

# FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

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**BILL #:** [HB 1205](#)

**TITLE:** Kratom

**SPONSOR(S):** Black

**COMPANION BILL:** [SB 994](#) (Gruters)

**LINKED BILLS:** None

**RELATED BILLS:** None

## Committee References

[Industries & Professional  
Activities](#)



[Agriculture & Natural Resources  
Budget](#)



[Commerce](#)

## SUMMARY

### Effect of the Bill:

The bill revises the Florida Kratom Consumer Protection Act to limit the types of products that can be sold, set labeling requirements, ban the mixing of kratom with psychoactive substances, require processors hold a food establishment permit, require federal registration, and require batch testing and reporting of adverse health events.

### Fiscal or Economic Impact:

Indeterminate. The bill may have an indeterminate fiscal impact on state government and the private sector.

[JUMP TO](#)

[SUMMARY](#)

[ANALYSIS](#)

[RELEVANT INFORMATION](#)

[BILL HISTORY](#)

## ANALYSIS

### **EFFECT OF THE BILL:**

The bill revises the [Florida Kratom Consumer Protection Act](#), as follows:

- Adds definitions.
- Limits the type of [kratom](#) products that can be sold.
- Sets requirements for labeling, including a specified warning.
- Bans the mixing of kratom with psychoactive substances.
- Requires that processors hold a food establishment permit.
- Requires registration with the United States [Food and Drug Administration](#) and adherence to the applicable [current good manufacturing practices](#) in the [Federal Food, Drug, and Cosmetic Act](#).
- Requires testing of each batch of finished kratom product.
- Requires submittal of an adverse event report when a processor becomes aware of an adverse health event suspected of being associated with a kratom product.
- Exempts certain products for sale out of state.

### Definitions

The bill adds definitions for “attractive to children”, “kratom”, “kratom beverage”, “kratom food service establishment”, and “processor”. The bill removes from the definition of “kratom product” reference to “an extract, synthetic alkaloid, or synthetically derived compound of such plant”, thereby limiting the regulation to “the plant or any part of the plant *Mitragyna speciosa*”. “Processor” is defined as an individual or business entity that refines kratom into ingredients for kratom products, manufactures kratom products, or packages finished kratom products for resale. (Section [1](#))

### Kratom Products

**STORAGE NAME:** h1205.IPA

**DATE:** 2/3/2026

The bill defines “finished kratom product” as “a kratom product that is ready for sale to an end user. For purposes of registration, a finished kratom product is differentiated by its ingredients, not by its weight, volume or size.” The bill limits finished kratom products sold to the consumer at a retail establishment, including a food establishment<sup>1</sup>, convenience store, or kava or kratom bar be in the following forms: dried leaf, kratom beverage, powder, pill, liquid dietary supplement, gummy or food that are not attractive to children, or capsule. Additionally, the finished kratom product must:

- Submit a certificate of analysis.
- Hold a food establishment permit or be exempt from the permit.
- Include directions for consumption on the products label, including but not limited to:
  - Maximum dosage.
  - Servings per package.
  - Milligrams of 7-[hydroxymitragynine and mitragynine](#) per serving.
  - A warning of number of servings that can safely be consumed per day.
  - A warning prohibiting the use by individuals under 21.
  - A warning against use by pregnant or breastfeeding individuals.
  - A warning advising the consumer to consult a healthcare professional before use, that it can be habit-forming, and that it might cause adverse health effects.
  - A specific warning that the statements have not been evaluated by the [Food and Drug Administration](#).
  - The expiration date.
  - The name and place of business of the registrant.
- Not be attractive to children.
- Be in a container that is suitable for products for human consumption, is compliant with the United States Poison Prevention Packaging Act, or contains a graduated measuring device, if applicable.
- Not be adulterated or mixed with any other ingredient, including but not limited to, metals, pesticides, or pathogens, in excess of the limits set forth in this section or by [Department of Agriculture and Consumer Services](#) (DACS) rule.
- Only be sold in establishments that do not allow individuals under 21 and require age verification.
- Not be served in a form that combines or mixes finished kratom products with psychoactive substances that impact the central nervous system, including, but not limited to, alcohol, caffeine, kava, cannabinoids, and nicotine. (Section [1](#))

### **Permits and Federal Compliance**

The bill requires that processors manufacturing or distributing finish kratom products hold a food service establishment permit (permit). A “kratom food service establishment” is defined as “any [public food service establishment](#) licensed under chapter 509 which sells finished kratom products.”

