2026 JOINT POLICY

SB 2408

2026 JOINT STANDING COMMITTEE MINUTES

Policy Committee
Pioneer Room, State Capitol

SB 2408
9/2/2026

A BILL for an Act to create and enact subdivision lll of subsection 3 of section 19-03.1-05 of the North Dakota Century Code, relating to the scheduling of mitragynine synthetic derivatives as a schedule I controlled substance; to amend and reenact section 19-03.1-22.3 and subsection 7 of section 19-03.1-23 of the North Dakota Century Code, relating to penalties for the use and possession of mitragynine synthetic derivatives; to provide a penalty; and to provide an effective date.

12:30 p.m. Chairman Ruby reconvened the meeting.

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

Discussion Topics:

- Kratom alkaloids
- HB 1628
- Committee action

12:32 p.m. Senator Axtman introduced amendment LC# 25.1431.01003, testimony #45656.

12:40 p.m. Senator Roers moved to adopt amendment LC# 25.1431.01003.
12:40 p.m. Senator Rummel seconded the motion.

Roll Call Vote

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

Motion Passed 6-4-0

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.

12:50 p.m. Senator Roers moved a Do Pass as Amended.
12:50 p.m. Senator Braunberger seconded the motion.

Roll Call Vote

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

Motion Passed 7-3-0.

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.

Representative Foss will carry the bill.
Senator Roers will carry the bill.

Additional written testimony:
Victoria Siemieniewski, Williston City Commissioner, submitted testimony in favor #45608.
Howard H., Fargo resident, submitted testimony in opposition #45613.
Alex Kelsh, Lobbyist, Global Kratom Coalition, submitted testimony in favor #45623, #45624, #45625, #45626, and #45627.
Dana Avedisian, Kentucky resident, submitted testimony in opposition #45629.

12:51 p.m. Chairman Ruby closed the hearing.

Melissa Ingram, Committee Clerk

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25.1431.01003
Title.02000

Prepared by the Legislative Council staff for Senator Axtman
September 2, 2026

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2408

Introduced by

Senator Axtman

A BILL for an Act to create and enact subdivision lll of subsection 3 of section 19-03.1-05 of the North Dakota Century Code, relating to the scheduling of ~~mitragynine synthetic~~kratom alkaloids and kratom alkaloid derivatives as a schedule I controlled substance; to amend and reenact section 19-03.1-22.3 and subsection 7 of section 19-03.1-23 of the North Dakota Century Code, relating to penalties for the use and possession of ~~mitragynine synthetic~~kratom alkaloids and kratom alkaloid derivatives; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Subdivision lll of subsection 3 of section 19-03.1-05 the North Dakota Century Code is created and enacted as follows:

lll. ~~Mitragynine synthetic~~Kratom alkaloids and kratom alkaloid derivatives. Unless specifically excepted or listed in another schedule, any ~~of the following mitragynine synthetic derivatives~~kratom alkaloid or kratom alkaloid derivative, including a synthetic or semisynthetic kratom alkaloid derivative, its isomers, esters, ethers, salts, and salts of isomers. Examples include:

(1) Methyl (E)-2-[(2S,3S,12bS)-3-ethyl-8-methoxy-1,2,3,4,6,7,12,12b-octahydroindolo[2,3-a]quinolizin-2-yl]-3-methoxyprop-2-enoate; also known as mitragynine.

(2) Methyl (E)2-((2S,3S,7aS)-3-ethyl-7a-hydroxy-8-methoxy-1,2,3,4,6,7,7a,12b-octahydroindolo[2,3-a]quinolizin-2-yl)-3-methoxyacrylate (also known as 7-hydroxymitragynine; also known as (alphaE,2S,3S,7aS,12bS)-3-ethyl-

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1,2,3,4,6,7,7a,12b-octahydro-7a-hydroxy-8-methoxy-a-(methoxymethylene)-indolo[2,3-a]quinolizine-2-acetic acid, methyl ester) ~~above a specified threshold described as:~~

~~(a) Any botanical material of the plant mitragyna speciosa, also known as kratom, and contains more than 0.05 percentage of 7-hydroxymitragynine on a dry weight basis; or~~

