

105 CMR 726.000: TEMPORARY PLACEMENT OF KRATOM IN SCHEDULE 1 PURSUANT TO
M.G.L. c. 94C, § 2A

Section

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726.001: Findings

- (1) The Commissioner has considered kratom's actual or relative potential for abuse and its history and current patterns of abuse and has found that kratom is an imminent hazard to the public safety.
- (2) The Commissioner has found:
 - (a) The order stated in 105 CMR 726.004 is necessary:
 - 1. to avoid an imminent hazard to the public safety; and,
 - 2. for the preservation of the public health, safety or general welfare.
 - (b) Kratom is not listed in any other schedule identified in M.G.L. c. 94C, § 3.
 - (c) No exception is in effect for kratom pursuant to M.G.L. c. 94C, § 4.
 - (d) Kratom is not excluded under M.G.L. c. 94C, § 2(c).
- (3) Based on the foregoing, the Commissioner has found that the immediate adoption of 105 CMR 726.000 is necessary for the preservation of the public health, safety, and general welfare.

726.002: Purpose

The purpose of 105 CMR 726.000 is to place Kratom in schedule 1 of M.G.L. c. 94C: *Controlled Substances Act*.

726.003: Definitions

Commissioner. The Commissioner of Public Health.

Kratom. The plant *mitragyna speciosa*, mitragynine, 7-hydroxymitragynine (also known as 7-OH), mitragynine pseudoindoxyl (also known as MP), dihydro-7-hydroxymitragynine (also known as MGM-15), 9-fluoro-7-hydroxymitragynine (also known as MGM-16), including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible. Kratom includes any product held out or holding itself out to be kratom.

Board of Health or Local Board of Health or Regional Board of Health. The appropriate and legally designated health authority of the city, town, or other legally constituted governmental unit within the Commonwealth having the usual powers and duties of the board of health or health department of a city or town.

Schedule. As defined in M.G.L. c. 94C, § 1.

726.004: Order

Kratom is hereby placed in schedule 1 in accordance with M.G.L. c. 94C, § 2A.

726.005: Effective Date

The effective date of 105 CMR 726.000 shall be August 28, 2026. 105 CMR 726.000 shall remain in effect for one year from its effective date unless the Commissioner finds during the intervening period that the order stated in 105 CMR 726.004 is no longer necessary.

726.006: Guidance to all Local and Regional Boards of Health

Possession or distribution of kratom by any food, retail or other commercial establishment shall constitute an imminent health hazard. While the order stated in 105 CMR 726.004 is in effect, a board of health or an authorized agent, the local inspection department or the equivalent, or a municipal government or its agent may, pursuant to M.G.L. c. 111, § 30 and any regulation promulgated pursuant thereto, take any enforcement action consistent with a finding of an imminent health hazard, up to and including summary suspension of a municipal license or permit held by the establishment including, but not limited to, a permit to operate.

The Commissioner may issue other guidance under 105 CMR 726.006 as may be necessary.

REGULATORY AUTHORITY

M.G.L. c. 94C, § 2A