The bill prohibits a kratom food service establishments from operating a cottage food operation.

A kratom food service establishment does not need a permit if a kratom beverage is sold with another food or beverage for consumption on the premises. However, the establishment may not sell a kratom beverage with alcohol, drugs, or another finished kratom product. A “kratom beverage” is defined as “a prepackaged liquid kratom product in the form of a tea, seltzer or tonic water, or tincture.” (Section [1](#))

The bill requires a processor that refines, manufactures, packages, or offers for sale kratom, kratom products, or finished kratom products be properly registered with the United States Food and Drug Administration, adhere to

<sup>1</sup> Food establishment” means a factory, food outlet, or other facility manufacturing, processing, packing, holding, storing, or preparing food or selling food at wholesale or retail. The term does not include a business or activity regulated under s. 413.051, s. 500.80, chapter 509, or chapter 601. The term includes tomato packinghouses and repackers but does not include any other establishments that pack fruits and vegetables in their raw or natural states, including those fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled, natural form before they are marketed.

the applicable current good manufacturing practices pursuant to the Federal [Food, Drug, and Cosmetic Act](#), and maintain product liability insurance with an occurrence limit of \$3 million. (Section [1](#))

### **Testing**

The bill requires processors to submit, upon request, a certificate of analysis from an accredited laboratory to the [Department of Agriculture and Consumer Services \(DACS\)](#). The laboratory must be accredited by a third-party accrediting body as a competent testing laboratory pursuant to ISO/IEC 17025 of the International Organization for Standardization. The processor may not have any financial interest in the laboratory or the accrediting body. The processor must retain each certificate of analysis for at least 1 year after the expiration of the relevant batch of finished kratom product. (Section [1](#))

Each certificate of analysis must demonstrate that the finished kratom product complies with the concentration limits for the following:

- Alkaloid and alkaloid metabolites,
- Residual solvents,
- Heavy metals,
- Pesticides, and
- Any other substance limited by DACS rule. (Section [1](#))

The bill specifies that if:

- A laboratory fails to ensure accuracy, it must be assessed an administrative fine in an amount prescribed by DACS rule; and
- A processor fails to provide DACS a certificate of analysis within 7 days after a request, DACS must revoke the processor's permit. (Section [1](#))

### **Adverse Health Event**

If a processor becomes aware of an adverse health event suspected of being associated with the use or consumption of a finished kratom product, the bill requires the processor submit to DACS an adverse event report pursuant to chapter IX of the Food and Drug Administration's [Food, Drug, and Cosmetic Act](#). If the processor fails to report, DACS shall revoke their permit. (Section [1](#))

### **Enforcement**

The bill authorizes DACS to require independent third-party testing when there is probable cause that a finished kratom product is adulterated. The processor must pay for the testing. If the processor doesn't pay within 30 days of receiving an invoice for the test, DACS must revoke its license. (Section [1](#))

The bill requires DACS to issue a stop-sale or stop-use order for any finished kratom product sold, distributed, manufactured, delivered, or offered for sale in violation of these provisions. The bill prohibits DACS from authorizing the removal or use of any finished kratom product which is attractive to children until the product complies with the requirements in the bill. "Attractive to children" is defined as a product manufactured in a shape that resembles a human, a cartoon character, or an animal; or in a form that resembles an existing candy product that is a widely distributed, branded food item. (Section [1](#))