~~(b) Any alternative article or material to that described in subparagraph a. that is:~~

~~[1] Resulting from synthetic methods and containing 7-hydroxymitragynine present in amounts greater than 0.05 percentage weight/weight, weight/volume, or volume/volume or greater than 1 milligram of 7-hydroxymitragynine in the article; or~~

~~[2] Material derived from mitragyna speciosa and further processed to manufacture alternative dosage forms such as extracts, concentrates, processed edibles, or pressed pills, and which may have materials that have been exposed to chemical, thermal, or other methods leading to chemical transformations that result in 7-hydroxymitragynine present in amounts greater than 0.05 percentage weight/weight, weight/volume, or volume/volume or greater than 1 milligram of 7-hydroxymitragynine in the article.~~

~~(2)~~(3) Methyl (E)-2-((1'S,6'S,7'S)-6'-ethyl-4-methoxy-3-oxo-3',5',6',7',8',8a'-hexahydro-2'H-spiro[indoline-2,1'-indolizine]-7'-yl)-3-methoxyacrylate (also known as mitragynine pseudoindoxyl).

~~(3)~~(4) Methyl (E)-2-((2S,3S,7aS,12aR,12bS)-3-ethyl-7a-hydroxy-8-methoxy-1,2,3,4,6,7,7a,12,12a,12b-decahydroindolo[2,3-a]quinolizin-2-yl)-3-methoxyacrylate (also known as MGM-15; also known as dihydro-7-hydroxymitragynine).

~~(4)~~(5) Methyl (E)-2-((2S,3S,7aS,12aR,12bS)-3-ethyl-9-fluoro-7a-hydroxy-8-methoxy-1,2,3,4,6,7,7a,12,12a,12b-decahydroindolo[2,3-a]quinolizin-2-yl)-3-methoxyacrylate (also known as MGM-16; also known as fluoro-dihydro-7-hydroxymitragynine; also known as 9-fluoro derivate of dihydro-7-

hydroxymitragynine; also known as the 10-fluoro derivate of dihydro-7-hydroxymitragynine).

~~(5)~~(6) Methyl (E)-2-[(2S,3S,7aS,12bS)-7a-acetyloxy-3-ethyl-8-methoxy-2,3,4,6,7,12b-hexahydro-1H-indolo[2,3-a]quinolizin-2-yl]-3-methoxyprop-2-enoate (also known as 7-acetoxymitragynine).

SECTION 2. AMENDMENT. Section 19-03.1-22.3 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.

1. Except as provided in ~~subsection~~subsections 2 and 3, a person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class A misdemeanor. This subsection does not apply to ingesting, inhaling, injecting, or otherwise taking into the body marijuana or tetrahydrocannabinol.
2. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana or tetrahydrocannabinol, unless the substance was medical marijuana obtained in accordance with chapter 19-24.1, is guilty of a class B misdemeanor.
3. A person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is a ~~mitragynine synthetic~~kratom alkaloid or kratom alkaloid derivative is guilty of an infraction for a first offense and a class A misdemeanor for a second or subsequent offense.
4. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

SECTION 3. AMENDMENT. Subsection 7 of section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance

was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.

b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class A misdemeanor for the first offense. If a person is convicted of a second or subsequent offense not related to marijuana ~~or~~, tetrahydrocannabinol, ~~or a mitragynine synthetic~~a kratom alkaloid, or a kratom alkaloid derivative under this section or chapter 19-03.2, 19-03.3, or 19-03.4, or an equivalent offense from another court in the United States, the violation is a class C felony.

c. If, at the time of the offense the person is in or on the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves marijuana ~~or~~, tetrahydrocannabinol, ~~or a mitragynine synthetic~~a kratom alkaloid, or a kratom alkaloid derivative.

d. A person who violates this subsection by possessing:

(1) Marijuana:

(a) In an amount of less than one-half ounce [14.175 grams] is guilty of an infraction.

(b) At least one-half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.

(c) More than 500 grams of marijuana is guilty of a class A misdemeanor.

(2) Tetrahydrocannabinol:

(a) In an amount less than two grams is guilty of an infraction.

(b) At least two grams but not more than six grams of tetrahydrocannabinol is guilty of a class B misdemeanor.

