



HUDSON VALLEY BOTANICALS

Poughkeepsie, New York | Established 2017

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TECHNICAL NOTE | INTRODUCTORY NO. 6, PRINT NO. 1 OF 2026 | FOR THE OFFICE OF THE COUNTY ATTORNEY

Submitted directly to this office by Scott Urbin, owner of Hudson Valley Botanicals LLC of Poughkeepsie, a New York kratom vendor selling into Saratoga County, with a commercial interest in this law. I am not an attorney. Each item below is offered as a question tied to the draft text circulated with the September 1 Public Safety Committee agenda, for whatever use this office finds appropriate.

1. APPLICATION TO CONDUCT LAWFUL UNDER STATE LAW

Section 4(E) provides that nothing in that subdivision “shall be construed to create an exemption for a Natural Kratom Leaf Product or any other Kratom Product that is otherwise lawful under applicable federal or New York State law.” New York currently permits kratom sales to adults 21 and over under the chapter laws of December 22, 2025, and S8925-A, passed by both houses in June and awaiting the Governor, would prohibit 7-OH above stated thresholds while leaving leaf sales lawful statewide. Question: whether a county prohibition drafted to reach conduct the State permits raises a conflict preemption issue, and whether the quoted sentence is intended to state that reach expressly.

2. AUTHORITY

The draft recites only “Be it enacted by the Board of Supervisors of the County of Saratoga.” The comparable Dutchess County law recites Municipal Home Rule Law §10(1)(ii)(a)(12) and the county charter. Question: the Municipal Home Rule Law provision on which Introductory No. 6 rests, and whether it should be recited in the text.

3. SECTION 4(F), THE FDA EXCEPTION

The only exception runs to a product that “receives approval from the United States Food and Drug Administration ... after the effective date of this Local Law.” No kratom product currently holds FDA approval, and the exception is drafted so that a pre-existing approval would not qualify. As written the exception may operate as a null set at enactment, leaving no compliance path short of exiting the county. Question: whether that is intended, given that Section 6 attaches criminal liability.

4. PENALTY SEVERITY RELATIVE TO STATE-LAWFUL CONDUCT

Section 6(A) makes a violation an unclassified misdemeanor punishable by a fine of up to \$1,000, imprisonment of up to one year, or both. Section 6(C) makes each sale a separate violation and Section 6(D) makes each day of a continuing violation separate. The other New York instruments proceed differently: the Dutchess resolution uses strict liability civil penalties through its health department, and Albany's order imposes civil penalties of \$1,000 to \$2,000, reserving misdemeanor exposure under Public Health Law §12-b(1) for willful violation of the order. Introductory No. 6 attaches the custodial penalty to the sale itself. Question: whether that is intended for retail sale of a product the State currently permits to adults.

5. THE FINDINGS SUPPORTING A CRIMINAL PROHIBITION

Section 1 finds that kratom products “may contain” mitragynine or 7-OH and that their sale “presents potential risks.” The Albany County order, addressing the same subject, recites poison-control exposure data, specific adverse events, the DEA's July 2026 action, and county-identified overdoses. Question: whether the record supporting Introductory No. 6 will be developed further before adoption, given the criminal penalty in Section 6.

6. ABSENCE OF A CONCENTRATION DISTINCTION

The draft draws no line between concentrated or synthetic 7-OH products and natural leaf, and Section 4(E) forecloses one. Both New York county instruments on this subject draw that line: Dutchess Resolution 2026136 at two percent of total alkaloids or one milligram per serving, and Albany's Section 1(c) at 0.05% on a dry-weight basis or one milligram per serving, each expressly excluding natural leaf below the threshold. Both texts accompany this note. Question: whether a threshold definition was considered and rejected, or simply not reached.

7. EXTRATERRITORIAL REACH AND THE DELIVERY DEFINITION

Section 3(E) defines distribution to include “deliver” and applies “whether or not consideration is received,” while Section 4(A) reaches conduct “within Saratoga County.” Question: whether the prohibition is intended to reach a seller located outside the county who ships to an address within it, and if so whether the text should say so as the Dutchess law does, given that Section 6 attaches criminal liability to the answer.

8. SEQRA AND FISCAL REVIEW

The agenda item request form carries a budget impact statement of “No budget impact” and the packet reviewed here contains no SEQRA determination. The Dutchess resolution included a Type II determination under 6 NYCRR §§617.5(c)(26) and (33) and a fiscal impact statement projecting enforcement cost. Question: whether a SEQRA determination will be made before adoption, and whether enforcement cost under Section 5, which assigns enforcement to the Department of Health, the Sheriff's Office, and other county officers, has been estimated.

The filed text of Dutchess County Resolution 2026136 and Albany County Emergency Public Health Order No. 1 of 2026 accompany this note for comparison. I am glad to answer questions in writing at any point.