### **Sale Outside the State**

The bill specifies that the requirements do not apply to finished kratom products that are refined, manufactured, or packaged in this state but shipped or transported outside of the state for sale or use. However, the bill requires that those products may not be sold, shipped, or transported to a consumer in this state, a retail establishment in this state, or an individual who sells or intends to sell such products or a consumer in this state. The package must contain the message "NOT FOR USE OR RETAIL SALE IN FLORIDA". The product must be physically separated from finished kratom products that are or are intended to be sold or used in this state. (Section [1](#))

The bill appropriates the following funds and full-time positions (FTEs) to DACS for the 2026-2027 fiscal year for the purpose of implementing this act:

- \$1,920,141.22 in recurring funds and \$1,791,608 in nonrecurring funds from the General Inspection Trust Fund; and
- 24 full-time equivalent positions with associated salary rate of 1,508,152.18. (Section [2](#))

### **Effective Date**

The effective date of the bill is July 1, 2026. (Section [3](#))

### **RULEMAKING:**

The bill requires DACS to adopt [rules](#) establishing administrative fines for laboratories that fail to ensure accuracy of their certificates of analysis.

*Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.*

### **FISCAL OR ECONOMIC IMPACT:**

#### **STATE GOVERNMENT:**

Indeterminate. The bill may increase expenditures and revenues for DACS related to additional administration and enforcement costs, and the collection of related fees and fines.

#### **PRIVATE SECTOR:**

Indeterminate. The bill may increase expenditures for manufacturers, retailers, and wholesalers to satisfy the new regulatory requirements in the bill. However, such requirements may result in a cost savings to the extent that improvements are made to the health and safety related to the consumption of kratom products.

## **RELEVANT INFORMATION**

### **SUBJECT OVERVIEW:**

#### **Kratom**

Kratom is a tropical tree native to Southeast Asia, which contains two major psychoactive ingredients, [mitragynine](#) and [7-hydroxymitragynine](#), in its leaves.<sup>2</sup> The leaves are crushed and then smoked, brewed with tea, or placed into gel capsules.<sup>3</sup> Consumption of kratom leaves can produce stimulant and sedative effects, and may also lead to psychotic symptoms.<sup>4</sup>

Some research has found that kratom can be used as a substitute for opiate users to combat withdrawal symptoms, as well as to treat muscle ache, fatigue, and other conditions.<sup>5</sup> Low doses of kratom are said to produce a stimulant effect, while higher doses may produce an opioid-like effect.<sup>6</sup> Additionally, research points to the potential for further development of mitragynine and the use of kratom as a harm reduction agent.<sup>7</sup> Even so, the toxicity of

<sup>2</sup> Drug Enforcement Administration, *Kratom* (April 2020), [https://www.dea.gov/sites/default/files/2020-06/Kratom-2020\\_0.pdf](https://www.dea.gov/sites/default/files/2020-06/Kratom-2020_0.pdf) (last visited Feb. 2, 2026).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> See Dimy Fluyau and Neelambika Revedigar, *Biochemical Benefits, Diagnosis, and Clinical Risks Evaluation of Kratom*, FRONTIERS IN PSYCH. J. VOL. 8 (April 24, 2017) <https://www.frontiersin.org/articles/10.3389/fpsy.2017.00062/full> (last visited Feb. 2, 2026).

<sup>6</sup> Fluyau and Neelambika, *supra* note 6.

<sup>7</sup> See Charles Veltri and Oliver Grundmann, *Current Perspectives on the Impact of Kratom Use*, SUBSTANCE ABUSE AND REHAB. J. VOL. 10, 23-31 (July 1, 2019) <https://pubmed.ncbi.nlm.nih.gov/31308789/> (last visited Feb. 2, 2026).

kratom remains a topic of discussion, as well as its potential to cause herb-drug interactions and even be involved in fatalities.<sup>8</sup> While research on kratom is in early stages, kratom itself has the potential to be addictive and has not been shown to be safe or effective for any medical use.<sup>9</sup>

