

STATE OF NEW YORK

8814

IN SENATE

January 8, 2026

Introduced by Sen. FAHY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public health law, in relation to prohibiting the sale of kratom to individuals under the age of twenty-one; to repeal certain provisions of the public health law relating thereto; to repeal section 4 of a chapter of the laws of 2025 amending the public health law relating to the prohibition of the sale of kratom to individuals under the age of twenty-one, as proposed in legislative bills numbers S. 4552-A and A. 2340-A, relating to a study on kratom; and to amend a chapter of the laws of 2025 amending the public health law relating to the prohibition of the sale of kratom to individuals under the age of twenty-one, as proposed in legislative bills numbers S. 4552-A and A. 2340-A, in relation to the effectiveness thereof

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

1 Section 1. The article heading of article 13-F of the public health
2 law, as amended by a chapter of the laws of 2025 amending the public
3 health law relating to the prohibition of the sale of kratom to individ-
4 uals under the age of twenty-one, as proposed in legislative bills
5 numbers S. 4552-A and A. 2340-A, is amended to read as follows:

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

9 § 2. Subdivision 19 of section 1399-aa of the public health law, as
10 added by a chapter of the laws of 2025 amending the public health law
11 relating to the prohibition of the sale of kratom to individuals under
12 the age of twenty-one, as proposed in legislative bills numbers S.
13 4552-A and A. 2340-A, is REPEALED.

14 § 3. Section 1399-mmm of the public health law, as added by a chapter
15 of the laws of 2025 amending the public health law relating to the
16 prohibition of the sale of kratom to individuals under the age of twen-
17 ty-one, as proposed in legislative bills numbers S. 4552-A and A.
18 2340-A, is REPEALED.

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

LBD01552-04-6

§ 4. The public health law is amended by adding a new article 13-I to read as follows:

ARTICLE 13-I
REGULATION OF SUPPLEMENTS AND OTHER PRODUCTS; DISTRIBUTION
TO MINORS

Section 1399-xx. Sale or distribution of kratom products to minors.

§ 1399-xx. Sale or distribution of kratom products to minors. 1. For purposes of this section the following terms shall have the following meanings:

(a) "A device capable of deciphering any electronically readable format" or "device" shall mean any commercial device or combination of devices used at a point of sale or entry that is capable of reading the information encoded on the bar code or magnetic strip of a driver's license or non-driver identification card issued by the state commissioner of motor vehicles.

(b) "Card holder" means any person presenting a driver's license or nondriver identification card to a licensee, or to the agent or employee of such licensee under this section.

(c) "Enforcement officer" means, in a city with a population of more than one million, the department of health and mental hygiene of such city, which shall have the jurisdiction to enforce the provisions of this section in such city; and in all other counties, shall mean the department, which shall have jurisdiction to enforce the provisions of this article pursuant to rules and regulations which may be promulgated by the commissioner.

(d) "Kratom" means any part of the plant *Mitragyna speciosam* whether growing or not, and any compound, manufacture, derivative, mixture, salt or preparation of such plant or synthesized or semi-synthesized preparations of mitragynine or 7-hydroxymitragynine, their derivatives, salts, esters, and isomers.

(e) "Kratom business" means a sole proprietorship, corporation, limited liability company, partnership or other enterprise in which one of the activities is the sale, manufacture or promotion of kratom and kratom accessories, either at wholesale or retail, whether such sale, manufacture or promotion is primary or incidental, and including any agent and any employee.

(f) "Person" means a person, firm, company, corporation, partnership, sole proprietor, limited partnership or association.

(g) "Transaction scan" means the process, whether in person, online, or through any other means of communication, involving an automated bar code reader by which a licensee, or agent or employee of a licensee under this section reviews a driver's license or non-driver identification card presented as a precondition for the purchase of kratom under this section.

2. No person or kratom business shall knowingly sell or provide kratom to any other person under twenty-one years of age.

3. (a) Any person or kratom business offering kratom for sale is prohibited from selling such kratom to individuals under twenty-one years of age, and shall post in a conspicuous place a sign upon which there shall be imprinted the following statement, "SALE OF KRATOM TO PERSONS UNDER TWENTY-ONE YEARS OF AGE IS PROHIBITED BY LAW". Such statement shall be posted in the following manner: (i) in any physical location at which such products are offered for sale, it shall be printed on a white card in red letters at least one-half inch in height and displayed as a sign, or (ii) on any website, it shall be posted in red letters in at least twelve-point font on any webpages on which such

1 products are offered for sale, or (iii) in any mobile application, it
2 shall be posted in red letters in at least twelve-point font on any
3 screens on which such products are offered for sale, or (iv) in any
4 electronic or printed materials, it shall be posted in red letters in at
5 least twelve-point font on any pages on which such products are offered
6 for sale.

