STATE CAPITOL
201 W. CAPITOL AVENUE, ROOM 216
JEFFERSON CITY, MISSOURI 65101

(573) 751-3222
WWW.GOVERNOR.MO.GOV

Michael L. Parson

GOVERNOR
STATE OF MISSOURI

July 1, 2022

TO THE SECRETARY OF STATE
OF THE STATE OF MISSOURI
101st GENERAL ASSEMBLY
SECOND REGULAR SESSION

Herewith I return to you Senate Substitute for House Bill 1667, entitled:

AN ACT

To amend chapter 196, RSMo, by adding thereto one new section relating to kratom products, with penalty provisions.

I disapprove of Senate Substitute for House Bill 1667. My reasons for disapproval are as follows:

I disapprove of this bill for several reasons. First, this bill defines a "kratom product" as "a food product or dietary ingredient[.]" The United States Food and Drug Administration (FDA) has provided that kratom is not a legally marketed food, drug, or dietary supplement. Under the Federal Food, Drug, and Cosmetic Act, the FDA may seize food, drugs, or dietary substances that contain kratom as being adulterated or misbranded. *See generally* 21 U.S.C. §§ 301–399i. By defining "kratom product" as a "food product or dietary ingredient," Missouri would violate federal law. Where federal law has been violated in other states, the FDA has seized the kratom products. U.S. FOOD AND DRUG ADMIN., *FDA and Kratom* (Apr. 27, 2022), https://www.fda.gov/news-events/public-health-focus/fda-and-kratom; U.S. FOOD AND DRUG ADMIN., *Fed Announces Seizure of Adulterated Dietary Supplements Containing Kratom* (Oct. 29, 2021), https://fda.gov/news-events/press-announcements/fda-announces-seizure-adulterated-dietary-supplements-containing-kratom.

In addition to being in conflict with federal law, state law already provides protections for proper labeling and packaging under the Missouri Merchandising Practices Act. *See* RSMo § 407.020; *e.g.*, *Kelly v. Cape Cod Potato Chip Co.*, 81 F. Supp. 3d 754, 760–62 (W.D. Mo. 2015) (examining labeling and packaging requirements under the Missouri Merchandising Practices Act). Missouri law already protects against the perceived issues this bill appears to attempt to address without the need for additional regulatory actions.

Further, the FDA has held that there are no FDA-approved uses for kratom, and the agency has received numerous concerning reports about the safety of kratom. According to the FDA, kratom "affects the same opioid brain receptors as morphine[.]" *FDA and Kratom*, *supra*. Kratom is widely considered an inherently unsafe product due to its psychoactive compounds and risk of exposing users to addiction, abuse, and dependence. The FDA has concerns about the safety of the drug, and has warned consumers against the use of kratom by issuing a public health advisory. *Id.*; U.S. FOOD AND DRUG ADMIN., *Statement from FDA Commissioners Scott Gottlieb, M.D., on the Agency's Scientific Evidence on the Presence of Opioid Compounds in Kratom, Underscoring its Potential for Abuse* (Feb. 6, 2018), https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-agencys-scientific-evidence-presence-opioid-compounds.

In accordance with the above stated reasons for disapproval, I am returning Senate Substitute for House Bill 1667 without my approval.

Respectfully Submitted,

Michael L. Parson
Governor