According to the [Food and Drug Administration](#), kratom is not appropriate for use as a dietary supplement. The FDA has concluded from available information, including scientific data, that kratom is a new dietary ingredient for which there is inadequate information to provide reasonable assurance that such ingredient does not present a significant or unreasonable risk of illness or injury and, therefore, dietary supplements that are or contain kratom are adulterated under the FD&C Act. Further, FDA has determined that kratom, when added to food, is an unsafe food additive. Based on these determinations by FDA, kratom is not lawfully marketed as a dietary supplement and cannot be lawfully added to conventional foods.<sup>10</sup>

In December 2023, a Tampa Bay Times analysis of medical examiner reports identified 587 Florida overdose deaths involving kratom since 2013.<sup>11</sup>

### **Florida Kratom Consumer Protection Act of 2023**

In 2023, the Legislature enacted the Florida Kratom Consumer Protection Act,<sup>12</sup> which made it unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, any kratom product to a person under 21 years of age. Violations are a second degree misdemeanor, punishable as provided in [s. 775.082](#) or [s. 775.083, F.S.](#)<sup>13</sup>

In 2024, DACS adopted [rules](#) to implement the act. The rules include the following requirements:<sup>14</sup>

- Each establishment distributing products consisting of or containing Kratom Products must be permitted as a Food Establishment under the Florida Food Safety Act.
- Kratom Products must be packaged and labeled as required by the Florida Food Safety Act.
- Retailers that sell Kratom must display signs regarding the age limit for purchasing Kratom.
- Food Establishments must obtain confirmation that the purchaser is 21 years of age or older before mailing the product.
- Food Establishments must require proof of age from a purchaser of any Kratom product before selling the product to that person.
- Kratom products shall not be offered for sale by means of vending machines.

The rule authorizes DACS to enforce violations by imposing stop-sale/stop-use orders, administrative fines of up to \$5,000 per violation, permit suspensions, and/or revocations, and other administrative disciplinary procedures.<sup>15</sup>

### **State and Federal Prohibitions**

Currently, kratom is not listed as a controlled substance under federal law. In 2016, the U.S. Drug Enforcement Administration (DEA) submitted a notice of intent to place kratom into Schedule I of the Controlled Substances Act (CSA) based on abuse potential and risk to public health.<sup>16</sup> However, the DEA withdrew the notice a few months

<sup>8</sup> *Id.*; see also FLORIDA DEPT. LAW ENF'T, Drugs <https://www.fdle.state.fl.us/MEC/Publications-and-Forms/Documents/Drugs-in-Deceased-Persons/2021-Interim-Drug-Report-FINAL.aspx> (last visited Feb. 2, 2026). In May of 2022 the Florida Department of Law Enforcement published its 2021 Interim Report, which found a 36% rise in kratom-involved deaths over the first half of 2021.

<sup>9</sup> NAT'L CENTER FOR COMPLEMENTARY AND INTEGRATIVE HEALTH, *Kratom*, <https://www.nccih.nih.gov/health/kratom> (last visited Feb. 2, 2026).

<sup>10</sup> U.S. Food & Drug Administration, *FDA and Kratom*, <https://www.fda.gov/news-events/public-health-focus/fda-and-kratom> (last visited Feb. 2, 2026).

<sup>11</sup> Helen Freund, Sam Ogozalek, Langston Taylor and Hannah Critchfield, *Deadly Dose Part 1: Hundreds died using kratom in Florida. It was touted as safe.* Tampa Bay Times, December 7, 2023, <https://project.tampabay.com/investigations/deadly-dose/kratom-overdose-deaths-florida-mitragynine-testing/> (last visited Feb. 3, 2026).

<sup>12</sup> Ch. 2023-182, Laws of Fla.

<sup>13</sup> S. [500.92, F.S.](#)

<sup>14</sup> R. 5K-4.030, F.A.C.

