2026 JOINT POLICY

HB 1628

2026 JOINT STANDING COMMITTEE MINUTES

Policy Committee
Pioneer Room, State Capitol

HB 1628
9/2/2026

A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and chapter 51-38 of the North Dakota Century Code, relating to criminal history record checks and the regulation of kratom products; to amend and reenact section 12.1-31-03 of the North Dakota Century Code, relating to the sale of kratom to individuals under twenty-one years of age; to provide a penalty; to provide an appropriation; and to provide an effective date.

12:52 p.m. Chairman Ruby opened the hearing.

Members present: Co-Chairman Ruby, Representatives Anderson, Beltz, Foss, Frelich, Heinert, Karls, Porter, Rohr, Warrey, Co-Chairman Klein, Senators Axtman, Braunberger, Cory, Dever, Roers, Rummel and Weber.

Discussion Topics:

- Committee action

12:52 p.m. Representative Heinert moved to adopt amendment LC# 25.1453.03001, testimony #45657.
12:52 p.m. Representative Porter seconded the motion.

Roll Call Vote

Representatives	
Representative Matt Ruby	Y
Representative Dick Anderson	AB
Representative Mike Beltz	Y
Representative Austin Foss	Y
Representative Kathy Frelich	Y
Representative Pat Heinert	Y
Representative Karen Karls	Y
Representative Todd Porter	Y
Representative Karen Rohr	Y
Representative Jonathan Warrey	Y

Motion Passed 9-0-1.

Roll Call Vote

Senators	
Senator Jerry Klein	Y
Senator Michelle Axtman	Y
Senator Ryan Braunberger	Y
Senator Claire Cory	Y
Senator Dick Dever	Y
Senator Kristin Roers	Y
Senator Dean Rummel	Y

Senator Mark Weber	Y

Motion Passed 8-0-0.

12:53 p.m. Representative Heinert moved a Do Pass as Amended.
12:53 p.m. Representative Frelich seconded the motion.

Roll Call Vote

Representatives	
Representative Matt Ruby	Y
Representative Dick Anderson	AB
Representative Mike Beltz	Y
Representative Austin Foss	N
Representative Kathy Frelich	Y
Representative Pat Heinert	Y
Representative Karen Karls	Y
Representative Todd Porter	Y
Representative Karen Rohr	Y
Representative Jonathan Warrey	Y

Motion Passed 8-1-1.

Roll Call Vote

Senators	
Senator Jerry Klein	Y
Senator Michelle Axtman	Y
Senator Ryan Braunberger	N
Senator Claire Cory	Y
Senator Dick Dever	Y
Senator Kristin Roers	Y
Senator Dean Rummel	Y
Senator Mark Weber	Y

Motion Passed 7-1-0.

Representative Heinert will carry the bill.
Senator Axtman will carry the bill.

Additional written testimony:
Howard H. submitted testimony in opposition #45612.
Alex Kelsch, Lobbyist, Global Kratom Coalition, submitted testimony in favor #45618, #45619, #45620, #45621 and #45622.
Dana Avedisian submitted testimony in favor #45628.
Missy Henke, Chief Medical Officer, Heartview Foundation, submitted testimony in favor #45634.
Brittany Sefton submitted testimony in favor #45638.
Judith Newcomb submitted testimony in favor #45644.

12:59 p.m. Chairman Klein closed the hearing.

Melissa Ingram, Committee Clerk

25.1453.03001
Title.05000

Prepared by the Legislative Council staff for Representative Heinert
August 31, 2026

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

CO
9/2/2026
1 of 10

HOUSE BILL NO. 1628

Introduced by

Representative Heinert

A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and chapter 51-38 of the North Dakota Century Code, relating to criminal history record checks and the regulation of kratom products; to amend and reenact section 12.1-31-03 of the North Dakota Century Code, relating to the sale of kratom to individuals under twenty-one years of age; to provide a penalty; to provide an appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The attorney general for an applicant for licensure as a processor or retailer, and all owners or agents of an applicant for licensure under chapter 51-38.

SECTION 2. AMENDMENT. Section 12.1-31-03 of the North Dakota Century Code is amended and reenacted as follows:

12.1-31-03. Sale of tobacco, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom to an individual under twenty-one years of age and use by an individual under twenty-one years of age prohibited.

1. a. It is an infraction for any person to sell or furnish to an individual under twenty-one years of age, or procure for an individual under twenty-one years of age, cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, ~~or~~

alternative nicotine products, or kratom. As used in this subdivision, "sell" includes dispensing from a vending machine under the control of the actor.

b. It is an infraction for any person to display or offer for sale cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom through a self-service display. This subdivision does not apply to a:

(1) Vending machine or other coin-operated machine that is permitted under section 12.1-31-03.1; or

(2) Self-service display that is located in a tobacco specialty store.

2. It is a noncriminal offense for an individual eighteen years of age or older but under twenty-one years of age, and an infraction for an individual fourteen years of age or older but under eighteen years of age, to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom. However, an individual under twenty-one years of age may purchase and possess tobacco, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or association of tobacco, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom retailers ~~may~~ also may conduct compliance surveys, after coordination with the appropriate local law enforcement authority.

3. Subsections 1 and 2 do not apply to an individual under twenty-one years of age who possesses cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be used for smoking or chewing, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom when required in the performance of the individual's duties as an employee.

4. It is a noncriminal offense for an individual under twenty-one years of age to present or offer to another individual a purported proof of age which is false, fraudulent, or not actually that individual's own proof of age, for the purpose of attempting to purchase or

possess cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom.

5. A city or county may adopt an ordinance or resolution regarding the sale of tobacco, electronic smoking devices, or alternative nicotine products to individuals under twenty-one years of age and use of tobacco, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom by individuals under twenty-one years of age which includes prohibitions in addition to those in subsection 1, 2, or 4. Any ordinance or resolution adopted must include provisions deeming a violation of subsection 2 or 4 a noncriminal violation and must provide for a fee of not less than twenty-five dollars for an individual fourteen years of age or older who has been charged with an offense under subsection 2 or 4. The failure to post a required bond or pay an assessed fee by an individual found to have violated the ordinance or resolution is punishable as a contempt of court, except an individual under twenty-one years of age may not be imprisoned for the contempt.

6. An individual fourteen years of age or older but under eighteen years of age found to have violated subsection 2 or 4 has committed an infraction and must be sent to juvenile court. An individual eighteen years of age or older but under twenty-one years of age found to have violated subsection 2 or 4 must pay a fee of twenty-five dollars.

   a. Any individual who has been cited for a violation of subsection 2 or 4 may appear before a court of competent jurisdiction and pay the fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the fee. This subdivision does not allow a citing officer to receive the fee or bond.

b. If an individual cited for a violation of subsection 2 or 4 does not choose to follow the procedures provided under subdivision a, that individual may request a hearing on the issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.

c. The failure to post bond or to pay an assessed fee is punishable as a contempt of court, except an individual may not be imprisoned for the contempt.

7. The prosecution must prove the commission of a cited violation under subsection 2 or 4 by a preponderance of the evidence.

8. A law enforcement officer that cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.

9. A person adjudged guilty of contempt for failure to pay a fee or fine may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or to an alternative sentence or sanction including community service.

10. As used in this section:

a. "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term does not include any cigarette, cigar, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing, any electronic smoking device, or any product regulated as a drug or device by the United States food and drug administration under chapter V of the Federal Food, Drug, and Cosmetic Act [21 U.S.C 501 et seq.].

b. "Electronic smoking device" means any electronic product that delivers nicotine or other substances to the individual inhaling from the device, including, an electronic cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of such a product, whether or not sold separately. Electronic smoking device does not include drugs, devices, or combination products approved for sale by the United States food and drug

administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act [52 Stat. 1040; 21 U.S.C. 301 et seq.].

c. "Kratom" ~~means kratom leaf or material extracted from kratom leaf using a food-grade solvent, which contains a level of 7-hydroxymitragynine in the alkaloid fraction which is less than two percent of the alkaloid composition of the product~~has the same meaning as in section 51-38-01.

d. "Self-service display" means a display that contains cigarettes, cigarette papers, cigars, snuff, tobacco in any other form which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products and is located in an area that is openly accessible to the retailer's customers, and from which customers can readily access those products without the assistance of a salesperson. A display case that holds those products behind locked doors does not constitute a self-service display.

~~d.~~e. "Tobacco specialty store" means a retail store that:

(1) Derives at least seventy-five percent of its revenue from the sale of cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products; and

(2) Does not permit minors to enter the premises unless accompanied by a parent or legal guardian.

~~e.~~f. "Vending machine" means a machine, appliance, or other mechanical device operated by currency, token, debit card, credit card, or other means of payment that is designed or used for vending purposes, including machines or devices that use remote control locking mechanisms.

SECTION 3. Chapter 51-38 of the North Dakota Century Code is created and enacted as follows:

51-38-01. Definitions.

As used in this chapter:

1. "Kratom" means ~~kratom~~pure leaf ~~or material extracted from kratom leaf using a food-grade solvent, which~~kratom that contains ~~a level of~~ five one-hundredths percent of

7-hydroxymitragynine ~~in the alkaloid fraction which is less than two percent of the alkaloid composition of the product~~or less on a dry weight basis.

2. "Kratom ~~leaf~~extract" means ~~the leaf of the~~a preparation containing any part of the mitragyna speciosa plant in ~~fresh, dehydrated, or dried~~a concentrated form.

3. "Kratom product" means a ~~food, beverage, or dietary substance~~consumable product containing kratom.

4. "Processor" means a person that ~~sells,~~ prepares, manufactures, distributes, wholesales, or stores kratom products.

5. "Pure leaf kratom" means the leaf of the mitragyna speciosa plant in fresh, dehydrated, ground, or dried form.

6. "Retailer" means a person that sells~~, distributes,~~ or advertises kratom products.

51-38-02. Processor and retailer - License required - Qualifications - Fees.