(c) More than six grams of tetrahydrocannabinol is guilty of a class A misdemeanor.

e. A person who violates this subsection by possessing a ~~mitragynine synthetic~~kratom alkaloid or kratom alkaloid derivative is guilty of an infraction for

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a first offense, a class A misdemeanor for a second offense, or a class C felony for a third or subsequent offense.

f. If an individual is sentenced to the legal and physical custody of the department of corrections and rehabilitation under this subsection, the department may place the individual in a drug and alcohol treatment program designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the individual from imprisonment to begin any court-ordered period of probation.

~~f.~~g. If the individual is not subject to any court-ordered probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.

~~g.~~h. Probation under this subsection may include placement in another facility, treatment program, treatment court, mental health court, or veterans treatment docket. If an individual is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

~~h.~~i. An individual incarcerated under this subsection as a result of a second probation revocation is not eligible for release from imprisonment upon the successful completion of treatment.

~~i.~~j. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or controlled substance analog is guilty of a class A misdemeanor. If a person is convicted of a second or subsequent offense not related to marijuana or tetrahydrocannabinol under this section or chapter 19-03.2, 19-03.3, or 19-03.4, or an equivalent offense from another court in the United States, the violation is a class C felony.

SECTION 4. EFFECTIVE DATE. This Act becomes effective upon its filing with the secretary of state.

REPORT OF STANDING COMMITTEE
SB 2408

Joint Policy Committee (Sen. Klein, Co-Chairman) recommends **AMENDMENTS (25.1431.01003)** and when so amended, recommends **DO PASS** (8 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). SB 2408 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

REPORT OF STANDING COMMITTEE
SB 2408

Joint Policy Committee (Rep. M. Ruby, Co-Chairman) recommends **AMENDMENTS (25.1431.01003)** and when so amended, recommends **DO PASS** (7 YEAS, 3 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). SB 2408 was placed on the Sixth order on the calendar.

CITY OF WILLISTON

Bill 2408 Testimony: Support with recommended amendment September 1, 2026

Chairmen Klein and Ruby, and Members of the Committee:

My name is Commissioner Tori Siemieniewski, and I serve on the Williston City Commission. I am writing in support of SB 2408 while respectfully encouraging the Committee to consider amendments that address kratom in its natural form. Through my work in local government and discussions with public safety professionals, healthcare providers, and community stakeholders, I have become increasingly concerned about the risks associated with kratom-related products and the need for stronger oversight.

As a City Commissioner, I have had the opportunity to discuss this issue with local leaders, public safety officials, and community stakeholders. Through those conversations, I became increasingly concerned about the availability, addictive potential, and lack of oversight surrounding kratom-related products. Those concerns ultimately led the City of Williston to consider and advance a resolution supporting increased federal review and regulation of kratom products.

A copy of that resolution is attached for the Committee's reference. The resolution outlines concerns regarding addiction, product adulteration, inconsistent manufacturing standards, and the absence of a clear national regulatory framework. While local governments can help raise awareness and advocate for action, meaningful consumer protections will ultimately require leadership at the state and federal levels.

From both the information presented by public safety professionals and the available health data, I believe concerns surrounding 7-hydroxymitragynine (7-OH) deserve serious attention. Federal health agencies have identified significant risks associated with these products, including addiction and seizures. These concerns are particularly troubling when products are marketed as safe or natural alternatives without sufficient safeguards or oversight.

Much of the public discussion surrounding kratom has focused on comparisons to alcohol, tobacco, prescription medications, narcotics, and marijuana. In my view, those comparisons often overlook important differences in risk profiles and regulatory controls. Regardless of where an individual stands on those comparisons, the fact remains that significant questions about safety, manufacturing standards, and long-term health impacts remain unresolved.

As policymakers consider the future of kratom regulation, I encourage the Committee to prioritize science-based standards, consumer safety, and public health. Until sufficient

evidence demonstrates that these products can be safely marketed and sold, I believe a cautious approach is warranted. My support for SB 2408, particularly with amendments addressing kratom in its natural form, is grounded in the belief that government should act responsibly when credible public safety concerns exist.