<sup>15</sup> *Id.*

<sup>16</sup> 81 FR 59929.

later based on public comments.<sup>17</sup> In a letter obtained by an industry group, U.S. Health and Human Services appeared to rescind their recommendation to the DEA to place kratom on Schedule I of the CSA in 2018, stating that such action should wait until it is supported by further research on kratom uses, abuse, and risks.<sup>18</sup> The DEA continues to label kratom as a drug of concern.<sup>19</sup>

The U.S. Food and Drug Administration (FDA) has stated that there is substantial concern regarding the safety of kratom and the risk it may pose to public health, and indicated that there are currently no FDA-approved uses for kratom.<sup>20</sup> The FDA is actively evaluating all available scientific information on the safety and effects of kratom and continues to warn consumers not to use any kratom products, but has made no official findings.<sup>21</sup>

In 2015, the FDA issued an import alert<sup>22</sup> that labels kratom as an adulterating ingredient.<sup>23</sup> As a result, the FDA seized imports of kratom-containing dietary supplements and bulk dietary ingredients. In May of 2021, the FDA announced the seizure of around 37,500 tons of adulterated kratom in Fort Myers, Florida, worth an estimated \$1.3 million.<sup>24</sup> On October 26, 2021, a consent decree of condemnation and destruction against the seized articles by the FDA was entered, which required the claimants to pay a penal bond and destroy all seized articles.<sup>25</sup>

In July 2025, the FDA recommended a scheduling action to control certain 7-hydroxymitragynine (also known as 7-OH) products under the CSA. 7-OH is a concentrated byproduct of the kratom plant. It has the potential for abuse because of its ability to bind to opioid receptors.<sup>26</sup>

In August 2025, Florida's Attorney General filed an emergency rule making it illegal to sell, possess, or distribute any isolated or concentrated form of 7-OH in the state.<sup>27</sup> The rule and a superseding emergency rule,<sup>28</sup> adds 7-hydroxymitragynine as a Schedule 1 drug which is described as a substance that has a high potential for abuse and has no currently accepted medical use in treatment in the United States.<sup>29</sup>

In 2014, Sarasota County banned kratom, labeling it as a designer drug.<sup>30</sup> With the exception of Sarasota County, in Florida, all parts of the plant and its extracts are legal to cultivate, buy, possess, and distribute without a license or prescription.

<sup>17</sup> 81 FR 70652

<sup>18</sup> Josh Long, *HHS in 2018 rescinded recommendation to schedule kratom as a drug*, Jan. 28, 2021, <https://www.naturalproductsinsider.com/regulatory/hhs-2018-rescinded-recommendation-schedule-kratom-drug> (last visited Feb. 2, 2026).

<sup>19</sup> U.S. Drug Enforcement Administration, *Kratom*, <https://www.dea.gov/factsheets/kratom> (last visited Feb. 2, 2026).

<sup>20</sup> U.S. Food and Drug Administration, *FDA and Kratom*, <https://www.fda.gov/news-events/public-health-focus/fda-and-kratom> (last visited Feb. 2, 2026).

<sup>21</sup> *Id.*

<sup>22</sup> U.S. Food and Drug Administration, *Import Alert 54-15*, [Import Alert 54-15 \(fda.gov\)](https://www.fda.gov/oc/imports/import-alert-54-15) (last visited Feb. 2, 2026).

<sup>23</sup> *Id.* The FDA labeled kratom as adulterating based on the absence of a history of use or other evidence of safety establishing that kratom will reasonably be expected to be safe as a dietary ingredient, kratom and kratom-containing dietary supplements and bulk dietary ingredients are adulterated because they contain a new dietary ingredient for which there is inadequate information to provide reasonable assurance that such ingredient does not present a significant or unreasonable risk of illness or injury.

<sup>24</sup> U.S. Food and Drug Administration, *FDA Announces Seizure of Adulterated Dietary Supplements Containing Kratom*, May 21, 2021, [FDA Announces Seizure of Adulterated Dietary Supplements Containing Kratom](https://www.fda.gov/oc/imports/import-alert-54-15) (last visited Feb. 2, 2026).

<sup>25</sup> *Id.*

<sup>26</sup> U.S. Food and Drug Administration, *FDA Takes Steps to Restrict 7-OH Opioid Products Threatening American Consumers*, July 29, 2025, [FDA Takes Steps to Restrict 7-OH Opioid Products Threatening American Consumers | FDA](https://www.fda.gov/oc/imports/import-alert-54-15), (last visited February 2, 2026).

