, and it has been gaining popularity around the globe; and

WHEREAS, Kratom comes from the coffee family, but its compounds are suggested by some to help alleviate the opioid epidemic; and

WHEREAS, it is estimated 5 million Americans are taking Kratom; and

WHEREAS, on November 20, 2018, the American Kratom Association established Good Manufacturing Practice

Standards for the purpose of enhancing the safety of Kratom products offered to consumers; and

WHEREAS, Article II, Section 2.529 of the Charter of St. Charles County provides that the County Council shall have the power to exercise legislative power pertaining to public health and welfare, Police and traffic, building construction, and planning and zoning, in the part of the County outside incorporated Cities, Towns, and Villages, and on such other subjects as may be authorized by the Constitution or by applicable law; and

WHEREAS, Section 192.300 RSMo. authorizes counties to enact ordinances to enhance the public health in all areas of the county, whether unincorporated or incorporated; and

WHEREAS, the Missouri appellate courts have upheld that power belongs to charter counties as well, in addition to their charter powers; and

WHEREAS, the County Council in this ordinance declares the existence of a public health emergency that constitutes an emergency affecting the immediate preservation of the public peace, health safety and welfare as set out herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF ST. CHARLES COUNTY, MISSOURI, AS FOLLOWS:

Section 1. A new Chapter 237 OSCCMo. is hereby created and reads as follows:

**Chapter 237 REGULATING THE SALE OF KRATOM AND RELATED PRODUCTS**

Section 237.020 Scope.

The provisions of this Chapter shall apply within and throughout all parts of St. Charles County, Missouri.

Section 237.100 Definitions

For the purposes of this Chapter, the following definitions shall apply:

**DEPARTMENT:** St. Charles County Department of Public Health.

**DIRECTOR:** Director of the St. Charles County Department of Public Health.

**FOOD:** A food, food product, food ingredient, dietary ingredient, dietary supplement, or beverage for human consumption.

**KRATOM PRODUCT:** A substance, food product or dietary ingredient containing any part of the leaf of the plant *Mitragyna speciosa*.

**PERSON:** Any person or persons, or entity including, but not limited to, a corporation, partnership, unincorporated association or joint venture.

**SELLER:** A person who sells, prepares, or maintains kratom products, or advertises or represents or holds himself or herself out as selling, preparing, or maintaining kratom products. Such person may include, but not be limited to, a manufacturer, wholesaler, store, restaurant, hotel, catering facility, camp, bakery, delicatessen, supermarket, grocery store, convenience

store, nursing home, or food or drink company. Such a person need not receive any payment or item of pecuniary value in exchange for the kratom product.

#### Section 237.200 Kratom Regulation.

- A. A Seller who prepares, distributes, sells, or exposes for sale a substance or food that is represented to be a kratom product shall disclose on the product label the requirements set forth in Section 237.500 of this Chapter.
- B. A Seller shall not prepare, distribute, sell, or expose for sale a food represented to be a kratom product that does not conform to the disclosure requirement under subsection A of this subsection.
- C. A Seller shall not prepare, distribute, sell, or expose for sale any of the following:
  - 1. A kratom product that is adulterated with a dangerous non-kratom substance.  
A kratom product shall be considered to be adulterated with a dangerous non-kratom substance if the kratom product is mixed or packed with a non-kratom substance and that substance affects the quality or strength of the kratom product to such a degree as to render the kratom product injurious to a consumer;
  - 2. A kratom product that is contaminated with a dangerous non-kratom substance. A kratom product shall be considered to be contaminated with a dangerous non-kratom substance if the kratom product contains a poisonous or otherwise deleterious non-kratom ingredient including, but not limited

to, any substance listed in Section 195.017, RSMo., as amended;

3. A kratom product containing a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than two percent of the alkaloid composition of the product;
  4. A kratom product containing any synthetic alkaloids, including synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compounds of the plant *Mitragyna speciosa*; or
  5. A kratom product that does not include on its package or label the amount of mitragynine and 7-hydroxymitragynine contained in the product.
- D. A Seller shall not distribute, sell, or expose for sale a kratom product to an individual under eighteen years of age.

#### Section 237.400. Kratom Seller Registration Requirements

- A. No person shall become a Seller of any kratom product without first having obtained a city and county business license and registered as a Kratom Seller with the Department as provided by this Section. Each location where any kratom product is prepared, distributed, sold, or exposed for sale shall require its own registration.
- B. Any Person desiring to register as a Kratom Seller shall make written application to the Department in a format prescribed by the Director. If a Person desires to register as a Kratom Seller for more than one location, a separate application shall be required for each individual location.