1. A processor or retailer may not prepare, distribute, or sell kratom unless the processor or retailer holds a license issued by the attorney general.

2. Qualifications for licensure established by the attorney general must include:

   a. An applicant, if an individual, must be a legal resident of the United States;

   b. An applicant, if a corporation, limited liability company, limited partnership, general partnership, or limited liability partnership, must be registered with the secretary of state;

   c. An applicant or manager may not have been convicted of a felony offense by the federal government or any state, a violation of subdivision d of subsection 1 of section 19-03.1-23 or an equivalent offense by the federal government or another state, or, following any conviction of any offense, must be determined to be significantly rehabilitated under section 12.1-33-02.1;

   d. An applicant's facility or principal place of business must meet local and state sanitation and safety requirements; and

   e. An applicant for a retailer license may not have a financial interest in a processor business.

3. The attorney general may deny the application of an applicant that:

   a. Engages in fraud or deceit;

b. Fails to meet the qualifications for licensure under this chapter or administrative rule; or

c. Fails to comply with the requirements under this chapter or administrative rule.

4. A separate license is required for each facility or place of business operated or maintained by a processor or retailer.

~~3.~~5. An initial application for a processor or retailer license must be accompanied by a fee of ten thousand dollars.

~~4.~~6. The attorney general is not required to review an application that is determined to be incomplete.

7. A license issued under this section expires ~~on June thirtieth following~~one year after the date of issuance unless the license is sooner revoked by the attorney general. A license may be renewed annually upon payment of a renewal fee of ~~five hundred~~five thousand dollars.

~~5.~~8. A license issued under this chapter is not transferable.

9. A processor or retailer shall prominently display the license at the facility or place of business for which the license was issued.

10. The attorney general may not issue a license to a processor or retailer that does not meet the requirements for renewal. If the processor's or retailer's license is not renewed, the processor or retailer shall dispose of all kratom.

11. An applicant or licensee may appeal a denial, suspension, or revocation of a license to the district court of Burleigh County within thirty days after notice has been given.

51-38-03. Criminal history record checks.

The attorney general may require an applicant, licensee, or agent of an applicant or licensee to submit to a statewide and nationwide criminal history record check. A nationwide criminal history record check must be conducted in accordance with section 12-60-24. All costs associated with obtaining a criminal history record check are the responsibility of the applicant or licensee.

~~51-38-03.~~51-38-04. Processor and retailer - Requirements - Labeling standards.

1. A ~~processor or retailer~~licensee may not prepare, possess, manufacture, distribute, advertise, or sell a kratom product that:

a. Is ~~adulterated or contaminated~~mixed or packed with a nonkratom substance ~~that affects the quality, strength, or safety of the product~~unless the nonkratom substance is an inert encapsulating agent that:

(1) Is composed of food-grade or pharmaceutical-grade materials with no pharmacological activity;

(2) Does not contain a psychoactive substance, stimulant, or adulterant; and

(3) Serves solely to contain or deliver pure leaf kratom.

b. Contains ~~a synthetic alkaloid~~kratom extract.

c. Imitates the appearance of a candy or confection or is designed or marketed in a manner that appeals to a child.

d. Is packaged in a manner likely to deceive an individual of the safe or recommended ~~dose~~serving.

2. A ~~processor or retailer~~licensee may not distribute, advertise, or sell a kratom product to an individual under twenty-one years of age.

3. A ~~processor or retailer~~licensee shall ensure each kratom product has a label that clearly and conspicuously provides:

a. The name and contact information of the manufacturer or distributor;

b. A complete list of ingredients;

c. The recommended serving size;

d. The amount of mitragynine and 7-hydroxymitragynine per serving and per package;

e. The number of servings per package;

f. The expiration date of the product;

g. Kratom may be habit forming and may interact with medication, drugs, and controlled substances;

h. The product is not intended for use by an individual who is pregnant, breastfeeding, or under twenty-one years of age;

i. A health care provider should be consulted before use; and

j. The product is not approved by the federal food and drug administration and is not intended to diagnose, treat, cure, or prevent disease.

4. A ~~processor or retailer~~licensee shall store and lock all kratom products behind a sales counter in a manner that prevents consumer access without the assistance of an employee.

~~5. A processor or retailer may not sell a kratom product in the form of a food or beverage unless the kratom leaf is extracted using a food-grade solvent approved by the federal food and drug administration.~~

51-38-05. Laboratory testing - Certificate of analysis.

1. A licensee shall test a kratom product before sale to evaluate the composition of the kratom product, including kratom alkaloids. A test result must indicate the amount of mitragynine and 7-hydroxymitragynine in the kratom product.
2. Testing must be conducted by an accredited laboratory approved by the attorney general and documented by the testing laboratory in a certificate of analysis.
3. A licensee shall retain the certificate of analysis for each kratom product tested and shall produce the certificate of analysis upon request by the attorney general.
4. The licensee shall pay all testing costs.

~~51-38-04~~51-38-06. Attorney general - Enforcement - Authority.

1. The attorney general or the attorney general's designee may inspect a ~~processor's or retailer's~~licensee's facility or place of business to determine compliance with this chapter.
2. A ~~processor or retailer~~licensee that violates this chapter is subject to seizure of any kratom product that does not comply with ~~section 51-38-03~~this chapter or administrative rule and:
   a. For a first violation, a fine of ten thousand dollars and suspension of the processor's or retailer's license for three days;
   b. For a second violation, a fine of fifteen thousand dollars and suspension of the processor's or retailer's license for thirty days; and
   c. For a third violation, a fine of twenty-five thousand dollars and permanent revocation of the processor's or retailer's license.
3. A licensee may continue to possess kratom while the processor's or retailer's license is suspended, but may not produce, purchase, sell, or transfer kratom.

4. The attorney general shall adopt rules to administer and enforce this chapter. The attorney general may not issue a license under section 51-38-02 until the rules are adopted.

51-38-07. Penalties.

1. It is a class B misdemeanor for any person to prepare, manufacture, distribute, advertise, or sell kratom without a license.
2. A licensee that sells a product in violation of chapter 19-03.1 may be subject to criminal prosecution and automatic permanent revocation of the processor's or retailer's license.

~~51-38-05~~**51-38-08. Kratom regulation operating fund - Attorney general.**

The kratom regulation operating fund is a special fund in the state treasury administered by the attorney general. The fund consists of all kratom licensing fees collected under this chapter. The attorney general may use moneys in the fund only for enforcement activities in accordance with this chapter, subject to legislative appropriations.

SECTION 4. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - KRATOM PUBLIC HEALTH CAMPAIGN. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $20,000, or so much of the sum as may be necessary, to the department of health and human services for the purpose of providing a kratom public health awareness campaign, including the maintenance of kratom resources on the department's website, for the period beginning with the effective date of this Act, and ending June 30, 2027.

SECTION 5. EFFECTIVE DATE. This Act becomes effective upon its filing with the secretary of state.

REPORT OF STANDING COMMITTEE
HB 1628

Joint Policy Committee (Rep. M. Ruby, Co-Chairman) recommends **AMENDMENTS (25.1453.03001)** and when so amended, recommends **DO PASS** (8 YEAS, 1 NAY, 1 ABSENT OR EXCUSED AND NOT VOTING). HB 1628 was placed on the Sixth order on the calendar.

REPORT OF STANDING COMMITTEE
HB 1628

Joint Policy Committee (Sen. Klein, Co-Chairman) recommends **AMENDMENTS (25.1453.03001)** and when so amended, recommends **DO PASS** (7 YEAS, 1 NAY, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1628 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Dear Lawmakers,

I lived with chronic pain for many years, and I previously found a low-dose 7-OH product to be safe and dependable. It allowed me to do everyday things people often take for granted — getting through work, moving comfortably, and staying independent.

HB 1628 would still remove that product from the market because even my modest dose was above the threshold proposed in the bill. I support responsible regulation, but I cannot support HB 1628 as written because it eliminates the form that worked for me.

Removing safer alternatives like low-dose 7-OH will unintentionally push people back toward illicit drugs or leave them bed-bound. The truth is that people with chronic pain are not well-supported in our healthcare system, and doctors are often unwilling or unable to prescribe medication or find any meaningful alternative. Even when they can prescribe those medications, my experience — and the experience of many others — is that 7-OH is a safer, plant-based option that does not cause respiratory depression, and does not require navigating a broken health care system. HB 1628's limits increase that risk by eliminating the one option that has worked safely for some of us at low doses.

— Howard H.
Fargo

BBHW
Botanicals for Better Health and Wellness

July 9, 2026

The Relevance of FDA Import Alert 54-15 on Kratom's Regulatory Status in the United States

There has been a recent uptick in anti-kratom advocates asserting that, per FDA Import Alert 54-15, FDA has banned the importation of the natural botanical into the United States. The point of the assertion, which is sometimes inferred and other times directly stated, is that because kratom is grown in southeast Asia the FDA's alleged importation ban necessarily means that kratom cannot be lawfully sold in the United States. As explained below, FDA has not banned the importation of kratom into the United States, and the natural botanical, grown and harvested in southeast Asia, can be lawfully sold in the United States.

By way of background, I am the FDA-regulatory attorney for Botanicals for Better Health and Wellness (BBHW). BBHW advocates for evidence-based regulation of plant-derived products. Before entering private practice, I served as Chief Counsel of the United States Food and Drug Administration. Among other duties, I advised the FDA's senior leadership on issues related to both botanicals and import alerts.

