S T A T E O F N E W Y O R K

9068

I N A S S E M B L Y

January 21, 2016

Introduced by M. of A. LINARES -- read once and referred to the Committee on Economic Development

AN ACT to amend the general business law, the public health law and the penal law, in relation to prohibiting the manufacture, sale and possession of kratom products created from the mitragyna speciosa plant

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new section 399-hh to read as follows:

S 399-HH. SALE OR DISTRIBUTION OF KRATOM; PROHIBITED. 1. FOR PURPOSES OF THIS SECTION "KRATOM" SHALL MEAN ANY PART OF THE PLANT MITRAGYNA SPECIOSA, WHETHER GROWING OR NOT, AND ANY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF SUCH PLANT.

2. UNTIL THE FOOD AND DRUG ADMINISTRATION APPROVED THE USE OF SUCH, NO PERSON, FIRM, CORPORATION, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR OTHER ENTITY SHALL SELL, OFFER FOR SALE, DISTRIBUTE OR GIVE AWAY, FOR RETAIL, WHOLESALE OR PROMOTIONAL PURPOSES, KRATOM.

3. ANY PERSON, FIRM, CORPORATION, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR OTHER ENTITY THAT IS FOUND BY A LOCAL CRIMINAL COURT, AS DEFINED IN SUBDIVISION THREE OF SECTION 10.10 OF THE CRIMINAL PROCEDURE LAW, TO HAVE VIOLATED THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY OF TWO THOUSAND DOLLARS.

S 2. Subdivision (b) of schedule I of section 3306 of the public health law, is amended by adding a new paragraph 35-a to read as follows:

(35-A) MITRAGYNA SPECIOSA.

S 3. The penal law is amended by adding a new section 220.79 to read as follows:

S 220.79 UNLAWFUL MANUFACTURE OF KRATOM PRODUCTS.

A PERSON IS GUILTY OF UNLAWFUL MANUFACTURE OF KRATOM PRODUCTS WHEN HE OR SHE USES ANY PART OF THE PLANT MITRAGYNA SPECIOSA, WHETHER GROWING OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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NOT, TO CREATE ANY COMPOUND, SALT, DERIVATIVE, MIXTURE OR ANY OTHER PREPARATION OF SUCH PLANT.

UNLAWFUL MANUFACTURE OF KRATOM PRODUCTS IS A CLASS D FELONY.

S 4. This act shall take effect immediately; provided, however, that the provisions of sections one, two and three of this act shall expire upon the occurrence of the food and drug administration's approval of the use of mitragyna speciosa, when upon such date the provisions of such sections shall be deemed repealed; provided further that the commissioner of health shall notify the legislative bill drafting commission upon such date the food and drug administration approves the use of mitragyna speciosa in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.