

# STATE OF NEW YORK

8693

2025-2026 Regular Sessions

## IN ASSEMBLY

May 29, 2025

Introduced by M. of A. LUPARDO -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the public health law and the tax law, in relation to enacting the "New York state kratom consumer protection act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "New York state kratom consumer protection act".

3 § 2. The article heading of article 13-F of the public health law, as  
4 amended by chapter 448 of the laws of 2012, is amended to read as  
5 follows:

6 REGULATION OF TOBACCO PRODUCTS, HERBAL CIGARETTES,  
7 KRATOM AND SMOKING PARAPHERNALIA; DISTRIBUTION TO  
8 MINORS

9 § 3. Section 1399-aa of the public health law is amended by adding  
10 eleven new sections, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29 to  
11 read as follows:

12 19. "Kratom" means the plant *Mitragyna speciosa* or any part of that  
13 plant.

14 20. "Kratom product" means a finished article containing: (a) any part  
15 of a leaf of the plant *Mitragyna speciosa* in fresh, dehydrated, or dried  
16 form; or (b) a kratom extract.

17 21. "Kratom processor" means a person who:  
18 (a) manufactures, distributes, or warehouses a kratom product; or  
19 (b) advertises, represents, or holds oneself out as manufacturing,  
20 distributing, or warehousing a kratom product.

21 22. "Kratom extract" means a substance or compound obtained by  
22 extraction of the *Mitragyna speciosa* leaf, intended for ingestion,  
23 containing more than trace amounts of *Mitragyna speciosa* and containing  
24 other alkaloids of the kratom plant, which does not contain any  
25 controlled substances or levels of residual solvents higher than is  
26 allowed in the U.S. Pharmacopeia (USP) 467.

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

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1 23. "Alkaloid" means a compound found in the Mitragnyna speciosa leaf  
2 including but not limited to mitragynine, paynantheine, speciociliatine,  
3 or speciogynine.

4 24. "Synthesized material" means an alkaloid, metabolite of an alka-  
5 loid, or alkaloid derivative that has been created by chemical synthesis  
6 or biosynthetic means including, but not limited to: fermentation,  
7 recombinant techniques, yeast derived, enzymatic techniques, oxidation,  
8 rather than traditional food preparation techniques, such as heating or  
9 extracting.

10 25. "Semi-synthetic alkaloid" means a substance derived from an alka-  
11 loid naturally occurring in kratom that has been chemically altered  
12 through chemical reactions such as, but not limited to: oxidation,  
13 reduction, acetylation, or other processes to change the structure or  
14 pharmacological activity of the naturally occurring kratom alkaloid.  
15 This includes but is not limited to the synthesis of 7-hydroxymitragy-  
16 nine when produced by chemical alteration of mitragynine.

17 26. "Synthetic kratom-like compound" means a substance that is not  
18 found naturally in the Mitragnyna speciosa plant and is created entirely  
19 through laboratory synthesis to mimic the pharmacological effects of  
20 kratom alkaloids.

21 27. "Retailer" means any person that sells or advertises itself as  
22 selling kratom products directly to consumers, except that a retailer  
23 shall not include any facility that prepares a kratom or kratom product  
24 extract onsite and offers onsite sale of that kratom or kratom raw leaf  
25 or extract product shall have a restaurant license in the jurisdiction  
26 where they operate and shall be exempt from registration requirements  
27 and labeling provisions provided herein, including as a processor or  
28 retailer.

29 28. "Attractive to children" means kratom products manufactured in the  
30 shape of cartoons, or animals or is manufactured or packaged in a form  
31 that bears any reasonable resemblance to an existing candy product that  
32 is familiar to the public as a widely distributed, branded food product  
33 such that a product could be mistaken for the branded product, especial-  
34 ly by children.

35 29. "Current certificate of analysis (COA)" means a test completed  
36 within twelve months of submission.

37 § 4. The public health law is amended by adding a new section  
38 1399-gg-1 to read as follows:

39 § 1399-gg-1. Kratom product limitations. 1. A processor or a retailer  
40 shall not prepare, distribute, sell, or offer for sale any of the  
41 following:

42 (a) Any product containing a synthesized, semi-synthesized, or  
43 synthetic kratom like-compound as follows:

44 (i) A product that contains synthesized material as provided in subdi-  
45 vision twenty-four, twenty-five, or twenty-six of section thirteen  
46 hundred ninety-nine-aa of this article; or

47 (ii) A product containing a level of 7-hydroxymitragynine in the alka-  
48 loid fraction that is greater than two percent of total alkaloids in a  
49 container; or

50 (iii) A product with a single serving of a product exceeding  
51 1mg/serving of 7-hydroxymitragynine.