For a recent example of an anti-kratom advocate discussing alleged importation bans of kratom, I would point the reader to Dr. Andrew Kolodny. While Dr. Kolodny has spent much of his professional career as a psychiatrist advocating for responsible opioid prescribing, he is not an expert on the FDA in general or on the Agency's use of import alerts in particular.[1] Nevertheless, in testimony before the Suffolk County Legislature on June 23, 2026, Dr. Kolodny asserted that kratom "[i]s not legally imported into the United States. There is an FDA import alert, which means all of the kratom that's coming into the United States is coming in illegally."[2] When questioned on the issue, he asserted that kratom "comes in[to the United States] because it's either labeled as something not intended for human consumption, or it comes in simply by luck."[3] He further stated that it was his understanding that when kratom "comes to the border, if the FDA catches it, it is immediately seized."[4]

As an initial matter, an FDA import alert does not operate as a ban. As the name suggests, the document is an "alert". Specifically, it is FDA's way of alerting the United States Customs and Border Protection (Customs) of specific companies that may be out of compliance with the Food, Drug and Cosmetic Act (FD&C Act). Having been alerted, Customs can then detain the imports of said companies when they enter the country to confirm whether they are compliant. That Dr. Kolodny asserted that "FDA" was immediately "seizing" kratom that it saw at the border pursuant to an import

[1] *See* Andrew Kolodny, MD - Kaiser Permanente Institute for Health Policy.
[2] Dr. Kolodny's testimony on June 23, 2026, begins at 2:22:54. *See* Video Broadcast and Gallery | Suffolk County Legislature, NY.
[3] *Id.*
[4] *Id.*

alert nicely illustrates that Dr. Kolodny doesn't understand what an import alert is or who is responsible for examining imports at the border.

While Dr. Kolodny did not specifically reference Import Alert 54-15[5], it is the only import alert that specifically references kratom. IA 54-15 was issued by FDA on February 28, 2014, the relevance of which will be discussed below. Like other import alerts, IA 54-15 flagged specific firms in the kratom trade that may be out of compliance with the FD&C Act. Customs, in turn, can use the import alert as the basis to detain those firms' products at the border to confirm whether they are in fact compliant.

Importantly, notwithstanding IA 54-15, I am aware of only one case over the course of the last 12 plus years in which Customs detained kratom products at the border and found them to be noncompliant with the FD&C Act. In that case from 2020, Customs testing found that more than a half ton of kratom detained at a port of entry in Detroit was laced with salmonella.[6] Of note, the kratom at issue was denied entry to the United States because it was contaminated with a dangerous pathogen and not because it could not be lawfully imported (as Dr. Kolodny asserted).

In addition, since 2012 I am aware of only one occasion in which IA 54-15 was cited in an enforcement action by the federal government. Specifically, it was cited in a DOJ press release discussing an action against a kratom importer that was falsifying import-related documents as part of a money laundering scheme.[7] In short, to date IA 54-15 has only been cited in one enforcement action, and that was when the importation was directly tied to an independent (and serious) violation of federal law.

Based on his testimony, Dr. Kolodny would have people believe (without citing supportive evidence) that the lack of enforcement is due to two reasons: (1) kratom imports are falsely labeled for non-human uses and (2) luck. As explained in the next paragraph, FDA is fully aware that kratom products are currently being distributed and sold throughout the United States for use in humans (and that the kratom in such products was grown in southeast Asia and imported into the United States). And, while not a statistician, it strikes me as highly improbable that over the course of 12 years kratom importers are lucky 99.9% of the time. The alternative explanation, i.e., that Customs tests kratom products and only rarely finds them to be noncompliant, is supported by the above-referenced case in Detroit.

FDA's awareness that kratom is being sold in the United States for human use is nicely illustrated by the fact that FDA has issued Warning Letters to, and requested recalls by, several kratom manufacturers. Those actions, however, were for reasons unrelated to the fact that the products contained kratom. For example, FDA has issued Warning Letters to manufacturers that make drug claims for their supplements that contain kratom.[8] Likewise, FDA has requested recalls from kratom

[5] Import Alert 54-15.
[6] *See* CBP Seizes Half Ton of Salmonella-Laced Kratom | U.S. Customs and Border Protection.
[7] *See* Southern District of California | Kratom Company and Owner Plead Guilty | United States Department of Justice.
[8] *See, e.g.*, FDA Warning Letters to Cali Botanicals and Kratom NC.

manufacturers whose supplements contained undeclared food allergens[9] or pathogens[10]. These are the types of actions that FDA routinely takes against regulated actors marketing misbranded or adulterated products. Indeed, FDA's limited and narrowly tailored actions were particularly peculiar if Dr. Kolodny is to be believed, i.e., if products containing kratom are per se illegal because they were unlawfully imported into the United States.

Finally, in 2014, when IA 54-15 was issued, FDA held a very different view about the safety of kratom. Those outdated views have given way over time as additional studies on kratom have been conducted. For example, in 2014 FDA was concerned that kratom may cause respiratory depression. A subsequent NIH-funded study, however, found that mitragynine, the primary alkaloid in kratom, actually increased respiratory frequency.[11] Similarly, FDA's own Single Ascending Dose Study, which was designed to assess the safety and potential toxicity of kratom, showed that the botanical was well tolerated in human participants even at high doses.

Not surprisingly, given the current body of scientific evidence showing that kratom poses relatively low abuse liability[12], Import Alert 54-15 has never resulted in an enforcement action (apart from the one case cited above where the importation of kratom was part of a larger and more serious money laundering scheme). Tellingly, when statements similar to those provided by FDA in 2014 (in support of IA 54-15) have been challenged, the FDA has disowned the statements. For example, in 2023, the U.S. District Court for the Southern District of California specifically asked that FDA provide the United Stated Department of Justice (DOJ) with documentation supporting its prior public statements that kratom is a "dangerous substance". According to a statement from DOJ provided to the court, the FDA refused the court's request:

> We have been in contact with representatives of the FDA regarding the upcoming sentencing hearing regarding the dangers of kratom. They have refused to provide us with witnesses or documents to support our position, as well as witnesses and documents that might be inconsistent with our position. <u>The reason they gave was that they have not yet made a determination regarding whether kratom is dangerous.</u>[13]

It is not surprising that FDA does not treat IA 54-15 as a ban on kratom in light of its statement, provided under oath in federal court, that it does not have evidence that kratom is dangerous.

Similarly, in 2024, a kratom manufacturer (Martian Sales, d.b.a. OPMS) filed a complaint against FDA challenging a number of "demonstrably false statements" previously made by the Agency about the safety of one of the company's kratom products in a "Safety Alert" issued to the public on July 26,

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[9] *See, e.g.*, Recall of Kula Can – Pina Colada + Kratom Seltzer.
[10] *See, e.g.*, Recall of Powdered Kratom Products by Triangle Pharmanaturals.
[11] *See* Zuarth Gonzalez et al., Mitragynine and 7-Hydroxymitragynine: Bidirectional Effects on Breathing in Rats. Posted May 25, 2025.
[12] *See* Garcia-Romeu, et al. 2020, Todd et al. 2020, Henningfield, Wang et al. 2021, Mongar et al 2024.
[13] *See* Ex. 30, Declaration of Andrew P. Young in Support of [Defendant] Guthery's Motion for Issuance of a Pretrial Subpoena Duces Tecum, *United States v. Nine2Five, LLC*, No. 3:23-cr-00179-TWR (S.D. Ca.) (filed Dec. 6, 2023) Dkts. 110-2, 110-6 (emphasis added).

2024. In its motion to dismiss the complaint, FDA did not defend the accuracy of the Safety Alert, but instead argued that it could not be sued for issuing the Alert because the challenged statements:

- "[H]ad no legal effect and did not purport to impose any obligations on Plaintiff or anyone else."[14]
- "[D]id not consummate any internal decision-making process or determine any right or obligations."[15]
- Were published as part of a "non-binding" Safety Alert and therefore did not constitute "agency action."[16]

For the same reason, FDA does not consider any of the statements made in the preamble to IA 54-15 to represent the FDA's official views regarding the safety of kratom.

Based on the above, FDA has not banned the importation of kratom into the United States and products containing kratom are not per se illegal by virtue of the fact that the kratom was grown and harvested in southeast Asia.

Sheldon Bradshaw

Sheldon Bradshaw

FDA Regulatory Counsel
Botanicals for Better Health and Wellness

[14] *See* Defendant's Memorandum in Support of their Motion to Dismiss, *Martian Sales, Inc. v. Food and Drug Administration, et al.*, case 1:24-cv-03031-RBW (DC) (filed on 12/23/24) Dkt 12-1.
[15] *Id.*
[16] *Id.*

Kratom Science Is Accelerating. Fast.

The claim that the field has stood still is objectively untenable. Here's what the evidence now shows.

The evidentiary record did not begin in 2016. Natural kratom leaf has a documented history of traditional use in Southeast Asia dating to at least 1836, real-world context that concentrated synthetic 7-OH and other novel synthetic alkaloids targeted by the DEA simply do not have. That history doesn't prove every modern product is safe. But it, along with the accelerating research record, makes one thing clear: The science is anything but static.[1]

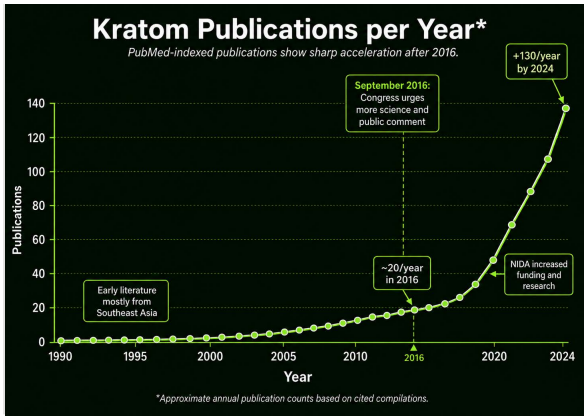


Figure 1. PubMed-indexed kratom publications accelerated sharply after 2016, from roughly 20 in 2016 to more than 130 per year by 2024.[3]

A RAPIDLY GROWING RECORD

Publication volume alone doesn't prove safety or efficacy, but it does dismantle the claim that the field hasn't moved:

- **300+** kratom-related publications since January 2022, per a 2026 update.[3]
- **1,000+** peer-reviewed papers now cataloged by KratomIndex.[2]
- **18** peer-reviewed human studies in GKC's compilation: controlled clinical trials, pharmacokinetic and drug-interaction studies, and observational clinical assessments.[2]
- **$100M+** in cumulative NIDA-supported kratom and mitragynine research (portfolio estimate; exact total depends on search terms and multi-aim awards).[2]

THE HUMAN EVIDENCE IS INCREASINGLY SPECIFIC

- An **FDA-led, placebo-controlled study** administered a characterized botanical leaf product at 1, 3, 8, 10, and 12 grams. No deaths or serious adverse events occurred, and the product was well tolerated under controlled study conditions.[4]
- A separate **randomized, double-blind, placebo-controlled study of 116 healthy adults** evaluated single and 15 consecutive daily doses (0.5 to 4 grams of dried leaf powder): no deaths or serious adverse events, and no meaningful abuse-potential or clinically significant withdrawal signal at the doses tested.[5]
- Human **pharmacokinetic work** has characterized mitragynine and metabolically formed natural 7-OH, and a controlled interaction study identified a measurable intestinal CYP3A interaction, supporting concrete medication-interaction warnings.[5]

FEDERAL CLINICAL DEVELOPMENT IS UNDERWAY

On June 1, 2026, NIH announced that FDA allowed its IND for purified mitragynine to take effect, clearing the way for a Phase I randomized, double-blind, placebo-controlled study of MG001 as a potential treatment for opioid use disorder. That step required NIH to submit pharmacology and toxicology evidence supporting a conclusion that the proposed human investigation was reasonably safe; FDA could have placed the study on clinical hold if the evidence was insufficient to assess risk or subjects would face an unreasonable and significant risk. An IND is not approval and does not establish efficacy. But it is unmistakable evidence of active federal clinical development.[6]

THE BOTTOM LINE: The science on natural kratom leaf is growing, specific, and federally active. Policy should follow that evidence, targeting lab-made substances like concentrated synthetic 7-OH, mitragynine pseudoindoxyl, MGM-15, and MGM-16 — while preserving responsible access to natural kratom leaf.

SOURCES

1. Grundmann, McCurdy, Sharma & Smith, *Statement on the Science of Kratom Products and Their U.S. Regulation* (Apr. 2, 2024); Brendler et al., *Public Comment Clarifying the Current State of the Science on Mitragyna speciosa* (2026).
2. KratomIndex, *The Complete Index of Published Kratom Research* (accessed Aug. 10, 2026), kratomindex.com; Global Kratom Coalition, *18 Human Clinical Trials*, globalkratomcoalition.org/human-trials; American Kratom Assn. memo to the South Dakota Legislature, at 7 (Jan. 19, 2025). NIH publishes no dedicated aggregate; total depends on RePORTER search terms and multi-aim awards.
3. Henningfield, Beyer & Raffa, eds., *Kratom: History, Science and Therapeutic Potential* (Academic Press 2025); Henningfield et al., *The Abuse Potential of Kratom and 7-Hydroxymitragynine Under the 8 Factors of the CSA* 17–18 (Jan. 24, 2026) (≈20 publications in 2016, 130+/yr by 2024, 300+ since Jan. 1, 2022).
4. Reissig et al., *A Pilot, Dose-Finding, Pharmacodynamic and Pharmacokinetic Study of Orally Administered Botanical Kratom*, J. Clin. Psychopharmacol. 46(4):386–398 (2026), doi:10.1097/JCP.0000000000002158.
5. Huestis et al., *Safety and Tolerability of Single and Multiple Daily Oral Doses of Dried Kratom Leaf Powder*, Ther. Drug Monit. (2026), doi:10.1097/FTD.0000000000001427; Coe et al., *Assessment of Abuse Potential-Related Effects*, Drug Test. Anal. 18:922–932 (2026), doi:10.1002/dta.70089; Tanna et al., *Clinical Assessment of the Drug Interaction Potential*, Clin. Pharmacol. Ther. 113:1315–1325 (2023), doi:10.1002/cpt.2891; Huestis et al., *Human Mitragynine and 7-Hydroxymitragynine Pharmacokinetics*, Molecules 29:984 (2024), doi:10.3390/molecules29050984.
6. NIDA, *NIH Research Clears Way for Study of Experimental Treatment for Opioid Use Disorder* (June 1, 2026); ClinicalTrials.gov, *Phase 1 Study of Oral MG001*, NCT07204171.

Kratom in Context

North Dakota Poison Center Data, 2021–2025

Via ND Health & Human Services

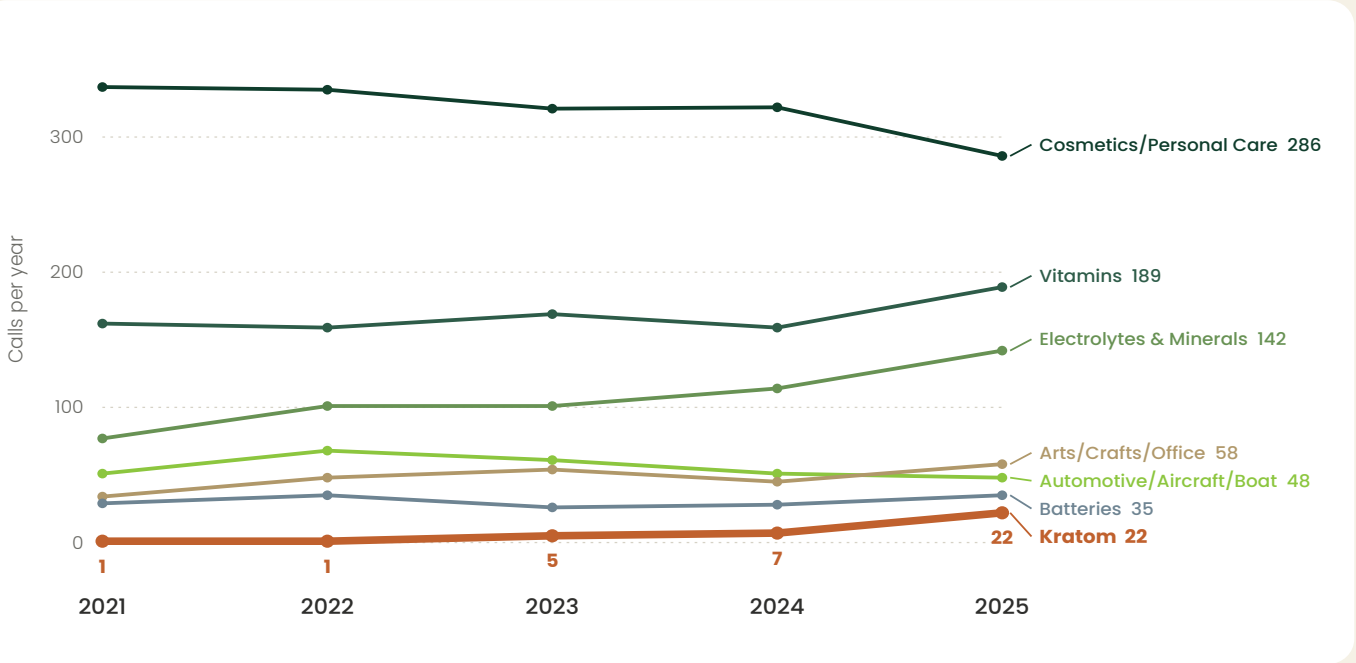
36
kratom calls in North Dakota, 2021–2025

1,601
cosmetics and personal care calls, same period

44x
fewer calls than cosmetics and personal care products

Poison-center call volume is one of the few consistently collected measures of reported acute exposures and requests for assistance across product categories. A call does not necessarily establish poisoning, causation, or severity. Across 2021–2025 the Regional Poison Center logged 36 North Dakota calls involving kratom. The charts below set that figure against everyday consumer products, against the state's highest-volume exposure categories, and against the national series.

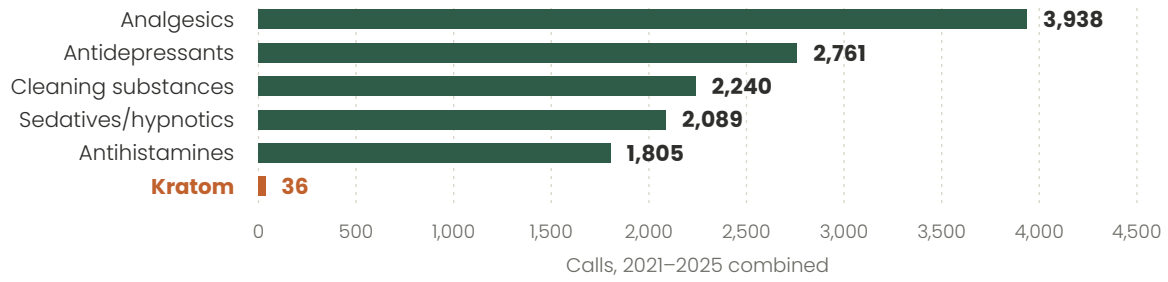
Year by Year: Kratom vs. Everyday Products



North Dakota poison center calls by year, 2021–2025. Source: Minnesota Regional Poison Center via ND HHS Poison Control Dashboard, retrieved 4 August 2026.

Kratom's entire five-year total of 36 calls is smaller than the single-year figure for cosmetics, vitamins, electrolytes and automotive products in every year of the series. Across the full period cosmetics and personal care products generated 1,601 calls — roughly forty-four times as many. The national series tells a different story, examined overleaf: a stable baseline that broke in 2025, when concentrated synthetic 7-OH — not natural kratom leaf — reached retail scale.

