



EXECUTIVE ORDER 2026-04

WHEREAS, kratom, scientific name *Mitragyna speciosa*, is a plant found in southeast Asia that is marketed in North Dakota, despite having no approved uses; and,

WHEREAS, kratom products are widely available at retail stores throughout the state of North Dakota without age restriction or regulation; and,

WHEREAS, kratom leaves contain two major psychoactive ingredients, mitragynine and 7-hydroxymitragynine (7-OH); and,

WHEREAS, the effects of kratom depend on dose, with low doses having stimulant-like effects and high doses having opiate-like effects; and,

WHEREAS, the U.S. Food and Drug Administration (FDA) has warned consumers not to use kratom because of serious adverse events, including liver toxicity, seizures, and substance use disorder (SUD); and,

WHEREAS, the FDA is also aware of cases involving neonatal abstinence syndrome, in which newborns experienced withdrawal signs such as jitteriness, irritability, and muscle stiffness following prolonged exposure to kratom prior to birth; and,

WHEREAS, since 2019, 50 reported deaths in North Dakota have been associated with kratom, including 23 cases where kratom, 7-OH and/or another kratom derivative, pseudoindoxyl mitragynine, were part of the primary cause of death; and,

WHEREAS, the U.S. Drug Enforcement Administration (DEA) has designated kratom as a drug and chemical of concern; and,

WHEREAS, the DEA has filed its intent to temporarily place 7-OH and three related substances into Schedule 1 of the Controlled Substances Act on or after Aug. 5, 2026, to avoid an imminent hazard to public safety, and the temporary scheduling order will remain in effect for two years, with a possible extension of an additional year; and,

WHEREAS, the North Dakota Board of Pharmacy has issued an emergency rule to classify 7-OH as a Schedule 1 controlled substance to mitigate the immediate public health hazard posed by that substance and to be aligned with federal law; and,

WHEREAS, many kratom products currently available in North Dakota will not be affected by classifying 7-OH as a Schedule 1 controlled substance; and,

WHEREAS, lower dose kratom products still pose risks of toxicity, seizures, and SUD, and have been a contributing factor in deaths in North Dakota; and,

WHEREAS, kratom remains a high-risk substance with public health officials and providers across North Dakota reporting an increase in mental health and public health symptoms associated with kratom usage; and,

WHEREAS, executive orders declaring public health emergencies and administrative emergency rules are intended to serve as immediate, temporary protections, as the long-term enactment of statutory prohibitions, criminal penalties, and regulatory frameworks properly rests with the Legislative Assembly.

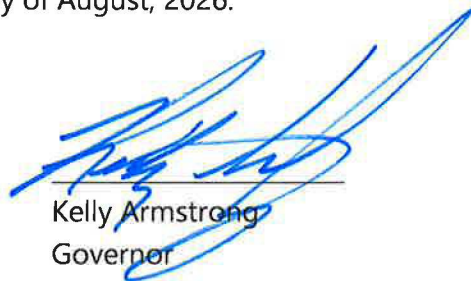
NOW, THEREFORE, Kelly Armstrong, as Governor of North Dakota, by virtue of the authority vested in Article V, Section 1 and Section 7 of North Dakota Constitution and Section 37-17.1-05, North Dakota Century Code, in an effort to limit the fatal overdoses and imminent public health threat caused by kratom, mitragynine, and 7-OH within the entire State:

1. Hereby orders:

- a. That a state of emergency for the state of North Dakota in response to the public health crisis resulting from the sale, possession, and use of kratom, mitragynine, and 7-OH, and products including the same, is declared in order to assist the state, as well as local and tribal communities and officials; to prevent overdoses and save lives; and to implement appropriate enforcement action and mitigation measures.
- b. Effective at 5:00 p.m. on August 5, 2026, a person may not knowingly or intentionally create, manufacture, deliver, distribute, sell, purchase, or possess kratom or a kratom product.
- c. As used in this Executive Order:
 - i. "Kratom" means any part of the *mitragyna speciosa* plant containing the alkaloids mitragynine or 7-hydroxymitragynine; any substance or compound obtained by extraction of the *mitragyna speciosa* leaf; any alkaloid or alkaloid derivative that has been created by chemical synthesis or biosynthetic means that synthetically alters the composition of any kratom alkaloid or alkaloid derivative; any derivative, analog, or other preparation of kratom; and any derivative, analog, or other preparation thereof that is substantially chemically equivalent or identical to kratom.
 - ii. "Kratom product" means a food, dietary supplement, or beverage, or a food or dietary ingredient intended for human consumption, that contains kratom and is manufactured or served in an edible form, including a pill, powder, capsule, beverage, or liquid.

- d. This prohibition is not intended to substantially burden a person's exercise of religion as prohibited by N.D.C.C. § 37-17.1-05(10).
 - e. This prohibition and public health emergency remains in effect until rescinded or until such time as the conditions of N.D.C.C. § 37-17.1-05(3)(b) or (c) have been met.
 - f. Any person who willfully violates this prohibition is guilty of an infraction under N.D.C.C. § 37-17.1-05(8).
2. Hereby convenes a special session of the North Dakota Legislative Assembly on September 2, 2026, in the legislative chambers at the State Capitol in Bismarck, North Dakota. The special session of the Legislative Assembly is convened to consider and enact a statutory framework to regulate or prohibit the creation, manufacture, delivery, distribution, sale, purchase, possession, and mislabeling of kratom and kratom products, including the establishment of appropriate criminal penalties. This Executive Order is issued based upon the following authority:
- a. The Governor is vested with the executive authority pursuant to Article V, Sections 1 and 7 of the North Dakota Constitution;
 - b. The Governor is vested with statutory authority to issue executive orders to minimize or avert the effects of a public health emergency pursuant to N.D.C.C. ch. 37-17.1;
 - c. A coordinated and effective effort of state agencies is required to address the impact of emergencies in this state; and
 - d. This executive order specifically addresses the mitigation of the declared public health emergency, as required by N.D.C.C. § 37-17.1-05(7).

Executed at Bismarck, North Dakota, this 3 day of August, 2026.



Kelly Armstrong
Governor

Attest:



Michael Howe
Secretary of State