52 (b) A product that contains or is adulterated with any of the follow-  
53 ing:

54 (i) A kratom product contains a dangerous poisonous or otherwise dele-  
55 terious non-kratom ingredient, including, but not limited to, the  
56 substances listed as a controlled substance under state or federal law;

1 (ii) A kratom product in any form that is combustible, intended to be  
2 used for vaporization, or as an injectable;

3 (iii) A kratom product manufactured in a manner that is attractive to  
4 children; or

5 (iv) A kratom extract product that contains levels of residual  
6 solvents higher than is allowed in subdivision twenty-two of section  
7 thirteen hundred ninety-nine-aa of this article.

8 § 5. The public health law is amended by adding a new section  
9 1399-gg-2 to read as follows:

10 § 1399-gg-2. Kratom product registration. 1. A kratom processor may  
11 not knowingly prepare, distribute, sell, or offer for sale a kratom  
12 product in this state that is not registered with the department.

13 2. A kratom retailer may not sell, distribute, advertise, represent,  
14 or hold itself out as selling a kratom product in this state that is not  
15 registered with the department.

16 3. The person responsible for knowingly placing a kratom product into  
17 commerce directly in this state shall register annually to offer for  
18 sale kratom products manufactured in an approved kratom delivery form  
19 and pay a fee, adjusted annually, to cover the administrative costs  
20 specifically required for processing and administering such registra-  
21 tions, including the necessary staff and the publication and maintenance  
22 of a kratom registration webpage on the department's website.

23 4. The registration shall include the following documentation from the  
24 processor:

25 (a) A sworn declaration from the registrant that the product regis-  
26 tered is compliant with the requirements of this section;

27 (b) A certification from a third-party independent auditor that the  
28 processor's operations are generally consistent with appropriate guide-  
29 lines of the FDA GMP requirements found in 21 CFR Part 111 or 117 that  
30 would apply to kratom products allowed by this chapter for any facility  
31 that manufactures, processes, packs, or holds such a kratom product as  
32 being registered;

33 (c) Proof of current U.S. Food and Drug Administration food facility  
34 registration for all of the processor's facility that manufactures,  
35 processes, packs, or holds the kratom product being registered;

36 (d) A sworn declaration from the registrant that the processor has the  
37 evidence required to meet the federal requirement for having a reason-  
38 able expectation of the safety of the product under the conditions of  
39 use set forth on the label. The registrant assumes responsibility and  
40 liability for any such products offered for sale; and

41 (e) The submission of a current COA from a certified independent  
42 third-party laboratory showing compliance with the requirements of USP  
43 467 for residual solvents, 7-hydroxymitragynine content, and the USP  
44 2232 standard for heavy metal contaminants.

45 5. A kratom product that contains the same kratom ingredients in the  
46 same kratom delivery form, but in a different container, package, or  
47 volume, shall be included in a single registration.

48 6. The department shall maintain a kratom registration database list-  
49 ing all currently registered kratom products.

50 § 6. The public health law is amended by adding a new section  
51 1399-gg-3 to read as follows:

52 § 1399-gg-3. Labeling of kratom. 1. A kratom product produced, manu-  
53 factured, distributed, offered, sold or offered for sale shall have a  
54 label that clearly and conspicuously provides the following information  
55 on each retail package, including, but not limited to:

1 (a) A statement against the use by individuals who are under twenty-  
2 one years of age, who are pregnant, or who are breastfeeding;

3 (b) A recommendation to consult a health care professional prior to  
4 use;

5 (c) A statement that kratom may be habit forming;

6 (d) The following statement: "These statements have not been evaluated  
7 by the U.S. Food and Drug Administration. This product is not intended  
8 to diagnose, treat, cure, or prevent any disease.";

9 (e) The name and the address for the place of business of the manufac-  
10 turer or distributor; and

11 (f) Directions for use that include, but are not limited to, the  
12 following:

13 (i) A recommended amount of the kratom product per serving that is:  
14 (A) clearly described on the label for product forms such as capsules,  
15 gummies, prepackaged single serving units, and similar product forms; or

16 (B) for beverages, liquids, or loose powders, a clear instruction or a  
17 mark on the package or container that clearly informs the consumer  
18 regarding the recommended serving size and servings per twenty-four hour  
19 period;

20 (ii) A recommended maximum number of servings that should be consumed  
21 in a twenty-four hour period;

22 (iii) A listing of the servings per container;

23 (iv) A listing of all the ingredients in the product; and

24 (v) the amount per serving of each of the following kratom compounds:

25 (A) Mitragynine; and

26 (B) 7-hydroxymitragynine.

27 § 7. The public health law is amended by adding a new section  
28 1399-mm-4 to read as follows:

29 § 1399-mm-4. Sale of unregistered kratom products prohibited. 1. No  
30 person shall knowingly sell, distribute, advertise, represent, or hold  
31 any kratom product that does not have a current registration with the  
32 department. A retailer knowingly selling any kratom product not regis-  
33 tered with the department that is not on the list of registered products  
34 published on the department's website shall be subject to the following  
35 civil penalties:

36 (a) A fine of one thousand dollars for each instance in which product  
37 has been found to be sold;

38 (b) A fine of up to five thousand dollars for a second violation; and

39 (c) A fine of up to ten thousand dollars for a third violation and the  
40 retailer shall be prohibited from the sale of any kratom product in the  
41 state for a period of two years.

42 2. No kratom processor shall knowingly sell, distribute, advertise,  
43 represent, or hold any kratom product in this state that is noncompliant  
44 with the requirements of this article.

45 (a) A fine of ten thousand dollars for each such noncompliant product  
46 offered for sale;

47 (b) A fine of twenty thousand dollars and such kratom processor is  
48 prohibited from selling any kratom product in the state for two years;

49 (c) Upon a third violation, the processor, distributor, or retailer  
50 shall be prohibited from the sale of any kratom product in the state for  
51 ten years; and

52 (d) Any direct to consumer business model would be subject to the same  
53 fines issued pursuant to subdivision one of this section.

54 3. No seller shall knowingly sell or provide kratom products to any  
55 person under twenty-one years of age.

1 (a) A person who knowingly and willfully commits a first violation of  
2 this subdivision shall be guilty of a class A misdemeanor.

3 (b) A person who knowingly and willfully commits a second or subse-  
4 quent violation of this paragraph within two years after the initial  
5 violation, shall be guilty of a class E felony.

6 4. A registrant or retailer who knowingly and willfully manufactures,  
7 delivers, holds, offers for sale, distributes or sells a kratom product  
8 in this state that contains any controlled substance listed in this  
9 state or in federal law shall be guilty of a class A misdemeanor.

10 5. A person who knowingly and willfully manufactures, delivers, holds,  
11 offers for sale, distributes or sells a product that contains synthe-  
12 sized material, semi-synthetic alkaloid, or synthetic kratom-like  
13 compound as defined in this article commits a class A misdemeanor.

14 6. Upon receipt of a credible violation report on any kratom product  
15 offered for sale, the department shall require the registrant to produce  
16 an updated and current COA from a certified independent third-party  
17 laboratory within thirty days establishing compliance with the require-  
18 ments of this chapter for kratom products, including copies of all prod-  
19 uct labels. If the registrant does not provide the certificate of analy-  
20 sis in the specified time frame, the registration for that product shall  
21 be revoked and a stop sales order shall be issued for all products  
22 covered by such registration.

23 7. If the department has a reasonable basis to require an independent  
24 third-party test of a registered kratom product by a laboratory of the  
25 department's choice, the registrant shall be required to submit payment  
26 for the test within a reasonable time frame. If the registrant does not  
27 tender payment to the department within thirty days of receipt of the  
28 invoice for the testing, the department shall revoke the registration  
29 for that product and a stop sales order shall be issued for all products  
30 covered by such registration.

31 8. It is an affirmative defense if the retailer shows by a preponder-  
32 ance of the evidence that such retailer relied in good faith upon the  
33 representations of a processor of food represented to be a kratom prod-  
34 uct.