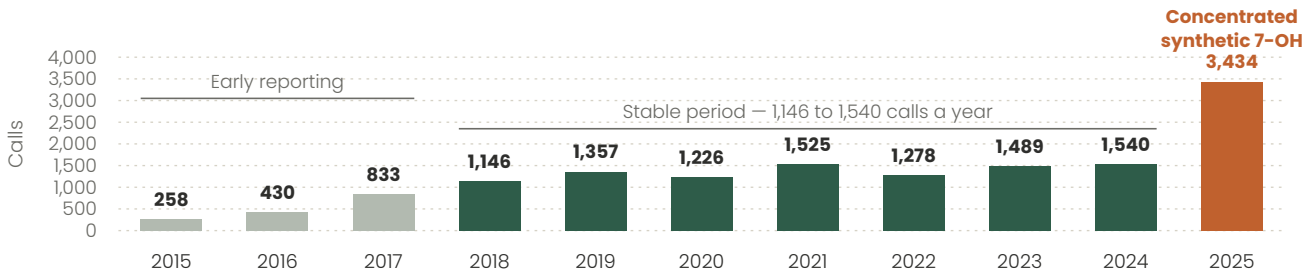
Leading Exposure Categories vs. 'Kratom'



North Dakota poison center calls, 2021–2025 combined. Source as above.

The state's five leading exposure categories generated 12,833 calls between them over the same window. Kratom represents roughly three-tenths of one percent of that combined volume.

The National Picture: What Changed in 2025



Kratom-related calls to U.S. poison centers, 2015–2025. Source: Towers EB, Thomas YT, Holstege CP, Farah R, MMWR Morb Mortal Wkly Rep 2026;75(11):139–145.

A stable series broke in a single year. From 2018 through 2024 the national figure moved within a narrow band of 1,146 to 1,540 calls a year. In 2025 it reached 3,434 — more than double the highest prior year. North Dakota shows the same break on a smaller scale: one to seven calls a year through 2024, then 22 in 2025. What entered the market that year was concentrated synthetic 7-OH.

CONCENTRATED SYNTHETIC 7-OH IS NOT KRATOM

U.S. Food and Drug Administration.[1] Announcing its July 2025 scheduling recommendation, FDA said it is **"not focused on natural kratom leaf products."** When temporary scheduling began in July 2026, FDA and DEA stated the action is **"not intended to apply to natural kratom leaf."**

University of Florida & Johns Hopkins researchers (June 2024).[2] Natural 7-OH is found in minuscule amounts as an oxidative byproduct of drying kratom leaves. Products with high concentrations of 7-OH are semi-synthetic drugs masquerading as natural kratom, and calling such products kratom is not scientifically credible.

CDC, MMWR (March 2026).[3] The report's authors write that as FDA moves to regulate 7-OH but not whole-leaf kratom products, **"surveillance should distinguish product types to assess risks"** — an implicit acknowledgment that recording both under one label distorts the data.

Sources. [1] FDA/HHS news release, 29 July 2025; FDA, "Hiding in Plain Sight: 7-OH Products," updated 13 July 2026. [2] Public statement of 11 June 2024 by researchers at the University of Florida College of Pharmacy and Johns Hopkins University School of Medicine. [3] MMWR citation as above. **Limitations.** ND Health & Human Services Poison Control Dashboard, Minnesota Regional Poison Center data, retrieved 4 August 2026; call volume is not a severity measure.

North Dakota Cited 50 Kratom-Associated Deaths. Its Own Records Narrow That to 2 Suspected Mitragynine-Only Cases.

And the state has not shown that either involved natural kratom leaf.

To support a statewide ban on natural kratom leaf, the North Dakota Department of Health and Human Services (DHHS) pointed to **50 deaths** "associated with" kratom, mitragynine, concentrated 7-OH, and/or pseudoindoxyl, and publicly emphasized **24** where one of those substances was listed as a primary or contributing cause. But the records obtained from the state narrow that number dramatically — down to just **two** confirmed cases involving mitragynine alone, neither shown to involve natural kratom leaf.

THE CHAIN OF EVIDENCE

DEATHS CITED · 2019–2025

2019 — 2020 — 2021 — 2022 — 2023 — 2024 — 2025

50 associated deaths

↓ **26 excluded from causation; detected in toxicology only**

24 listed as a primary or contributing cause

↓ **However, 20 involved illegal drugs, other substances, suicide, or other circumstances**

4 without other drugs

↓ **1 combined-substance case + 1 not laboratory-confirmed**

2 mitragynine-only

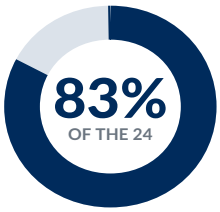
0 shown to involve natural leaf

Of the 4 deaths with no other drugs involved: **2** suspected mitragynine-only, **1** mitragynine + synthetic 7-OH + pseudoindoxyl, and **1** presumed synthetic 7-OH that was not laboratory confirmed.

DHHS's private toxicology lab only began testing for concentrated synthetic 7-OH and other synthetics in **September 2025**. The state explicitly says "deaths before that time may not have been evaluated for 7-OH."

83% OF THE 24 WERE NOT KRATOM-ONLY DEATHS

19 involved other drugs. One was a self-inflicted gunshot death in which mitragynine was only a contributing factor.



involved other drugs or circumstances

ALSO INVOLVED — SHARE OF THE 24:

Fentanyl	29%	(7)
Methamphetamine	17%	(4)
Cocaine	13%	(3)
Alcohol	13%	(3)
Suicide / self-harm	8%	(2)
Heroin	4%	(1)

Other cases involved bromazolam, trazodone, bupropion, cyclobenzaprine, gabapentin, pregabalin, promethazine, and diphenhydramine. (Percentages overlap; many deaths involved more than one substance.)

THE EVIDENTIARY GAP: DHHS began with 50 "associated" deaths. More than half were toxicology detections only. Of the 24 remaining, 20 involved other drugs or circumstances. Only two were confirmed mitragynine-only cases. The state has produced no evidence showing that either involved **natural kratom leaf**.

A statewide ban on natural kratom should not be justified by product attribution DHHS has never established.

Data obtained via public records request to the North Dakota Department of Health and Human Services. Figures reflect records as provided by the state.

WRITTEN TESTIMONY OF MATTHEW LOWE

Executive Director, Global Kratom Coalition

Regarding Kratom Legislation Before the North Dakota Legislature

Chairman and members of the Committee:

My name is Matthew Lowe, and I am the Executive Director of the Global Kratom Coalition (GKC), an organization representing consumers, scientific experts, and responsible industry participants working to advance appropriate regulation of natural kratom products.

GKC supports strong action by North Dakota against synthetic and chemically converted kratom-derived substances, including concentrated 7-hydroxymitragynine (7-OH), mitragynine pseudoindoxyl, MGM-15, MGM-16, and similar novel derivatives. We also support the establishment of a comprehensive regulatory framework for natural botanical kratom, including a minimum purchasing age of 21, product standards, testing, labeling, product registration, and meaningful enforcement authority.

We oppose, however, a blanket prohibition or Schedule I classification of natural kratom leaf.

The central issue before the Legislature is one of product distinction. At the prior hearing, “kratom” was repeatedly discussed as though it represented a single, uniform substance. It does not.

Natural Kratom and Synthetic Derivatives Are Not the Same Product

Traditional kratom is the leaf of Mitragyna speciosa, a botanical native to Southeast Asia that has been consumed there for generations and has been available in the United States since the early 1970’s. Natural kratom contains mitragynine as its predominant alkaloid and only trace quantities of naturally occurring 7-OH.

Since 2023, however, an entirely different category of products has emerged. These include concentrated or chemically converted 7-OH, mitragynine pseudoindoxyl, MGM-15, and other synthetic or semi-synthetic derivatives. They are commonly sold in tablets, in many instances, are fraudulently marketed as “kratom” or “kratom extracts” despite being fundamentally different from traditional botanical kratom.

This is not merely an industry characterization. DEA has documented the proliferation of commercial products containing opioids chemically synthesized from mitragynine or 7-OH and states that pseudoindoxyl, MGM-15, and MGM-16 were developed through chemical modification of purified isolates rather than occurring naturally in the kratom plant.[1] FDA likewise has warned that many products associated with or advertised as kratom no longer resemble botanical kratom and instead contain enhanced or concentrated 7-OH.[2]

Natural kratom leaf did not suddenly change during the past several years. The market changed.

That distinction should be the starting point for North Dakota policy.

North Dakota Should Align With the Federal Approach

The federal government is expressly drawing this same distinction.

DEA has initiated Schedule I action against mitragynine pseudoindoxyl, MGM-15, and MGM-16 and is separately pursuing scheduling of 7-OH above a specified threshold.[1][3] Importantly, HHS and FDA have stated that the federal actions are “not intended to regulate natural leaf kratom that does not contain enhanced levels of 7-OH.”[4] FDA previously stated that its 7-OH scheduling recommendation was specifically targeting concentrated 7-OH and was “not focused on natural kratom leaf products.”[5]

North Dakota should follow the same evidence-based approach: prohibit the synthetic, chemically converted, and enhanced products presenting the new public-health concern, while establishing appropriate guardrails for natural botanical kratom.

A blanket ban on natural leaf would go significantly beyond the federal response and erase the very distinction federal regulators have intentionally preserved.

The North Dakota Death Data Require Careful Interpretation

The Legislature has heard that there have been 50 deaths associated with kratom in North Dakota. Every death warrants serious consideration. But the state's underlying records present a much more nuanced picture.

North Dakota HHS reports 50 non-natural deaths between 2019 and June 2026 associated with mitragynine, 7-OH, and/or mitragynine pseudoindoxyl. Of those 50 cases, 26 involved toxicological detection only; the substance was not listed as either a primary or contributing cause of death. That leaves 24 cases in which one of these substances was listed as either a primary or contributing cause.[6]

The state's further analysis is especially important. Of the 24 cases in which kratom or a related compound was listed as a primary or contributing cause, 20 — 83 percent — involved other drugs or other significant circumstances.