Thank you for your time and consideration. I appreciate the Committee's willingness to examine this important public health and public safety issue. I respectfully ask for your support of SB 2408 and for consideration of amendments that more comprehensively address kratom products. I have attached the City of Williston's recently adopted resolution regarding kratom-related products for your review and consideration.

Sincerely,

Commissioner Tori Siemieniewski
Williston City Commission
701-870-2961

RESOLUTION NO. 26-026

A RESOLUTION OF THE CITY OF WILLISTON SUPPORTING FEDERAL ACTION RELATED TO KRATOM PRODUCTS AND DENOUNCING THE ADDICTIVE QUALITIES OF SUBSTANCES AND ADDITIVES FOUND IN KRATOM-LABELED PRODUCTS

WHEREAS, the City of Williston is committed to protecting the health, safety, and welfare of its residents; and

WHEREAS, kratom (Mitragyna speciosa) is a plant-based substance that has become increasingly available in retail establishments and online marketplaces throughout the United States, including within the City of Williston; and

WHEREAS, kratom products are frequently marketed as natural supplements despite growing concerns regarding their addictive potential, psychoactive effects, and the lack of standardized manufacturing practices; and

WHEREAS, numerous kratom-labeled products have been found to contain adulterants, synthetic additives, or undisclosed substances that increase the risk of dependency, toxicity, and adverse health outcomes; and

WHEREAS, the U.S. Food and Drug Administration (FDA) has issued public health warnings regarding kratom products, citing risks including addiction, abuse, and contamination, and has taken enforcement actions against companies distributing adulterated or misbranded kratom products; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) has documented cases of kratom-related overdoses and poisonings, including incidents involving products contamination including synthetic opioids; and

WHEREAS, the lack of federal regulation or classification of kratom related products has resulted in inconsistent state-level policies, creating confusion for consumers and challenges for local governments seeking to protect public health; and

WHEREAS, the City of Williston recognizes the need for clear, science-based federal action to regulate, restrict, or otherwise address the distribution, marketing, and sale of kratom products; and

WHEREAS, the City of Williston seeks to proactively discourage the use of kratom-labeled products within the community due to their addictive qualities, potential for misuse, and the presence of harmful additives;

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Williston:

1. **The City of Williston formally supports federal efforts by the FDA, CDC, DEA, and other relevant agencies to evaluate, regulate, and take appropriate action regarding kratom-labeled products.**
2. **The City of Williston urges Congress and federal regulatory bodies to establish clear national standards governing the manufacturing, labeling, sale, and distribution of kratom products, including restrictions on adulterants and synthetic additives.**
3. **The City of Williston denounces the addictive qualities of kratom-related products and the dangerous additives found in many kratom-labeled products, and encourages residents to avoid the use of such substances.**
4. **The City of Williston encourages federal agencies to continue research into the health impacts of kratom-related products, including their potential for addiction, contamination, and adverse interactions with other substances.**
5. **The City of Williston directs its staff to share this resolution with federal representatives, state officials, and relevant public health agencies to demonstrate the City's support for stronger national action on kratom-related products.**

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Commission of the City of Williston this 28 day of July, 2026.

Cory Swint
President, Board of City Commissioners

ATTEST:

City Clerk

Dear Lawmakers,

I have lived with chronic pain for decades, and I previously found a low-dose 7-OH product to be safe and dependable. It allowed me to function normally in daily life.

SB 2408 goes even further than HB 1628 by criminalizing possession of that product, even when use is modest and responsible. I support responsible regulation, but I cannot support SB 2408 because it will turn responsible adults into criminals for something that helps them function safely and independently.

Some people with addiction also use 7-OH as a harm-reduction tool to avoid more dangerous substances. Many of us know someone who struggled with addiction or lost someone to it, and removing safer alternatives will unintentionally push people back toward illicit drugs. Criminalizing possession will make this risk even greater and undo progress made in reducing unnecessary deaths.

— Howard H. Fargo

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

Sources and References

[1] U.S. Drug Enforcement Administration, Temporary scheduling materials concerning mitragynine pseudoindoxyl, MGM-15, and MGM-16, Docket No. DEA-1644 (2026), including Federal Register temporary scheduling order/materials.