- C. Any person applying for registration as Kratom Seller must submit the following:
1. A completed Kratom Seller Registration Application;
  2. Sample labels for kratom products that will be available at the location that comply with the requirements set forth in Section 237.500 of this Chapter;
  3. A written policy with procedures that will be implemented to ensure compliance with Section 237.200.D;
  4. A registration fee of six hundred dollars (\$600.00).
- D. Kratom Seller Registration Approval. When a Person has successfully met all of the requirements for registration as a Kratom Seller, the Director shall register such Person as a Seller on the Kratom Seller Register for the location for which the application was made. The Person shall remain on the Kratom Seller Register for said location for period of two (2) years from the date of registration, unless that Person is subject to suspension or removal from the Kratom Seller Registration as set forth in this Chapter.
- E. Consent by Registration. The Department may require Sellers on the Kratom Seller Register to consent to access to the location for which the application was made for inspections as part of their registration. Failure to allow access for inspections as required may result in the

suspension or removal of the Seller from the Kratom Seller Register.

F. Suspension and Removal Procedure for the Kratom Seller Register.

1. The Director shall provide a warning notice in writing sent by certified mail or hand delivered to a Seller on the Kratom Seller Register if the Director finds one (1) or more of the following occurred:

- a. Intentional misstatement or misleading statements of fact in the application not discovered until after the issuance of said license;
- b. Violation of any of the requirements of this Chapter.

2. The Director may suspend a Seller from the Kratom Seller Register for a period of up to ninety (90) days if the Director finds one (1) or more of the following occurred and has not been resolved within 30 days of the date the initial warning was delivered in accordance with this Section:

- a. Intentional misstatement or misleading statements of fact in the application not discovered until after the issuance of said license;
- b. Violation of any of the requirements of this Chapter.

3. In the event that the Director suspends a Seller from the Kratom Seller Register, the Director shall provide notice of the reason(s) for the suspension in writing sent by certified mail or hand delivered to the Seller. The Seller, upon request, shall be entitled to a

hearing before the Director or his or her designee within five (5) business days from the request in order to provide information or evidence that the Seller resolved the issue written in the initial warning notice. The decision of the Director after the hearing and the reasons therefore shall be sent by certified mail or hand delivered to the Seller.

4. Upon proof shown that the basis for suspension has been cured, the Director shall lift the Seller's suspension and shall provide written notice sent by certified mail or hand delivery to the Seller.
5. Failure to cure the violation(s) within the 90-day suspension period shall result in the Seller's removal from the Kratom Seller Register. Such notice of revocation shall be sent by certified mail or hand delivered to the Seller.

#### Section 237.500. Labeling Requirements

Five statements are required: 1) the statement of identity (name of the dietary supplement); 2) the net quantity of contents statement (amount of the dietary supplement); 3) the nutrition labeling; 4) the ingredient list; and 5) the name and place of business of the manufacturer, packer, or distributor. Statements shall be written in print or type size that is prominent, conspicuous and easy to read.

The Department of Public Health shall ensure that all sellers provide a written statement of the following, in no less than 10 point type, with each sale of a Kratom product:



- A. Kratom products are not regulated by any regulatory body, there is no purity standard for manufacturing and there are no dose recommendations arising from study of the substance.
- B. Kratom, particularly if being taken in combination with any medication that depresses respiration, whether the medication is a prescription or over the counter, should not be taken without consulting your physician.
- C. Kratom has been established to affect the mu-opioid receptors in the brain.

Section 237.900 Violations and Penalties.

- A. Any person who violates any provision of this Chapter shall be fined up to five hundred dollars (\$500.00) for the first offense and up to one thousand dollars (\$1,000.00) for the second or subsequent offense. Each and every day that such violation continues shall constitute a separate offense.

Section 237.910 Enforcement.

The Office of the County Counselor shall be responsible for prosecuting these cases or pursuing other legal remedies for the violations of the ordinance.

Section 2.

This ordinance is subject to penalty provisions for its violation and therefore, for penal purposes, shall be

effective thirty-one (31) days after its posting in six public places, its publication in full on the web site of St. Charles County, and the publication of its title and the location in St. Charles County where it may be viewed in its entirety in a legal publication or a newspaper of general circulation in St. Charles County; and the Director shall process applications for the Kratom Seller Register within 15 days of application submission.

August 26, 2019  
DATE PASSED

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DATE APPROVED BY COUNTY EXECUTIVE

John W. White  
CHAIR OF THE COUNCIL

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COUNTY EXECUTIVE

ATTEST:

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COUNTY REGISTRAR