These included fentanyl in seven cases, methamphetamine in four, cocaine in three, alcohol in three, heroin in one, and numerous prescription drugs including bromazolam, trazodone, bupropion, cyclobenzaprine, gabapentin, pregabalin, promethazine, and diphenhydramine. Two cases also involved suicide or self-harm, including a self-inflicted gunshot death in which mitragynine was listed only as a contributing factor. Only four cases were categorized as involving kratom and/or related compounds without another drug as part of the primary cause

Those four consisted of two cases categorized as confirmed kratom, one case involving kratom, 7-OH, and pseudoindoxyl, and one presumed 7-OH case that was not laboratory confirmed.[6] Therefore, after beginning with 50 "associated" deaths, the records ultimately identify two cases categorized as mitragynine alone.

Critically, the records produced by the state do not establish the product form consumed in either case. They therefore do not demonstrate that either death involved traditional natural kratom leaf.[7]

There is an additional limitation. North Dakota HHS states that its private toxicology laboratory did not begin testing for 7-OH until September 2025 and specifically cautions that deaths occurring before that date may not have been evaluated for 7-OH.[6]

This does not mean the deaths should be dismissed. It means they should be described accurately. Fifty deaths in which kratom or related substances were associated or detected is not the same as fifty deaths caused by natural kratom leaf.

Perspective also matters. North Dakota HHS reports 106 drug-overdose deaths in 2024 alone and 497 overdose deaths from 2021 through 2024.[8] The kratom-related figure being discussed spans more than seven years and combines mitragynine, 7-OH, pseudoindoxyl, polysubstance deaths, and cases in which the substance was merely detected. These datasets are not directly comparable, but they illustrate why raw mortality figures should not be presented without causation, product attribution, and context.

Poison-Control Data Show a New Signal — Not a Historic Natural-Leaf Crisis

The North Dakota poison-control data likewise deserve careful consideration.

The state's report identifies 2 calls in 2021, 0 in 2022, 5 in 2023, 7 in 2024, and 22 in 2025 — 36 calls over five years.[6]

The increase in 2025 should not be ignored. It should be investigated precisely because of when it occurred. Natural kratom had already been available during the preceding years when reported calls remained extremely low. The sharp increase occurred during the same period in which concentrated 7-OH and synthetic derivatives proliferated nationally and were increasingly sold or fraudulently marketed under the kratom name.

The state's historical poison-control data also do not cleanly separate traditional natural kratom from concentrated 7-OH across the entire period. Accordingly, these data establish an emerging signal

involving the broad kratom/7-OH category; they do not establish that natural kratom leaf caused the increase.

The magnitude of the numbers should also be kept in perspective. North Dakota HHS reports that the Poison Help line received more than 5,800 calls from North Dakota residents in 2025 alone, with most involving medications and pills.[9] The 22 kratom/7-OH calls recorded that year represent a very small portion of overall poison-center activity.

These comparisons are not intended to suggest that all substances or products have identical pharmacology or risks. They demonstrate a narrower point: a poison-center exposure call is a surveillance metric. It is not, by itself, evidence that a product warrants Schedule I prohibition. North Dakota HHS also reports that more than 70 percent of callers to the Poison Help line receive the assistance they need without requiring a visit to a health-care professional or hospital.[9]

Regulation Provides North Dakota With Stronger Market Control

North Dakota does not have to choose between an unregulated marketplace and prohibition. A well-designed regulatory system can create clear and enforceable guardrails.

North Dakota can establish a 21-and-over market; define lawful natural botanical kratom; prohibit synthetic and chemically converted derivatives; establish an appropriate maximum permissible level of 7-OH; require independent laboratory testing; mandate accurate labeling and warnings; and create a state product registry administered by the Attorney General.

A product-registry system would allow the state to know what products are being sold, who manufactured them, who registered them, and whether laboratory documentation demonstrates compliance with state standards.

The Attorney General should have authority to inspect products, demand testing records, issue stop-sale orders, seize noncompliant products, impose meaningful civil penalties, and suspend or revoke the ability of companies or retailers to sell kratom products in North Dakota.

The Legislature can also require the regulated market to fund that oversight through product-registration fees, licensing fees, and an appropriate tax. The industry can and should fund the guardrails necessary to police the market.

This structure improves enforcement rather than weakening it. If a company sells synthetic 7-OH or pseudoindoxyl and fraudulently markets it as kratom, North Dakota would have a clear statutory standard, testing requirements, an identifiable registrant, and an enforcement mechanism.

A blanket ban does not eliminate the need for enforcement. Synthetic products can still be ordered online, shipped from another jurisdiction, mislabeled, or sold through illicit channels. Law enforcement would still need to determine what a seized substance actually contains. Prohibition removes the compliant and identifiable market; regulation gives the state visibility into that market and powerful tools to remove bad actors from it.

Conclusion

North Dakota has an opportunity to adopt a precise response to an identifiable problem.

The state should prohibit synthetic, chemically converted, and enhanced derivatives that pose a legitimate public-health concern and are fraudulently marketed under the kratom name. At the same time, it should establish meaningful consumer protections for traditional natural kratom: age restrictions, testing, labeling, product registration, retailer accountability, and strong enforcement administered by the Attorney General and funded by the regulated industry.

This approach is consistent with the direction being taken by DEA, HHS, and FDA. It is also more consistent with the evidence presently before the Legislature.

The state’s poison-control data show a recent increase that coincides with a major change in the marketplace. The mortality records show that the overwhelming majority of cited deaths either involved mere toxicological detection, other substances, or newly emerging 7-OH and synthetic derivatives. They do not establish a basis for treating natural kratom leaf and novel synthetic opioids as one product.

North Dakota should address what changed: prohibit the synthetics, regulate natural kratom, establish enforceable guardrails, and do not allow products fraudulently marketed as kratom to become the justification for prohibiting natural kratom itself.

Matthew Lowe
Executive Director
Global Kratom Coalition

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[2] U.S. Food and Drug Administration, 7-Hydroxymitragynine (7-OH): An Assessment of the Scientific Data and Toxicological Concerns Around an Emerging Opioid Threat (2025).

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[5] U.S. Food and Drug Administration, FDA Takes Steps to Restrict 7-OH Opioid Products Threatening American Consumers (July 29, 2025).

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[7] Global Kratom Coalition analysis of North Dakota HHS public records, North Dakota Cited 50 Kratom-Associated Deaths. Its Own Records Narrow That to 2 Suspected Mitragynine-Only Cases (2026).

[8] North Dakota Health and Human Services, HHS Recognizes International Overdose Awareness Day with Shared Commitment to Healing, Hope and Prevention (2025): 497 overdose deaths from 2021-2024, including 106 in 2024.

[9] North Dakota Health and Human Services, HHS Recognizes Poison Prevention Week (March 18, 2026): more than 5,800 Poison Help calls from North Dakota residents in 2025; more than 70% of callers received the assistance they needed without a visit to a health-care professional or hospital.

Written Testimony Regarding HB 1628

Dana Avedisian
Support

Good morning, Chairman and members of the committee.

My name is Dana Avedisian, and I am writing as a chronic pain patient who has lived with severe chronic pain for approximately 25 years and spent nearly 20 of those years in pain management.

I am asking you to consider thoughtful regulation rather than an approach that unnecessarily eliminates access to traditional natural leaf kratom, because I want you to understand what this issue means to someone who has actually lived through it.

For nearly two decades, I did everything my doctors asked me to do. I tried countless medications, injections, therapies, procedures, treatments, and imaging studies. I kept trying because I desperately wanted my life back.

Eventually, prescription opioids and gabapentin became a major part of my treatment. At one point, I was taking approximately 300 MME of opioids a day.

These medications were prescribed legitimately, but over time the treatment itself became debilitating. I was not only dealing with chronic pain. I was also dealing with medication side effects and the constant stress of being dependent on a prescription system just to function.

There were times when insurance companies required me to take medications my own doctors did not want me taking simply because that was the only way they would approve the medication my doctor actually wanted me to have.

Then there were the pharmacies. I experienced the humiliation of being treated like a drug addict simply because I was a chronic pain patient receiving medication prescribed by my physician. There were times when pharmacies did not have my medication, and I came frighteningly close to running out. Thankfully, I had saved a small reserve and never completely ran out.

That constant uncertainty was exhausting. I felt tied to those medications.

I was not looking for a shortcut. I was not trying to avoid medical care. I was not looking for a way to get high. I was looking for a way to live.

Under the guidance of my pain management physician, I eventually transitioned away from prescription opioids and began using traditional natural leaf kratom.

I have now been off prescription opioids for approximately six years.

Kratom did not make my chronic pain disappear, and it does not control my pain in the same way prescription opioids did. I still live with pain every day. But I am alert and awake, and I am no longer battling medication side effects on top of the pain.

What traditional natural leaf kratom gave me was something I had lost over many years: freedom, independence, dignity, and the ability to be present, functional, and more in control of my own life.

It allowed me to live with my chronic pain without having to return to the prescription opioid regimen that had become so debilitating.

Most importantly, my family got me back. My daughter has a mom. My husband has a functional wife. Those may sound like simple statements, but they mean everything to me.

I am not asking lawmakers to ignore legitimate safety concerns. I believe consumers should be protected from unsafe, adulterated, mislabeled, synthetic, and highly concentrated products.

But I am asking you to recognize that traditional natural leaf kratom is not the same thing as concentrated, enhanced, synthetic, or highly concentrated 7-OH products. Those distinctions matter.

My story is not unique. More than 5 million Americans have used kratom. Among them are people who use it for pain management, to function in their daily lives, or as an alternative to other treatments and substances.

We can protect consumers and preserve responsible adult access. We can do both.

For these reasons, I support HB 1628 and urge you to preserve a clear distinction between traditional natural leaf kratom and concentrated, enhanced, synthetic, adulterated, or highly concentrated 7-OH products while establishing responsible consumer protections.

Thank you for taking the time to hear my story and consider my perspective.