[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).

[3] U.S. Drug Enforcement Administration, DEA to Temporarily Schedule 7-OH and Related Substances to Protect Public Safety (July 1, 2026).

[4] U.S. Department of Health and Human Services / U.S. Food and Drug Administration, HHS, FDA Commend DEA Action Against Dangerous Enhanced 7-OH Products (July 1, 2026).

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

[6] North Dakota Health and Human Services, Public Health Division, Mitragynine and 7-Hydroxymitragynine (7-OH): Summary from the North Dakota HHS Public Health Division / Disease Control and Forensic Pathology, including death, toxicology, and poison-control data provided in 2026.

[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.

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]

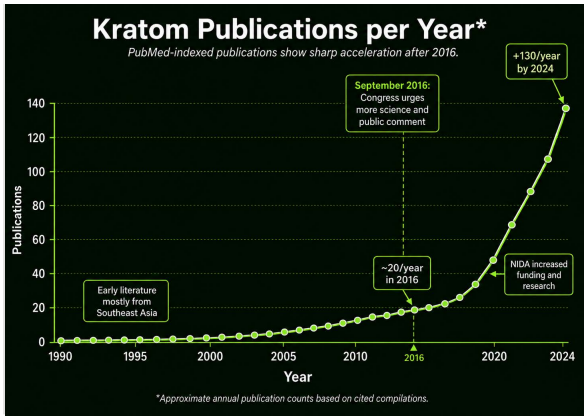


Figure 1. PubMed-indexed kratom publications accelerated sharply after 2016, from roughly 20 in 2016 to more than 130 per year by 2024.[3]

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

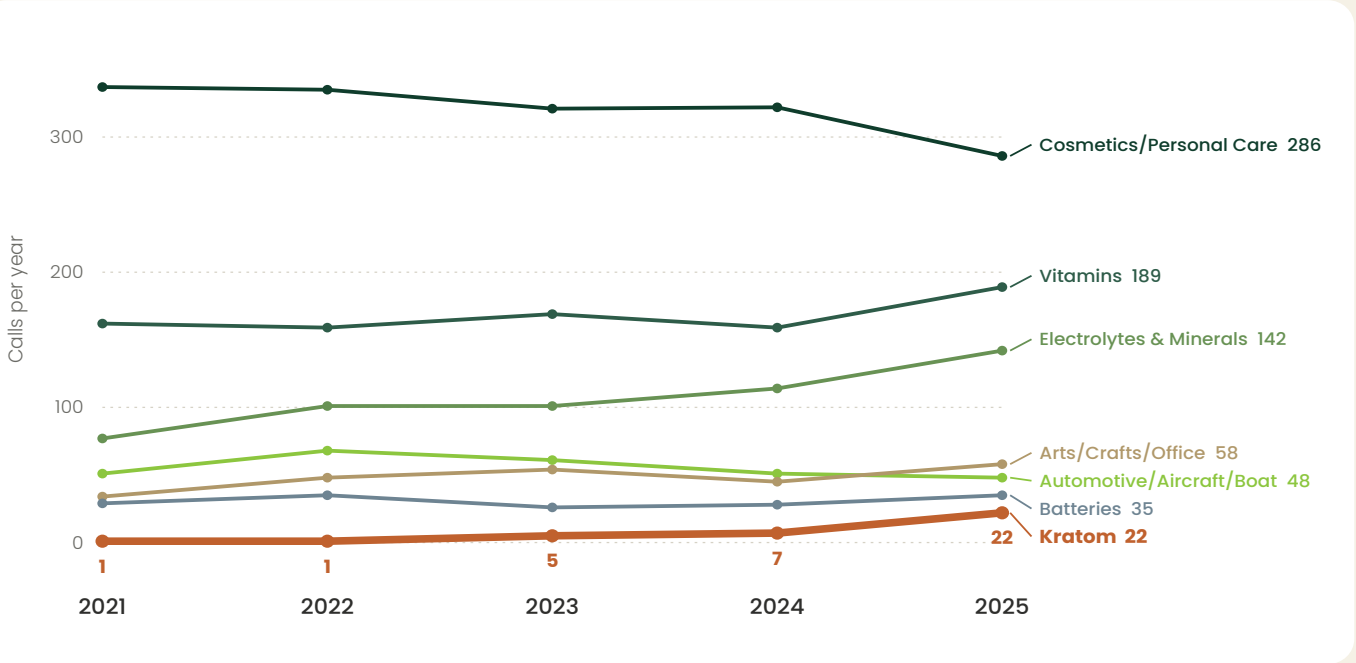
36
kratom calls in North Dakota, 2021–2025

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.

