

RESOLUTION NO. 2026136

RE: LOCAL LAW No. ____ of 2026 PROHIBITING THE SALE AND
DISTRIBUTION OF CONCENTRATED AND SYNTHETIC 7-
HYDROXYMITRAGYNINE (7-OH) KRATOM PRODUCTS IN
DUTCHESS COUNTY

Legislators VALDÉS SMITH, ATKINS, MUNN, and KAUL offer the following and move
its adoption:

RESOLVED, that the Legislature of the County of Dutchess adopt Local Law No. ____ of
2026 which has been submitted this day for consideration by said Legislature.

LOCAL LAW NO. ____ of 2026

RE: A LOCAL LAW PROHIBITING THE SALE AND DISTRIBUTION OF
CONCENTRATED AND SYNTHETIC 7-HYDROXYMITRAGYNINE (7-OH)
KRATOM PRODUCTS IN DUTCHESS COUNTY

BE IT ENACTED by the County Legislature of the County of Dutchess, State of New York, as follows:

SECTION 1. LEGISLATIVE INTENT.

Kratom, a tropical tree (*Mitragyna speciosa*) native to Southeast Asia, contains multiple compounds (including mitragynine and 7-hydroxymitragynine) that act upon the same receptors in the brain as opioid drugs. These compounds produce similar effects as opioids, such as sedation, nausea, vomiting, constipation, physical dependence and withdrawal, and respiratory depression that may lead to death. There are no drugs approved by the U.S. Food and Drug Administration (“FDA”) that contain kratom, and the FDA warns that kratom is not safe for use as a dietary supplement, citing the risk of serious adverse events such as liver toxicity, seizures, and substance use disorder. While 7-hydroxymitragynine occurs only in trace amounts in the natural kratom leaf, concentrated and synthetic 7-hydroxymitragynine (“7-OH”) products now sold in retail stores contain this compound at levels far exceeding those found in the plant, producing potent opioid-like effects and a heightened risk of dependence, overdose, and death.

The Legislature finds that, to protect the health and safety of its residents, products containing dangerously elevated concentrations of 7-hydroxymitragynine should not be sold or distributed in Dutchess County.

SECTION 2. AUTHORITY.

This Local Law is enacted pursuant to New York Municipal Home Rule Law § 10(1)(ii)(a)(12), as it relates to the protection, order, conduct, safety, health, and well-being of Dutchess County residents, and pursuant to Dutchess County Charter § 2.031, as the health and safety of Dutchess County residents is a subject of County concern.

SECTION 3. DEFINITIONS.

(a) “Kratom” means any part of the plant *Mitragyna speciosa*, whether growing or not; any compound, manufacture, salt, derivative, mixture, or preparation of such plant; all chemical compounds and alkaloids derived from such plant, including but not limited to mitragynine and 7-hydroxymitragynine; and all synthetic and semi-synthetic derivatives of such plant, including but not limited to MGM-15, MGM-16, and mitragynine pseudoindoxyl, or any structural analogue of any such compound, derivative, mixture or alkaloid.

(b) “Kratom Product” means any product, good, article, or item containing, blended with, and/or derived from Kratom, including but not limited to extracts, tinctures, beverages, powders, capsules, tablets, foods, gummies, vapes, and prepackaged retail items.

(c) “Person” means any individual, business, company, firm, partnership, limited partnership, limited liability partnership, joint venture, corporation, not-for-profit corporation, limited liability company, estate, trust, or any other legal entity.

(d) “Prescription” means an official New York State prescription, an electronic prescription, an oral prescription, or an out-of-state prescription as those terms are used in Article 33 of the New York Public Health Law and Article 137 of the New York Education Law.

(e) “Prohibited 7-OH Product” means any Kratom or Kratom Product that contains 7-hydroxymitragynine at a level that exceeds two percent (2%) of the total alkaloids or one milligram (1 mg) per serving.

SECTION 4. SALE OR DISTRIBUTION PROHIBITED.