<sup>27</sup> Office of the Attorney General, *Attorney General James Uthmeier Files Emergency Rule; Immediately Removing Dangerous 7-OH From Store Shelves*, August 13, 2025, [Attorney General James Uthmeier Files Emergency Rule: Immediately Removing Dangerous 7-OH From Store Shelves | My Florida Legal](https://www.flcourts.gov/Attorney-General-James-Uthmeier-Files-Emergency-Rule-Immediately-Removing-Dangerous-7-OH-From-Store-Shelves), (last visited Feb. 3, 2026).

<sup>28</sup> R. 2ER25-3, F.A.C.

<sup>29</sup> [S. 893.03\(1\), F.S.](#)

<sup>30</sup> See Sarasota, FL., Code of Ordinances, Sec. 62-351 (2014).



Kratom is illegal in Alabama,<sup>31</sup> Arkansas,<sup>32</sup> Indiana,<sup>33</sup> Rhode Island,<sup>34</sup> Vermont,<sup>35</sup> and Wisconsin.<sup>36</sup> Other states such as Arizona,<sup>37</sup> Georgia,<sup>38</sup> Texas,<sup>39</sup> and Utah<sup>40</sup> regulate kratom under their state's version of the Kratom Consumer Protection Act. A total of sixteen states regulate the sale of kratom products in some fashion. The state laws are not uniform. Their differences arise in their handling of particular issues relating to kratom products. These issues include:<sup>41</sup>

- Age restrictions
- Marketing to children.
- Adulteration and contamination.
- Strength.
- Labeling.
- Testing and sampling.
- Registration and permitting.
- Synthetic alkaloids.
- Local authority.
- Private right of action.
- Taxation.

### **Federal Food, Drug, and Cosmetic Act**

The Federal Food, Drug, and Cosmetic Act (FDCA) is a federal law which establishes the legal framework within which the FDA operates.<sup>42</sup> The FDA develops regulations under the FDCA for the safety of foods, drugs, and cosmetics based on the laws set forth in the FDCA, including when a food is adulterated.<sup>43</sup> Instances where a food must be determined to be adulterated include when it:<sup>44</sup>

- Bears or contains any poisonous or deleterious substance which may render it injurious to health; such as consisting in whole or in part of any filthy, putrid, or decomposed substance;
- Is a dietary supplement or contains a dietary ingredient that presents a significant or unreasonable risk of illness or injury under use pursuant to the label;
- Is a new dietary ingredient for which there is inadequate information to provide reasonable assurance that such ingredient does not present a significant or unreasonable risk of illness or injury.

When a food is determined to be adulterated, the FDA may take the following compliance measures:<sup>45</sup>

- Warning and untitled letters,
- Import alerts,
- Recalls,

<sup>31</sup> See Alabama Public Health, *Controlled Substance List*, Jan. 20, 2021, <https://www.alabamapublichealth.gov/blog/assets/controlledsubstanceslist.pdf> (last visited Feb. 2, 2026).

<sup>32</sup> See Arkansas Department of Health, *List of Controlled Substances*, available at <https://codeofarrules.arkansas.gov/Rules/PartDocument?partID=705> (last visited Feb. 2, 2026).

<sup>33</sup> See IC 35-31.5-2-321.

<sup>34</sup> Rhode Island Department of Health, *Designation of Controlled Substance*, Apr. 10, 2017, [https://docs.wixstatic.com/ugd/9ba5da\\_9836aee2b9f04a30b55fe480fe3c6ff4.pdf](https://docs.wixstatic.com/ugd/9ba5da_9836aee2b9f04a30b55fe480fe3c6ff4.pdf) (last visited Feb. 2, 2026).

<sup>35</sup> See Vt. Admin. Code 12-5-23:4.0.

<sup>36</sup> See W.S.A. 961.14.

<sup>37</sup> See AZ Rev Stat § 36-795.02.

<sup>38</sup> See GA Code § 16-13-121.

<sup>39</sup> Texas Health and Safety Code Ann. Ch. 444 (2023).