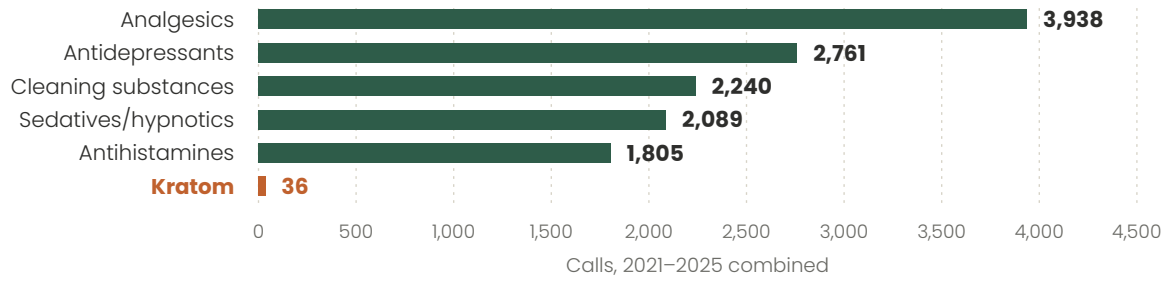
Year by Year: Kratom vs. Everyday Products



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.

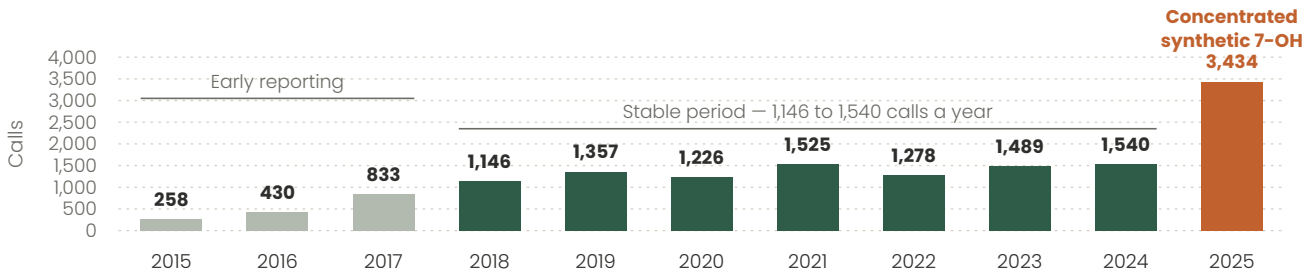
Leading Exposure Categories vs. 'Kratom'



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

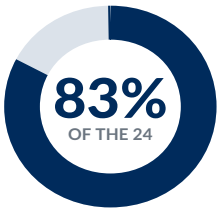
0 shown to involve natural leaf

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 Regarding SB 2408

Dana Avedisian
Opposition as Written

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 oppose SB 2408 as written. I urge you to reconsider an approach that could sweep products and consumers together without adequately distinguishing traditional natural leaf kratom from concentrated or synthetic 7-OH products. If the legislation is narrowed to appropriately address synthetic and highly concentrated products while preserving responsible adult access to traditional natural leaf, I believe that would be a much more appropriate approach.

