

THE REGULATORY LANDSCAPE OF KRATOM

***MINNESOTA PUBLIC HEALTH NON-PROFIT COLLABORATIVE LUNCH AND LEARN,
SEPTEMBER 3, 2026***

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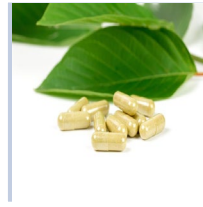
KRATOM PRODUCT REGULATION

NOT AS SIMPLE AS “KRATOM: LEGAL OR ILLEGAL”



Leaf

- Botanical leaf/powder
- Plant material; typically lower naturally occurring 7-OH



Extract

- Extracts/shots/capsules
- Processed commercial products
- Variety in types of products



7-OH

- Concentrated or synthetic 7-OH
- Main focus of current federal and state regulation and enforcement.

FEDERAL REGULATORY LANDSCAPE

FDA (food/drug/supplement & marketing claims)	DEA (controlled substance scheduling)
• No FDA-approved kratom drug	• Traditional botanical kratom not currently federally scheduled
• FDA: kratom is not lawfully marketed as drug, dietary supplement, or food additive.	• Effective August 26, 2026, DEA temporarily placed three 7-OH-related substances in Schedule I: mitragynine pseudoindoxyl, MGM-15, and MGM-16.
• Enforcement: warning letters, import controls, seizures, unlawful therapeutic claims.	• DEA announced intent to schedule high-concentration 7-OH, but order remains pending.

MINNESOTA REGULATORY LANDSCAPE

THE KRATOM-SPECIFIC LAW FOCUSES ON UNDERAGE SALES/POSSESSION, NOT PRODUCT STANDARDS

Effective August 1, 2026



- Sales to an underage person: gross misdemeanor
- Possession by an underage person: misdemeanor

What Minnesota does *not* currently regulate:

- Kratom retailer licensing
- Kratom product registration
- No testing/labeling scheme
- No 7-OH potency cap
- No kratom-specific consumer protection/product standards framework (false marketing, claims re health, etc.)
- 7-OH or other alkaloids not listed on controlled substance schedules.

MINNESOTA REGULATORY LANDSCAPE

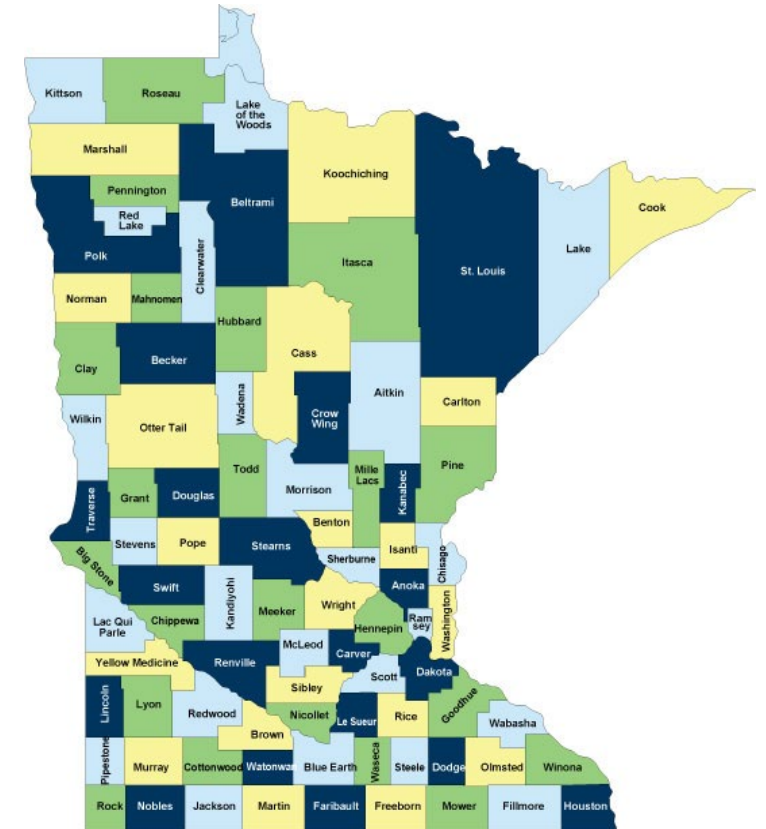
ROLE OF STATE AGENCIES

MN Dept. of Health	MN Dept. of Agriculture	MN Board of Pharmacy
States that agency does not regulate kratom sales or possession	Receives food quality complaints	Had in the past raised scheduling/restriction concerns
States that local communities may consider policies to reduce harms of kratom.	Many ingestible kratom products may implicate state law violations re food adulteration or unlawful additive concerns.	Mitragynine and 7-OH are not currently listed on Minnesota's controlled-substance schedules.