<sup>40</sup> See UT Code § 4-45-101.

<sup>41</sup> Congressional Research Service, *Kratom Regulation: Federal Status and State Approaches*, November 28, 2023, <https://www.congress.gov/crs-product/LSB11082> (last visited Feb. 2, 2026).

<sup>42</sup> 21 U.S.C. 301.

<sup>43</sup> See 21 C.F.R. §§ 1-1299.

<sup>44</sup> 21 U.S.C. 342.

<sup>45</sup> CRS Report R43609, *Enforcement of the Food, Drug, and Cosmetic Act: Select Legal Issues*, February 9, 2018, [Enforcement of the Food, Drug, and Cosmetic Act: Select Legal Issues - EveryCRSReport.com](https://www.congress.gov/crs-product/LSB11082) (last visited Feb. 2, 2026).

- Debarment,
- Civil money penalties,
- Seizure of products,
- Injunctions, and
- Criminal prosecution.

The [Current Good Manufacturing Practice](#) Regulations set minimum requirements for manufacturing, processing, and backing of a drug product. The regulations make sure that a product is safe to use, and it has the ingredients and strength it claims to have.<sup>46</sup>

### **Florida Food Safety Act**

The purpose of the Florida Food Safety Act (Act)<sup>47</sup> is to safeguard and protect the consuming public from product use and merchandising deceit regarding the intrastate commerce of food. The Act is also meant to promote conformance with the Federal Food, Drug, and Cosmetic Act,<sup>48</sup> Agriculture Marketing Act of 1946,<sup>49</sup> and Federal Trade Commission Act.<sup>50</sup><sup>51</sup>

The [Department of Agriculture and Consumer Services](#) (DACS) is the agency responsible for the enforcement of the production, manufacture, transportation, and sale of food through the Act. The DACS Division of Food Safety (Division) is directly responsible for assuring the public of a safe, wholesome, and properly represented food supply.<sup>52</sup> The division accomplishes this through the permitting<sup>53</sup> and inspection<sup>54</sup> of food establishments,<sup>55</sup> the inspection and evaluation of food products, and the performance of specialized laboratory testing on a variety of food products sold or produced in Florida.<sup>56</sup> The Division also proactively monitors food from manufacturing and distribution to retail.<sup>57</sup>

As part of its responsibilities, DACS can impose a variety of disciplinary actions against food establishments for specified violations.<sup>58</sup> This includes, but is not limited to, revoking or suspending<sup>59</sup> the permit of a food establishment or imposing Class II<sup>60</sup> administrative fines.<sup>61</sup> DACS, or its duly authorized agent, can also issue and enforce a stop-sale, stop-use, removal, or hold order if DACS or its agent finds any food, food processing equipment, area, or food storage area is in violation of the Florida Food Safety Act.<sup>62</sup>

Many FDA regulations have been adopted as rules of the division.<sup>63</sup>

<sup>46</sup> U.S Food and Drug Administration, *Current Good Manufacturing Practice (CGMP) Regulations*, November 21, 2025, [Current Good Manufacturing Practice \(CGMP\) Regulations | FDA](#) (last visited Feb. 2, 2026).

<sup>47</sup> See [ch. 500, F.S.](#)

<sup>48</sup> 21 U.S.C. §§ 301-399d.

<sup>49</sup> 7 U.S.C. §§ 1621-1629.

<sup>50</sup> 5 U.S.C. §§ 41-58, as amended.

<sup>51</sup> S. [500.02, F.S.](#)

<sup>52</sup> FDACS, *Division of Food Safety*, <https://www.fdacs.gov/Divisions-Offices/Food-Safety> (last visited Feb. 2, 2026).

<sup>53</sup> S. [500.12, F.S.](#)

<sup>54</sup> S. [500.147, F.S.](#)

<sup>55</sup> S. [500.03\(1\)\(p\), F.S.](#), defines “food establishment” as a factory, food outlet, or other facility manufacturing, processing, packing, holding, storing, or preparing food or selling food at wholesale or retail. The term does not include a business or activity regulated under s. 413.051, s. 500.80, chapter 509, or chapter 601. The term includes tomato packinghouses and repackers but does not include any other establishments that pack fruits and vegetables in their raw or natural states, including those fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled, natural form before they are marketed.