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

Sincerely,
Dana Avedisian

25.1431.01003
Title.

Prepared by the Legislative Council staff for Senator Axtman
September 2, 2026

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2408

Introduced by

Senator Axtman

A BILL for an Act to create and enact subdivision lll of subsection 3 of section 19-03.1-05 of the North Dakota Century Code, relating to the scheduling of ~~mitragynine synthetic~~kratom alkaloids and kratom alkaloid derivatives as a schedule I controlled substance; to amend and reenact section 19-03.1-22.3 and subsection 7 of section 19-03.1-23 of the North Dakota Century Code, relating to penalties for the use and possession of ~~mitragynine synthetic~~kratom alkaloids and kratom alkaloid derivatives; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Subdivision lll of subsection 3 of section 19-03.1-05 the North Dakota Century Code is created and enacted as follows:

lll. ~~Mitragynine synthetic~~Kratom alkaloids and kratom alkaloid derivatives. Unless specifically excepted or listed in another schedule, any ~~of the following mitragynine synthetic derivatives~~kratom alkaloid~~,~~ or kratom alkaloid derivative, including a synthetic ~~kratom alkaloid derivative,~~or semisynthetic kratom alkaloid derivative, its isomers, esters, ethers, salts, and salts of isomers. Examples include:

(1) Methyl (E)-2-[(2S,3S,12bS)-3-ethyl-8-methoxy-1,2,3,4,6,7,12,12b-octahydroindolo[2,3-a]quinolizin-2-yl]-3-methoxyprop-2-enoate; also known as mitragynine.

(2) Methyl (E)2-((2S,3S,7aS)-3-ethyl-7a-hydroxy-8-methoxy-1,2,3,4,6,7,7a,12b-octahydroindolo[2,3-a]quinolizin-2-yl)-3-methoxyacrylate (also known as 7-

hydroxymitragynine; also known as (alphaE,2S,3S,7aS,12bS)-3-ethyl-1,2,3,4,6,7,7a,12b-octahydro-7a-hydroxy-8-methoxy-a-(methoxymethylene)-indolo[2,3-a]quinolizine-2-acetic acid, methyl ester) ~~above a specified threshold described as:~~

~~(a) Any botanical material of the plant mitragyna speciosa, also known as kratom, and contains more than 0.05 percentage of 7-hydroxymitragynine on a dry weight basis; or~~

~~(b) Any alternative article or material to that described in subparagraph a, that is:~~

~~[1] Resulting from synthetic methods and containing 7-hydroxymitragynine present in amounts greater than 0.05 percentage weight/weight, weight/volume, or volume/volume or greater than 1 milligram of 7-hydroxymitragynine in the article; or~~

~~[2] Material derived from mitragyna speciosa and further processed to manufacture alternative dosage forms such as extracts, concentrates, processed edibles, or pressed pills, and which may have materials that have been exposed to chemical, thermal, or other methods leading to chemical transformations that result in 7-hydroxymitragynine present in amounts greater than 0.05 percentage weight/weight, weight/volume, or volume/volume or greater than 1 milligram of 7-hydroxymitragynine in the article.~~

~~(2)~~(3) Methyl (E)-2-((1'S,6'S,7'S)-6'-ethyl-4-methoxy-3-oxo-3',5',6',7',8',8a'-hexahydro-2'H-spiro[indoline-2,1'-indolizine]-7'-yl)-3-methoxyacrylate (also known as mitragynine pseudoindoxyl).

~~(3)~~(4) Methyl (E)-2-((2S,3S,7aS,12aR,12bS)-3-ethyl-7a-hydroxy-8-methoxy-1,2,3,4,6,7,7a,12,12a,12b-decahydroindolo[2,3-a]quinolizin-2-yl)-3-methoxyacrylate (also known as MGM-15; also known as dihydro-7-hydroxymitragynine).

~~(4)~~(5) Methyl (E)-2-((2S,3S,7aS,12aR,12bS)-3-ethyl-9-fluoro-7a-hydroxy-8-methoxy-1,2,3,4,6,7,7a,12,12a,12b-decahydroindolo[2,3-a]quinolizin-2-yl)-3-methoxyacrylate (also known as MGM-16; also known as fluoro-dihydro-7-

hydroxymitragynine; also known as 9-fluoro derivate of dihydro-7-hydroxymitragynine; also known as the 10-fluoro derivate of dihydro-7-hydroxymitragynine).

~~(5)~~(6) Methyl (E)-2-[(2S,3S,7aS,12bS)-7a-acetyloxy-3-ethyl-8-methoxy-2,3,4,6,7,12b-hexahydro-1H-indolo[2,3-a]quinolizin-2-yl]-3-methoxyprop-2-enoate (also known as 7-acetoxymitragynine).