No Person may sell, offer for sale, or otherwise distribute a Prohibited 7-OH Product in the County of Dutchess to any other Person. This prohibition applies to any Person, including any online platform, wherever located, and a sale, offer for sale, or distribution shall be deemed to occur in the County of Dutchess whenever a Prohibited 7-OH Product is delivered or shipped to an address within the County. This prohibition does not apply to the sale or distribution of a Prohibited 7-OH Product pursuant to a Prescription issued by a Person licensed, authorized, or otherwise permitted in New York State to issue a Prescription. This prohibition will not apply to the sale or distribution of a Prohibited 7-OH Product if that product is approved by the FDA. Liability under this section is strict; it shall not be a defense to a violation that the Person did not know, or had no reason to know, that a product constituted a Prohibited 7-OH Product.

SECTION 5. ENFORCEMENT AND PENALTIES.

This Local Law shall be enforced by the Dutchess County Department of Health. The Commissioner is authorized to promulgate rules and regulations and to take any and all other actions reasonable and necessary to enforce this law in accordance with the authority enumerated in the Dutchess County Sanitary Code including, but not limited to, conducting inspections; investigating all claims and violations; issuing all notices and orders; conducting hearings; and any other processes that may be necessary in the enforcement of this law.

Any Person that sells, offers for sale, or distributes a Prohibited 7-OH Product to another Person shall be subject to a civil penalty of not more than one thousand five hundred dollars (\$1,500) for a first violation, and not more than three thousand dollars (\$3,000) for each subsequent violation. For purposes of this section, a violation shall be considered a subsequent violation if it occurs within thirty-six (36) months of a prior violation by the same Person. Where any such sale, offer for sale, or distribution is made to a person under twenty-one (21) years of age, the maximum civil

penalty for that violation shall be increased by five hundred dollars (\$500). Each sale, offer for sale, or distribution of a Prohibited 7-OH Product shall constitute a separate violation. These penalties do not apply in those circumstances in which the sale or distribution of a Prohibited 7-OH Product is not prohibited by this Local Law.

SECTION 6. SEVERABILITY.

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

SECTION 7. REVERSE PREEMPTION

This article shall be null and void on the day that statewide legislation goes into effect incorporating either the same or substantially similar provisions as are contained in this local law or in the event that a pertinent New York State or United States of America administrative agency issues and promulgates regulations preempting such action by the County of Dutchess.

SECTION 8. SEQRA DETERMINATION.

It is hereby determined, pursuant to the provisions of the New York State Environmental Quality Review Act, ECL § 8-0101, et seq., and its implementing regulations, 6 NYCRR Part 617, that the adoption of this Local Law is a “Type II” Action within the meaning of 6 NYCRR §§ 617.5(c)(26) and (33), and, accordingly, is of a class of actions which do not have a significant impact on the environment and no further review is required.

SECTION 9. EFFECTIVE DATE.

This local law shall take effect immediately upon filing in the Office of the Secretary of State.

FISCAL IMPACT STATEMENT

☐ NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS

(To be completed by the requesting department)

Total Current Year Cost \$ _15,000_____

Total Current Year Revenue \$ _0_____

and Source

Source of County Funds (check one):

☒ Existing Appropriations

☐ Contingency

☐ Transfer of

☐ Additional Appropriations

☐ Other (explain)

Existing
Appropriations

Identify Line Item(s):

Related Expenses: Amount \$ _15,000__

Nature/Reason:

Anticipated Savings to County:
_____0_____

Net County Cost (this year): __\$15,000__
Over Five Years: __\$225,000_____

Are there any costs associated with this resolution that impact any municipality within Dutchess County? _NO_ (If YES, provide detail here or separately)

Additional Comments / Explanation:

Health Department staff will need to perform outreach and education as well as surveillance to implement the proposed Local Law. The annual cost is projected at \$45,000 with a prorated amount of \$15,000 for this year.

Prepared by: _Anthony Ruggiero / Kristofer Munn__ Prepared On: _7/29/2026_