<sup>56</sup> S. [500.09\(6\), F.S.](#)

<sup>57</sup> S. [500.81\(3\)\(b\)1., F.S.](#)

<sup>58</sup> S. [500.121, F.S.](#)

<sup>59</sup> *Id.*

<sup>60</sup> The fine for each Class II violation cannot exceed \$5,000. S. [570.971\(1\)\(b\), F.S.](#)

<sup>61</sup> S. [500.121, F.S.](#)

<sup>62</sup> S. [500.172, F.S.](#)

<sup>63</sup> R. 5K-4.002, F.A.C.



The following are examples of when food is deemed adulterated:<sup>64</sup>

- Food that bears or contains any poisonous or deleterious substance which may render it injurious to health;
- Food that bears or contains any added poisonous or added deleterious substance; a food additive; or a color additive, which is unsafe;
- Food that is or bears or contains any food additive which is unsafe;
- Food whose container is composed, in whole or in part, of any poisonous or deleterious substance;
- Food where any substance has been substituted wholly or in part therefor;
- Food where damage or inferiority has been concealed in any manner; and
- A dietary supplement or its ingredients that present a significant risk of illness or injury due to certain labeling and ingredient requirements.

Misbranded food includes food offered for sale and its label or labeling does not comply with the requirements of 21 U.S.C. s. 343(r) pertaining to nutritional content claims and health claims. Labels for supplements may not claim to diagnose, mitigate, treat, cure, or prevent a specific disease or class of diseases.<sup>65</sup>

DACS may inspect food that may be adulterated or misbranded;<sup>66</sup> seize food that is adulterated or misbranded;<sup>67</sup> suspend permits of those who sell food that is adulterated or misbranded, adulterate or misbrand food, or receive food in commerce that is adulterated or misbranded;<sup>68</sup> and impose a fine for adulterated or misbranded food, not to exceed \$5,000<sup>69</sup> per violation.<sup>70</sup>

### Public Food Service Establishment

A “public food service establishment” is any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.<sup>71</sup>

### RECENT LEGISLATION:

YEAR	BILL #/SUBJECT	HOUSE/SENATE SPONSOR(S)	OTHER INFORMATION
2023	<a href="#">CS/HB 179</a> - Florida Kratom Consumer Protection Act	Andrade/ <i>Gruters</i>	The bill became law on July 1, 2023
2025	<a href="#">CS/HB 1489</a> - Kratom Products	Owen/ <i>Collins</i>	Died in Agriculture & Natural Resources Budget Subcommittee

### OTHER RESOURCES:

[United States Drug Enforcement Administration, Kratom](#)

<sup>64</sup> S. [500.10, F.S.](#)

<sup>65</sup> S. [500.11\(1\)\(n\), F.S.](#); 21 U.S.C. s. 343 (r)(6)(C).

<sup>66</sup> S. [500.147\(1\), F.S.](#)

<sup>67</sup> S. [500.173, F.S.](#)

<sup>68</sup> S. [500.12\(4\), F.S.](#)

<sup>69</sup> S. [570.971\(1\)\(b\), F.S.](#)

<sup>70</sup> S. [500.121, F.S.](#)

<sup>71</sup> S. [509.013\(5\)\(a\), F.S.](#)

[7-Hydroxymitragynin \(7-OH\): An Assessment of the Scientific Data and Toxicological Concerns Around an Emerging Opioid Threat](#)

[United States Food & Drug Administration, FDA and Kratom](#)

[University of Florida College of Pharmacy, Kratom Resources](#)

[Cleveland Clinic, Is Kratom Safe To Use?](#)

## BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Industries &amp; Professional Activities Subcommittee</a>			Anstead	Miralia
<a href="#">Agriculture &amp; Natural Resources Budget Subcommittee</a>				
<a href="#">Commerce Committee</a>				