SECTION 2. AMENDMENT. Section 19-03.1-22.3 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.

1. Except as provided in ~~subsection~~subsections 2 and 3, a person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class A misdemeanor. This subsection does not apply to ingesting, inhaling, injecting, or otherwise taking into the body marijuana or tetrahydrocannabinol.
2. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana or tetrahydrocannabinol, unless the substance was medical marijuana obtained in accordance with chapter 19-24.1, is guilty of a class B misdemeanor.
3. A person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is a ~~mitragynine synthetic~~kratom alkaloid or kratom alkaloid derivative is guilty of an infraction for a first offense and a class A misdemeanor for a second or subsequent offense.
4. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

SECTION 3. AMENDMENT. Subsection 7 of section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.

b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class A misdemeanor for the first offense. If a person is convicted of a second or subsequent offense not related to marijuana ~~or~~, tetrahydrocannabinol, ~~or a mitragynine synthetic~~a kratom alkaloid, or a kratom alkaloid derivative under this section or chapter 19-03.2, 19-03.3, or 19-03.4, or an equivalent offense from another court in the United States, the violation is a class C felony.

c. If, at the time of the offense the person is in or on the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves marijuana ~~or~~, tetrahydrocannabinol, ~~or a mitragynine synthetic~~a kratom alkaloid, or a kratom alkaloid derivative.

d. A person who violates this subsection by possessing:

(1) Marijuana:

(a) In an amount of less than one-half ounce [14.175 grams] is guilty of an infraction.

(b) At least one-half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.

(c) More than 500 grams of marijuana is guilty of a class A misdemeanor.

(2) Tetrahydrocannabinol:

(a) In an amount less than two grams is guilty of an infraction.

(b) At least two grams but not more than six grams of tetrahydrocannabinol is guilty of a class B misdemeanor.

(c) More than six grams of tetrahydrocannabinol is guilty of a class A misdemeanor.

e. A person who violates this subsection by possessing a ~~mitragynine synthetic~~kratom alkaloid or kratom alkaloid derivative is guilty of an infraction for a first offense, a class A misdemeanor for a second offense, or a class C felony for a third or subsequent offense.

f. If an individual is sentenced to the legal and physical custody of the department of corrections and rehabilitation under this subsection, the department may place the individual in a drug and alcohol treatment program designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the individual from imprisonment to begin any court-ordered period of probation.

~~f.~~g. If the individual is not subject to any court-ordered probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.

~~g.~~h. Probation under this subsection may include placement in another facility, treatment program, treatment court, mental health court, or veterans treatment docket. If an individual is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

~~h.~~i. An individual incarcerated under this subsection as a result of a second probation revocation is not eligible for release from imprisonment upon the successful completion of treatment.

~~i.~~j. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or controlled substance analog is guilty of a class A misdemeanor. If a person is convicted of a second or subsequent offense not related to marijuana or tetrahydrocannabinol under this section or chapter 19-03.2, 19-03.3, or 19-03.4, or an equivalent offense from another court in the United States, the violation is a class C felony.

SECTION 4. EFFECTIVE DATE. This Act becomes effective upon its filing with the secretary of state.

2026 JOINT STANDING COMMITTEE MINUTES

Policy Committee
Pioneer Room, State Capitol

SB 2408
9/2/2026

A BILL for an Act to create and enact subdivision lll of subsection 3 of section 19-03.1-05 of the North Dakota Century Code, relating to the scheduling of kratom alkaloids and kratom alkaloid derivatives as a schedule I controlled substance; to amend and reenact section 19-03.1-22.3 and subsection 7 of section 19-03.1-23 of the North Dakota Century Code, relating to penalties for the use and possession of kratom alkaloids and kratom alkaloid derivatives; to provide a penalty; and to provide an effective date.

1:32 p.m. Chairman Ruby opened the hearing and called the committee back to order.

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

Discussion Topics:

- Reconsideration

1:34 p.m. Representative Porter moved to reconsider final passage of amended SB 2408.

1:37 p.m. Motion failed due to lack of a second.

1:37 p.m. Chairman Ruby closed the hearing.

Melissa Ingram, Committee Clerk