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MEMORANDUM

To: Chairman Barker
Members of the House Committee on Federal and State Affairs

From: Jason B. Long, Senior Assistant Revisor

Date: January 30, 2020

Subject: HB 2400 – Kratom Consumer Protection Act

House Bill No. 2400 (HB 2400) would create the Kratom Consumer Protection Act (Act). Kratom products, as defined under the Act, are food products that contain any part of the leaf from the plant *mitragyna speciosa*. This plant is a tropical evergreen tree indigenous to Southeast Asia. It is used primarily as a dietary supplement because of the mitragynine and 7-hydroxymitragynine compounds found in the leaves.

HB 2400 would regulate persons who sell, prepare or manufacture kratom products, or who advertise or represent any such person. Sections 3, 4, and 5 of the bill make certain acts unlawful. First, Section 3 makes it unlawful to manufacture, sell, distribute, or otherwise provide a food that is represented to be a kratom product unless the label contains the factual basis for such claim. Violation of Section 3 results in a civil penalty of \$500 for a first offense and \$1,000 for each subsequent offense. The Act is administered by the Secretary of Agriculture, who would impose such fines.

Section 4 makes it a crime to sell, distribute, or otherwise provide any kratom product that does not conform to the content restrictions of the Act. To be compliant a kratom product cannot: (1) contain any non-kratom substance that affects the quality of the kratom product to such a degree as to render it harmful if consumer; (2) contain any poisonous or harmful non-kratom substance; (3) contain a level of 7-hydroxymitragynine in the alkaloid composition that is greater than 2% of the alkaloid composition; (4) contain any synthetic kratom-derived compounds; and (5) fail to state the amount of mitragynine and 7-hydroxymitragynine on the label of the product. Violation of Section 4 is a class C misdemeanor.

Section 5 makes it a crime to sell a kratom product to any person under the age of 18. Violation of Section 5 is a class C misdemeanor.

The Act also provides a private cause of action for any individual who is injured as a result of a violation of Section 4. It also makes kratom product dealers subject to the Kansas Food, Drug and Cosmetic Act.

If enacted, HB 2400 would become effective on July 1, 2020.