LOCAL AUTHORITY TO REGULATE KRATOM

Minnesota Cities & Counties

- Authority to restrict or prohibit retail sales under general-welfare and public-health powers, subject to state/federal preemption and conflict limitations.
- General authority exists to regulate actual or potential public health threats.
- Cities of Crystal, Mora looking into regulatory options; Minneapolis lists kratom as “unapproved food additive.”



LOCAL AUTHORITY TO REGULATE KRATOM POLICY OPTIONS

THE COUNTY BOARD OF [_____] COUNTY DOES ORDAIN:

Section 1. Findings of Fact and Purpose

Findings of Fact and Purpose

A Findings of Fact and Purpose section is important because it provides the evidentiary basis for the proposed commercial tobacco control policies and demonstrates the county's reasoning for adopting specific provisions. The Findings of Fact and Purpose section reflects language appropriate for all the provisions suggested. The Public Health Law Center can provide support for communities to determine which Findings of Fact and Purpose statements and references should be retained in a final ordinance, depending on which provisions from the model ordinance the county chooses to adopt. The Findings section is part of the ordinance and legislative record, but it often does not become codified in the municipal code. Whether included in a final ordinance or incorporated in the legislative record, the Findings of Fact and Purpose section plays an important educational role, as well as providing the evidentiary basis for the ordinance provisions. A sample Purpose is below; sample Findings of Fact may be found in the supplemental document *Findings for Comprehensive Minnesota Tobacco Retail Licensing Ordinances*.

The County Board of [jurisdiction] hereby finds and declares as follows:

[Insert appropriate WHEREAS clauses from *Findings for Comprehensive Minnesota Tobacco Retail Licensing Ordinances* here.]

NOW THEREFORE, it is the intent of the County Board, in enacting this ordinance, to regulate the sale of commercial tobacco products, tobacco-related devices, electronic delivery devices, nicotine or lobelia delivery products, and nicotine analogs for the purpose of enforcing and furthering existing laws to protect youth and young adults against the serious health effects associated with use and initiation, and to further the official public policy of the state to prevent young people from starting to smoke, as stated in Minn. Stat. § 144.391, as it may be amended from time to time.

Section 2. Applicability and Jurisdiction.

This ordinance governs the licensing and regulation of the sale of tobacco, tobacco-related devices, electronic delivery devices, nicotine or lobelia delivery products, and nicotine analogs in the unorganized territory of [_____] County and in any city or town located in [_____] County that does not license and regulate retail sale of tobacco, tobacco-related devices, electronic

- Retail licensing
- 7-OH/extract restrictions
- Product standards (if not in conflict with federal/state food/drug laws)
- Restrict sales (21+ retail entities only; proximity restrictions, etc.)
- Prohibition on product sales

NATIONAL REGULATORY LANDSCAPE

WHAT'S HAPPENING IN OTHER STATES*?

Prohibit/Schedule

Kratom/alkaloids prohibited or treated as controlled substances (CT, AL, AR, IN, KS, LA, VT, WI, TN)

Targeted 7-OH/ extract restrictions

Botanical kratom remains available; high-potency 7-OH or extracts restricted (UT, OH, CO, FL)

Kratom Consumer Protection Act-type regulations

Legal market available with age, labeling, testing, adulteration, and licensing/registration requirements (AZ, GA, KY, MD, MS, NE, NV, OK, OR, SC, TX, VA, WV, RI)

Limited/minimal state regulation

Age restrictions or limited provisions; comparatively limited product-level oversight (MN, NY)

**States listed are intended as illustrative examples; categories may overlap and laws are changing quickly.*

KEY TAKEAWAYS ON CURRENT LANDSCAPE OF KRATOM REGULATION

- Kratom regulation trends show distinction between botanicals, extracts, and high concentration 7-OH products.
- States are a regulatory patchwork from minimum sales age restrictions, to consumer protection standards, to targeted 7-OH restrictions.
- Landscape continues to evolve at federal and state levels.



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