Sincerely,
Dana Avedisian

Chairman Klein, Chairman Ruby and members of the committee

Thank you for allowing me to testify today regarding House Bill 1628. My name is Missy Henke and I have served as the Medical Director of the Heartview Foundation in Cando, Dickinson and Bismarck since 2009. I had previously provided testimony to the legislative working group that met a few weeks ago regarding my experience and my concerns surrounding Kratom and 7-OH.

Kratom is a potentially addictive substance and is widely abused. In my line of work, I don't see people who may be benefitting from it. I only see people whose lives are being ruined by this substance and who come to my clinic seeking help to come off of it. I did read submitted testimony from all over the country from people who are apparently finding it to be helpful for them. I strongly support the regulations put forth in House Bill 1628. Restricting sales to people over 21 and putting it behind the counter makes it less likely that children and teens will have access. Requiring labeling that outlines the potential risks will lessen the likelihood that someone gets blindsided by the addictive nature of this substance. Requiring that Kratom is only the natural leaf or material extracted from kratom leaf using a food-grade solvent eliminates the 7-OH that is so incredibly dangerous. All of these steps are necessary.

I'm not naive enough to believe that this will solve the Kratom issue, but I am appreciative of the effort of this committee to get started on this problem. This bill is a legitimate starting point. It protects our kids. It holds the people selling Kratom accountable for the products on their shelves. It makes sure that marketing is honest and transparent. I'm not sure how feasible the actual regulations are for this bill and if it is fiscally responsible to engage in those types of efforts but I worry that if we can't agree on something, that nothing will be done and we will continue with the same mess we had prior to Governor Armstrong's ban. These regulations are a place to start. They offer a compromise and a compromise is better than nothing.

We will never stay ahead of the people who are looking to make a buck selling products that are addictive and harmful but I think we can send a message that we will not sit back and passively let it happen either. Thank you for your efforts to send that message.

I would be happy to answer any questions from the committee.

Dear Honorable Members of North Dakota legislature,

My name is Brittany Sefton, and I am writing to oppose a ban on natural Kratom leaf. I support HB 1628.

As someone who struggled with a twelve-year addiction to prescription opioids following a high school sports injury, and then completed three years of medication-assisted treatment with methadone, I can attest to the life-changing benefits of natural kratom. I now rely on plain leaf kratom to manage chronic pain from scoliosis and degenerative disc disease. This allows me to remain present and capable as a mother to my five children, four of whom have special needs.

A total ban would force constituents like me into an impossible position: returning to highly addictive prescription medications or facing criminalization for seeking a natural alternative that has allowed me to reclaim my life.

I am not opposed to reasonable consumer safety regulations. I urge the legislature to distinguish between natural kratom leaf and synthetic 7-hydroxymitragynine (7-OH) extracts. While I support banning chemically modified synthetic versions produced in labs, it is vital to keep natural kratom legal and accessible.

A total ban would devastate a community of law-abiding citizens who have found a path to recovery and wellness. I urge you to choose regulations that ensure product safety without removing this essential resource for law abiding adults. Natural kratom was put here on this earth for a purpose, please let it serve.

Thank you for your time and for considering my perspective.

Respectfully,

Brittany Sefton

This submission is to formally clarify that I am IN FAVOR of HB1628, correcting an accidental 'opposition' click on my previous submission.

My name is Judith Newcomb. I am a 55 year old North Dakota resident, college educated daughter of an Air Force Veteran Officer and I have lived in Minot for over 3 decades. I am a wife, mother, grandmother, and a chronic pain survivor and I am opposing the North Dakota ban of Natural Leaf Kratom.

I originally wanted to present this letter to you in person in Bismarck on Wednesday, September 2, 2026. That is now impossible as of August 5th, 2026 at 5pm CDT. Since Natural Leaf Kratom was looped in with the dangerous, chemically manipulated, 7-OH products, that NEEDED to be banned, I no longer have the option to have pain relief and still be able to drive and function. Now, in order to get any relief, I have to take Percocet or Medical Marijuana. Both majorly restrict my ability to do anything on my own, especially, driving to Bismarck to present this letter.

I developed SLE Lupus in 2004 and was diagnosed with severe degenerative disc disease with spinal stenosis in 2024. The very first symptom of Lupus was extreme arthritis pain in my hands and wrists. Over the next decade, I was put on all kinds of medications to try and slow disease progression, try to make a dent in the constant daily pain, and to try and relieve even some of the extreme exhaustion.

Opiates helped in the beginning for Lupus, but they are not for chronic pain! I was put on Tramadol for 2 years and then switched to Tylenol 4 for 1 year. I couldn’t drive due to the effects of the

opiates, my depression was getting worse, my liver enzymes had increased, and my extreme exhaustion was back in full force.

In early 2016, I couldn't take it anymore. I slowly took myself off the Tylenol 4. In the weeks that followed, my quality of life was non existent. I felt completely defeated and didn't know what to do. What kind of mother and wife was I if I couldn't even get out of bed due to my flare ups?

It was during one of those very hopeless and depressed days that I first learned about Kratom. It was the end of August in 2016 and start of taking my quality of life back!

Just as I had then, and still do, for any substance I take, I majorly researched Kratom and potential vendors. I read all the information about Kratom safety, how to select a trusted vendor, and to NEVER EVER buy it at a gas station due to the possibility of it being adulterated with Tramadol and/or other fillers making it very unsafe.

I ordered a "beginners packet" from a very respected and trusted vendor that tested all their Kratom through an independent laboratory. They posted all the results, which showed no fillers, no adulterations, no salmonella, just 100% ground, dried, Kratom leaves.

The first time I tried Kratom, I knew this was my answer! I could get better pain relief, help with my extreme exhaustion, and still be able to drive? YES!! I FINALLY HAD HOPE AGAIN!

Kratom has the ability to do what no opiate prescription or even medical marijuana can do! I can take a spoonful of Kratom and still drive my car, spend time with my grandkids, and have a completely

clear head so I can be a functioning member of my family and community again! It brings my pain level down from a 10 to a 5, and that is a level I can handle! Even my liver enzymes came down to normal levels where they have remained since I started Kratom.

Keeping Natural Leaf Kratom accessible and safe is VITALLY important so all North Dakota chronic pain patients, wounded Military Veterans, PTSD survivors, alcohol and opiate use disorder patients, and treatment resistant depression patients will have the option of safe and accessible Natural Leaf Kratom.

Thank you for your consideration and time,

Judith Newcomb
Minot, North Dakota

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Prepared by the Legislative Council staff for Representative Heinert
August 31, 2026

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1628

Introduced by

Representative Heinert

A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and chapter 51-38 of the North Dakota Century Code, relating to criminal history record checks and the regulation of kratom products; to amend and reenact section 12.1-31-03 of the North Dakota Century Code, relating to the sale of kratom to individuals under twenty-one years of age; to provide a penalty; to provide an appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The attorney general for an applicant for licensure as a processor or retailer, and all owners or agents of an applicant for licensure under chapter 51-38.

SECTION 2. AMENDMENT. Section 12.1-31-03 of the North Dakota Century Code is amended and reenacted as follows:

12.1-31-03. Sale of tobacco, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom to an individual under twenty-one years of age and use by an individual under twenty-one years of age prohibited.

1. a. It is an infraction for any person to sell or furnish to an individual under twenty-one years of age, or procure for an individual under twenty-one years of age, cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, ~~or~~

alternative nicotine products, or kratom. As used in this subdivision, "sell" includes dispensing from a vending machine under the control of the actor.

b. It is an infraction for any person to display or offer for sale cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom through a self-service display. This subdivision does not apply to a:

(1) Vending machine or other coin-operated machine that is permitted under section 12.1-31-03.1; or

(2) Self-service display that is located in a tobacco specialty store.

2. It is a noncriminal offense for an individual eighteen years of age or older but under twenty-one years of age, and an infraction for an individual fourteen years of age or older but under eighteen years of age, to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom. However, an individual under twenty-one years of age may purchase and possess tobacco, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or association of tobacco, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom retailers ~~may~~ also may conduct compliance surveys, after coordination with the appropriate local law enforcement authority.

3. Subsections 1 and 2 do not apply to an individual under twenty-one years of age who possesses cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be used for smoking or chewing, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom when required in the performance of the individual's duties as an employee.

4. It is a noncriminal offense for an individual under twenty-one years of age to present or offer to another individual a purported proof of age which is false, fraudulent, or not actually that individual's own proof of age, for the purpose of attempting to purchase or

possess cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom.

5. A city or county may adopt an ordinance or resolution regarding the sale of tobacco, electronic smoking devices, or alternative nicotine products to individuals under twenty-one years of age and use of tobacco, electronic smoking devices, ~~or~~ alternative nicotine products, or kratom by individuals under twenty-one years of age which includes prohibitions in addition to those in subsection 1, 2, or 4. Any ordinance or resolution adopted must include provisions deeming a violation of subsection 2 or 4 a noncriminal violation and must provide for a fee of not less than twenty-five dollars for an individual fourteen years of age or older who has been charged with an offense under subsection 2 or 4. The failure to post a required bond or pay an assessed fee by an individual found to have violated the ordinance or resolution is punishable as a contempt of court, except an individual under twenty-one years of age may not be imprisoned for the contempt.

6. An individual fourteen years of age or older but under eighteen years of age found to have violated subsection 2 or 4 has committed an infraction and must be sent to juvenile court. An individual eighteen years of age or older but under twenty-one years of age found to have violated subsection 2 or 4 must pay a fee of twenty-five dollars.

   a. Any individual who has been cited for a violation of subsection 2 or 4 may appear before a court of competent jurisdiction and pay the fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the fee. This subdivision does not allow a citing officer to receive the fee or bond.

b. If an individual cited for a violation of subsection 2 or 4 does not choose to follow the procedures provided under subdivision a, that individual may request a hearing on the issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.

c. The failure to post bond or to pay an assessed fee is punishable as a contempt of court, except an individual may not be imprisoned for the contempt.