7 (b) Sales of kratom shall be made only to an individual who demon-
8 strates, through (i) a valid driver's license or non-driver's identifi-
9 cation card issued by the commissioner of motor vehicles, the federal
10 government, any United States territory, commonwealth or possession, the
11 District of Columbia, a state government within the United States or a
12 provincial government of the dominion of Canada, or (ii) a valid pass-
13 port issued by the United States government or any other country, or
14 (iii) an identification card issued by the armed forces of the United
15 States, or (iv) any other photographic identification card issued by a
16 governmental entity or educational institution indicating that the indi-
17 vidual is at least twenty-one years of age. Such identification need not
18 be required of any individual who reasonably appears to be at least
19 twenty-five years of age, provided, however, that such appearance shall
20 not constitute a defense in any proceeding alleging the sale of kratom
21 to an individual under twenty-one years of age.

22 (c)(i) Any person or kratom business may perform a transaction scan as
23 a precondition for such purchases.

24 (ii) In any instance where the information deciphered by the trans-
25 action scan fails to match the information printed on the driver's
26 license or non-driver identification card, or if the transaction scan
27 indicates that the information is false or fraudulent, the attempted
28 transaction shall be denied.

29 (iii) In any proceeding pursuant to subdivision five of this section,
30 it shall be an affirmative defense that such individual had produced a
31 driver's license or non-driver identification card apparently issued by
32 a governmental entity, successfully completed that transaction scan, and
33 that the kratom has been sold, delivered or given to such individual in
34 reasonable reliance upon such identification and transaction scan. In
35 evaluating the applicability of such affirmative defense the commission-
36 er shall take into consideration any written policy adopted and imple-
37 mented by the seller to effectuate the provisions of this section. Use
38 of a transaction scan shall not excuse any person or kratom business
39 from the exercise of reasonable diligence otherwise required by this
40 article. Notwithstanding the above provisions, any such affirmative
41 defense shall not be applicable in any civil or criminal proceeding, or
42 in any other forum.

43 (d) A person or kratom business shall only use a device capable of
44 deciphering any electronically readable format, and shall only use the
45 information recorded and maintained through the use of such devices, for
46 the purposes contained in paragraph (c) of this subdivision. No person
47 or kratom business shall resell or disseminate the information recorded
48 during such a scan to any third person. Such prohibited resale or
49 dissemination includes but is not limited to any advertising, marketing
50 or promotional activities. Notwithstanding the restrictions imposed by
51 this subdivision, such records may be released pursuant to a court
52 ordered subpoena or pursuant to any other statute that specifically
53 authorizes the release of such information. Each violation of this para-
54 graph shall be punishable by a civil penalty of not more than one thou-
55 sand dollars.

1 (e) A person or kratom business may electronically or mechanically
2 record and maintain only the information from a transaction scan neces-
3 sary to effectuate this section. Such information shall be limited to
4 the following: (i) name, (ii) date of birth, (iii) driver's license or
5 non-driver identification number, and (iv) expiration date.

6 4. If the enforcement officer determines after a hearing that a
7 violation of subdivision two, or paragraph (a) of subdivision three, of
8 this section has occurred, a civil penalty may be imposed by the
9 enforcement officer of no more than five hundred dollars, provided that
10 each day that a person or kratom business fails to post signage required
11 by paragraph (a) of subdivision three of this section that is identified
12 by an enforcement officer shall be deemed a separate violation.

13 5. When the enforcement officer is the commissioner, the hearing shall
14 be conducted pursuant to the provisions of section twelve-a of this
15 chapter. When the enforcement officer is the department of health and
16 mental hygiene, the hearing shall be conducted pursuant to procedures
17 set forth in the county sanitary code, or health code of such city, or
18 in the absence thereof, pursuant to procedures established by the county
19 legislature or board of supervisors. Subsequent to any appeal having
20 been finally determined, the commissioner may bring an action to recover
21 the civil penalty in any court of competent jurisdiction. Nothing here-
22 in shall be construed to prohibit an enforcement officer from commencing
23 a proceeding for injunctive relief to compel compliance with this
24 section.

25 § 5. Section 4 of a chapter of the laws of 2025 amending the public
26 health law relating to the prohibition of the sale of kratom to individ-
27 uals under the age of twenty-one, as proposed in legislative bills
28 numbers S. 4552-A and A. 2340-A, is REPEALED.

29 § 6. Section 5 of a chapter of the laws of 2025 amending the public
30 health law relating to the prohibition of the sale of kratom to individ-
31 uals under the age of twenty-one, as proposed in legislative bills
32 numbers S. 4552-A and A. 2340-A, is amended to read as follows:

33 § 5. This act shall take effect [~~immediately~~] on the one hundred
34 eightieth day after it shall have become a law.

35 § 7. This act shall take effect immediately; provided, however, that
36 sections one, two, three, four and five of this act shall take effect on
37 the same date and in the same manner as a chapter of the laws of 2025
38 amending the public health law relating to the prohibition of the sale
39 of kratom to individuals under the age of twenty-one, as proposed in
40 legislative bills numbers S. 4552-A and A. 2340-A, takes effect.