35 § 8. The tax law is amended by adding a new section 471-f to read as  
36 follows:

37 § 471-f. Imposition of kratom and kratom products tax. 1. There is  
38 hereby imposed and shall be paid a tax on all kratom and kratom products  
39 possessed in this state by any person.

40 2. It is intended that the ultimate incidence of and liability for the  
41 tax shall be upon the consumer, and that any agent or dealer who shall  
42 pay the tax to the commissioner shall collect the tax from the purchaser  
43 or consumer.

44 § 9. The tax law is amended by adding a new section 471-g to read as  
45 follows:

46 § 471-g. Excise tax on kratom and kratom products. 1. There is hereby  
47 imposed an excise tax on the gross receipts from the sale of kratom or  
48 kratom products by a kratom retailer to a retail customer at the rate of  
49 five percent. The tax imposed by this article shall be charged against  
50 and be paid by the retail customer and shall not be added as a separate  
51 charge or line item on any sales slip, invoice, receipt or other state-  
52 ment or memorandum of the price given to the retail customer.

53 2. The commissioner may make, adopt and amend rules, regulations,  
54 procedures and forms necessary for the proper administration of this  
55 article.

1 3. Every registered kratom retailer that makes sales of kratom and  
2 kratom products subject to the tax imposed by this article shall, on or  
3 before the twentieth date of each month, file with the commissioner a  
4 return on forms to be prescribed by the commissioner, showing its  
5 receipts from the retail sale of kratom and kratom products during the  
6 preceding calendar month and the amount of tax due thereon. Such returns  
7 shall contain such further information as the commissioner may require.  
8 Every registered kratom retailer required to file a return under this  
9 section shall, at the time of filing such return, pay to the commission-  
10 er the total amount of tax due on its retail sales of kratom and kratom  
11 products for the period covered by such return. If a return is not filed  
12 when due, the tax shall be due on the day on which the return is  
13 required to be filed.

14 4. Whenever the commissioner shall determine that any moneys received  
15 under the provisions of this article were paid in error, they may cause  
16 the same to be refunded, with interest, in accordance with such rules  
17 and regulations as they may prescribe, except that no interest shall be  
18 allowed or paid if the amount thereof would be less than one dollar.  
19 Such interest shall be at the overpayment rate set by the commissioner  
20 pursuant to subdivision twenty-sixth of section one hundred seventy-one  
21 of this chapter, or if no rate is set, at the rate of six percent per  
22 annum, from the date when the tax, penalty or interest to be refunded  
23 was paid to a date preceding the date of the refund check by not more  
24 than thirty days. Provided, however, that for the purposes of this  
25 subdivision, any tax paid before the last day prescribed for its payment  
26 shall be deemed to have been paid on such last day. Such moneys received  
27 under the provisions of this article which the commissioner shall deter-  
28 mine were paid in error, may be refunded out of funds in the custody of  
29 the comptroller to the credit of such taxes provided an application  
30 therefor is filed with the commissioner within two years from the time  
31 the erroneous payment was made.

32 5. The provisions of article twenty-seven of this chapter shall apply  
33 to the tax imposed by this article in the same manner and with the same  
34 force and effect as if the language of such article had been incorpo-  
35 rated in full into this section and had expressly referred to the tax  
36 imposed by this article, except to the extent that any provision of such  
37 article is either inconsistent with a provision of this article or is  
38 not relevant to this article.

39 § 10. Rules and regulations. The department of health shall adopt any  
40 necessary rules and regulations to administer provisions of this act.  
41 Such rules and regulations shall include, but not be limited to:

42 1. The process for a registration of a kratom product by a processor,  
43 distributor, or a retailer;

44 2. The requirements for enforcing the restriction on the sale of any  
45 kratom product to a person under the age of 21; and

46 3. Proof of appropriate quality testing from an ISO 17025 laboratory  
47 in the form of a Certificate of Analysis (COA) representing the product  
48 does not contain levels of residual solvents, biological contaminants or  
49 heavy metal contaminants that meet the standard for dietary supplement  
50 products.

51 § 11. This act shall take effect on the one hundred eightieth day  
52 after it shall have become a law. Effective immediately, the addition,  
53 amendment and/or repeal of any rule or regulation necessary for the  
54 implementation of this act on its effective date are authorized to be  
55 made and completed on or before such effective date.