7. The prosecution must prove the commission of a cited violation under subsection 2 or 4 by a preponderance of the evidence.

8. A law enforcement officer that cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.

9. A person adjudged guilty of contempt for failure to pay a fee or fine may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or to an alternative sentence or sanction including community service.

10. As used in this section:

a. "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term does not include any cigarette, cigar, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing, any electronic smoking device, or any product regulated as a drug or device by the United States food and drug administration under chapter V of the Federal Food, Drug, and Cosmetic Act [21 U.S.C 501 et seq.].

b. "Electronic smoking device" means any electronic product that delivers nicotine or other substances to the individual inhaling from the device, including, an electronic cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of such a product, whether or not sold separately. Electronic smoking device does not include drugs, devices, or combination products approved for sale by the United States food and drug

administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act [52 Stat. 1040; 21 U.S.C. 301 et seq.].

c. "Kratom" ~~means kratom leaf or material extracted from kratom leaf using a food-grade solvent, which contains a level of 7-hydroxymitragynine in the alkaloid fraction which is less than two percent of the alkaloid composition of the product~~has the same meaning as in section 51-38-01.

d. "Self-service display" means a display that contains cigarettes, cigarette papers, cigars, snuff, tobacco in any other form which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products and is located in an area that is openly accessible to the retailer's customers, and from which customers can readily access those products without the assistance of a salesperson. A display case that holds those products behind locked doors does not constitute a self-service display.

~~d.~~e. "Tobacco specialty store" means a retail store that:

(1) Derives at least seventy-five percent of its revenue from the sale of cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products; and

(2) Does not permit minors to enter the premises unless accompanied by a parent or legal guardian.

~~e.~~f. "Vending machine" means a machine, appliance, or other mechanical device operated by currency, token, debit card, credit card, or other means of payment that is designed or used for vending purposes, including machines or devices that use remote control locking mechanisms.

SECTION 3. Chapter 51-38 of the North Dakota Century Code is created and enacted as follows:

51-38-01. Definitions.

As used in this chapter:

1. "Kratom" means ~~kratom~~pure leaf ~~or material extracted from kratom leaf using a food-grade solvent, which~~kratom that contains ~~a level of~~ five one-hundredths percent of

7-hydroxymitragynine ~~in the alkaloid fraction which is less than two percent of the alkaloid composition of the product~~or less on a dry weight basis.

2. "Kratom ~~leaf~~extract" means ~~the leaf of the~~a preparation containing any part of the mitragyna speciosa plant in ~~fresh, dehydrated, or dried~~a concentrated form.

3. "Kratom product" means a ~~food, beverage, or dietary substance~~consumable product containing kratom.

4. "Processor" means a person that ~~sells,~~ prepares, manufactures, distributes, wholesales, or stores kratom products.

5. "Pure leaf kratom" means the leaf of the mitragyna speciosa plant in fresh, dehydrated, ground, or dried form.

6. "Retailer" means a person that sells~~, distributes,~~ or advertises kratom products.

51-38-02. Processor and retailer - License required - Qualifications - Fees.

1. A processor or retailer may not prepare, distribute, or sell kratom unless the processor or retailer holds a license issued by the attorney general.

2. Qualifications for licensure established by the attorney general must include:

a. An applicant, if an individual, must be a legal resident of the United States;

b. An applicant, if a corporation, limited liability company, limited partnership, general partnership, or limited liability partnership, must be registered with the secretary of state;

c. An applicant or manager may not have been convicted of a felony offense by the federal government or any state, a violation of subdivision d of subsection 1 of section 19-03.1-23 or an equivalent offense by the federal government or another state, or, following any conviction of any offense, must be determined to be significantly rehabilitated under section 12.1-33-02.1;

d. An applicant's facility or principal place of business must meet local and state sanitation and safety requirements; and

e. An applicant for a retailer license may not have a financial interest in a processor business.

3. The attorney general may deny the application of an applicant that:

a. Engages in fraud or deceit;

b. Fails to meet the qualifications for licensure under this chapter or administrative rule; or

c. Fails to comply with the requirements under this chapter or administrative rule.

4. A separate license is required for each facility or place of business operated or maintained by a processor or retailer.

~~3.~~5. An initial application for a processor or retailer license must be accompanied by a fee of ten thousand dollars.

~~4.~~6. The attorney general is not required to review an application that is determined to be incomplete.

7. A license issued under this section expires ~~on June thirtieth following~~one year after the date of issuance unless the license is sooner revoked by the attorney general. A license may be renewed annually upon payment of a renewal fee of ~~five hundred~~five thousand dollars.

~~5.~~8. A license issued under this chapter is not transferable.

9. A processor or retailer shall prominently display the license at the facility or place of business for which the license was issued.

10. The attorney general may not issue a license to a processor or retailer that does not meet the requirements for renewal. If the processor's or retailer's license is not renewed, the processor or retailer shall dispose of all kratom.

11. An applicant or licensee may appeal a denial, suspension, or revocation of a license to the district court of Burleigh County within thirty days after notice has been given.

51-38-03. Criminal history record checks.

The attorney general may require an applicant, licensee, or agent of an applicant or licensee to submit to a statewide and nationwide criminal history record check. A nationwide criminal history record check must be conducted in accordance with section 12-60-24. All costs associated with obtaining a criminal history record check are the responsibility of the applicant or licensee.

~~51-38-03.~~51-38-04. Processor and retailer - Requirements - Labeling standards.

1. A ~~processor or retailer~~licensee may not prepare, possess, manufacture, distribute, advertise, or sell a kratom product that:

a. Is ~~adulterated or contaminated~~mixed or packed with a nonkratom substance ~~that affects the quality, strength, or safety of the product~~unless the nonkratom substance is an inert encapsulating agent that:

(1) Is composed of food-grade or pharmaceutical-grade materials with no pharmacological activity;

(2) Does not contain a psychoactive substance, stimulant, or adulterant; and

(3) Serves solely to contain or deliver pure leaf kratom.

b. Contains ~~a synthetic alkaloid~~kratom extract.

c. Imitates the appearance of a candy or confection or is designed or marketed in a manner that appeals to a child.

d. Is packaged in a manner likely to deceive an individual of the safe or recommended ~~dose~~serving.

2. A ~~processor or retailer~~licensee may not distribute, advertise, or sell a kratom product to an individual under twenty-one years of age.

3. A ~~processor or retailer~~licensee shall ensure each kratom product has a label that clearly and conspicuously provides:

a. The name and contact information of the manufacturer or distributor;

b. A complete list of ingredients;

c. The recommended serving size;

d. The amount of mitragynine and 7-hydroxymitragynine per serving and per package;

e. The number of servings per package;

f. The expiration date of the product;

g. Kratom may be habit forming and may interact with medication, drugs, and controlled substances;

h. The product is not intended for use by an individual who is pregnant, breastfeeding, or under twenty-one years of age;

i. A health care provider should be consulted before use; and

j. The product is not approved by the federal food and drug administration and is not intended to diagnose, treat, cure, or prevent disease.

4. A ~~processor or retailer~~licensee shall store and lock all kratom products behind a sales counter in a manner that prevents consumer access without the assistance of an employee.

~~5. A processor or retailer may not sell a kratom product in the form of a food or beverage unless the kratom leaf is extracted using a food-grade solvent approved by the federal food and drug administration.~~

51-38-05. Laboratory testing - Certificate of analysis.

1. A licensee shall test a kratom product before sale to evaluate the composition of the kratom product, including kratom alkaloids. A test result must indicate the amount of mitragynine and 7-hydroxymitragynine in the kratom product.
2. Testing must be conducted by an accredited laboratory approved by the attorney general and documented by the testing laboratory in a certificate of analysis.
3. A licensee shall retain the certificate of analysis for each kratom product tested and shall produce the certificate of analysis upon request by the attorney general.
4. The licensee shall pay all testing costs.

~~51-38-04~~51-38-06. Attorney general - Enforcement - Authority.

1. The attorney general or the attorney general's designee may inspect a ~~processor's or retailer's~~licensee's facility or place of business to determine compliance with this chapter.
2. A ~~processor or retailer~~licensee that violates this chapter is subject to seizure of any kratom product that does not comply with ~~section 51-38-03~~this chapter or administrative rule and:
   a. For a first violation, a fine of ten thousand dollars and suspension of the processor's or retailer's license for three days;
   b. For a second violation, a fine of fifteen thousand dollars and suspension of the processor's or retailer's license for thirty days; and
   c. For a third violation, a fine of twenty-five thousand dollars and permanent revocation of the processor's or retailer's license.
3. A licensee may continue to possess kratom while the processor's or retailer's license is suspended, but may not produce, purchase, sell, or transfer kratom.

4. The attorney general shall adopt rules to administer and enforce this chapter. The attorney general may not issue a license under section 51-38-02 until the rules are adopted.

51-38-07. Penalties.

1. It is a class B misdemeanor for any person to prepare, manufacture, distribute, advertise, or sell kratom without a license.
2. A licensee that sells a product in violation of chapter 19-03.1 may be subject to criminal prosecution and automatic permanent revocation of the processor's or retailer's license.

~~51-38-05~~51-38-08. Kratom regulation operating fund - Attorney general.

The kratom regulation operating fund is a special fund in the state treasury administered by the attorney general. The fund consists of all kratom licensing fees collected under this chapter. The attorney general may use moneys in the fund only for enforcement activities in accordance with this chapter, subject to legislative appropriations.

SECTION 4. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - KRATOM PUBLIC HEALTH CAMPAIGN. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $20,000, or so much of the sum as may be necessary, to the department of health and human services for the purpose of providing a kratom public health awareness campaign, including the maintenance of kratom resources on the department's website, for the period beginning with the effective date of this Act, and ending June 30, 2027.

SECTION 5. EFFECTIVE DATE. This Act becomes effective upon its filing with the secretary of state.