

**Written Testimony of Senator Curt Bramble, Utah State Senate  
Before The Ohio Senate Health Committee  
September 27, 2023**

Chairman Huffman, Vice-Chair Johnson, Ranking Member Antonio and members of the Committee, thank you for this opportunity this morning to provide my perspectives on kratom, and why I believe it is important for every state to protect consumers of kratom products that are offered for sale in their state.

Three years ago, I had never heard of kratom. Many of you may have been in that same position prior to seeing this legislation being introduced in the Ohio Legislature.

I did not know that Kratom had become a very popular product in the United States with consumers who had found an alternative to coffer for that energy boost and increased focus, to help reduce anxiety, and even to find an alternative to dangerously addictive and potentially dangerous opioids in the management of acute and chronic pain.

What I did know was that we are all experiencing a public health crisis in the United States with the number of people who struggle with addiction to products that they initially tried in order to manage acute and chronic pain issues, often related to workplace or sports injuries they had suffered.

That was certainly true in my own family. My daughter and her high school sweetheart we're both active athletes and both had their share of injuries that led to treatments that included doctor-prescribed opioid treatments. After their marriage, the addiction cycle continued that took the predictable path of impacting their social interactions with family and friends, and ultimately lead to incarceration.

While my daughter was eventually able to break the shackles of those addictions, her husband could not. Divorce followed that shattered their family, and eventually her former husband died of an overdose and became one of those statistics we read about in the context of the drug overdose public health crisis we are experiencing in America today.

When I first learned about kratom the thing that stood out to me was the potential it offered for those trapped in the cycle of addiction to have a safer alternative than the very predictable outcomes of opioid use and addiction. I was fascinated by the scientific reports that documented that kratom, this natural plant grown in Southeast Asia, have been used for centuries safely and that it had more recently been found to be an effective alternative for some people to these prescription medications that have such devastating negative effects on the user.

I was stunned to learn of the position of the Food and Drug Administration in Washington DC because I've always had confidence in the FDA to be the protector of the American public's health.

Instead, what we have today, is an FDA that is determined that they are going to expand their regulatory authority, much like they attempted to do with dietary supplements and vitamins in the early 1990s, by restricting kratom to be a prescription medication available to the public only after the onerous new drug application process that typically takes up to 10 years and cost more than \$5 billion to gain approval.

If that position by the FDA were taken because kratom is a dangerous substance, then I would be fully on board. But that is not the truth.

The FDA has had a long-standing bias against all dietary supplement and botanical products, and they have abused their regulatory authority in order to impose unrealistic and unfair regulatory burdens that essentially ban consumers from having access to otherwise safe and effective products.

That is the story of kratom.

To clear the field for some innovator to submit a chemically formulated kratom product as a new drug application, the FDA had to have the natural plant banned. The market for a chemically formulated drug would be suppressed if consumers could just buy the natural plant at a significantly reduced price.

Accordingly, in 2016, the FDA petitioned the Drug Enforcement Administration (DEA) to classify kratom's two primary alkaloids as a Schedule I substances under the Controlled Substances Act. The DEA withdrew that recommendation and asked the FDA to provide more complete evidence to justify the scheduling.

In 2017, the FDA submitted its second scheduling recommendation, and the HHS Assistant Secretary of Health, Dr. Brett Giroir, withdrew that recommendation in a blistering rebuke of the disappointingly poor science and data provided by the FDA. Dr. Giroir cited the risk to millions of Americans who would be forced from kratom to extremely dangerous and potentially deadly opioids to manage acute and chronic pain.

The FDA then ramped up their attack on kratom by taking their anti-kratom recommendations to the international level when they sought a ban on kratom through the UN Commission on Narcotic Drugs. That recommendation was rejected by an 11-1 vote by the Expert Committee on Drug Dependence at the World Health Organization that determined there is insufficient evidence to even justify a critical review of kratom, much less an international ban.

The failure of the FDA to appropriately regulate kratom has allowed unscrupulous vendors to fill the marketplace with adulterated kratom products, that often include controlled substances like fentanyl, heroin, and morphine. These vendors infuse these adulterants into kratom products in order to increase sales of their products – in short, to make money.

The natural kratom plant does not give any consumer the reinforcing euphoric high that is the signature effect of traditional opioids. When an unsuspecting kratom consumer purchases what they believe is a pure kratom product, and they experience that euphoric high that is derivative of the adulterant, they continue to buy that adulterated kratom product simply because it seems to have a stronger effect than they experienced with pure kratom products. In short, they are duped by the bad-actor kratom manufacturers.

The addiction profile for fentanyl, heroin, and morphine is well-established. The progression from an addiction to these controlled substances to abuse is equally well documented and the unfortunate outcome is often a drug overdose death. The most recent data from the Centers for Disease Control (CDC) documents that we have had the highest number of drug overdose

deaths in our history in the most recent 12-month period where there were more than 100,000 drug overdose deaths.

The scientific research documents that kratom also does not have any significant impact on the respiratory system of the consumer. Respiratory depression is the reason why drug overdose deaths occur. The research documents that kratom does not induce any significant addiction liability.

To be clear, kratom, like many other consumer substances, can result in a dependence that requires responsible use. Because the kratom plant is part of the coffee family, research shows that withdrawal from a kratom dependence is relatively mild and includes a period of about a week to 10 days of an upset stomach, headache, and minor discomfort. That is vastly different from a profile of withdrawal from an opioid addiction, that often requires interventions with other powerful drugs and months or years of withdrawal treatment.

A study by Johns Hopkins University of adult kratom consumers who used kratom to wean off of opioids reported that 87% of those consumers had relief from withdrawal symptoms, and 35% were opioid free within a year. That is the kind of harm reduction outcome that all of us want.

That is why I was the sponsor of the Utah Kratom Consumer Protection Act, which was the first KCPA enacted.

Since then, Georgia, Arizona, Nevada, and Oklahoma have enacted similar KCPA legislation.

On January 5, 2022, the Wisconsin House State Affairs Committee voted 9-2 to repeal the ban on kratom there and replace it with the KCPA. Wisconsin was one of six states that had banned kratom because of the FDA's disinformation campaign between 2012 and 2016.

There are over 20 states that are considering KCPA legislation in the current legislative session.

I can also tell you that my interest in kratom because of the tragedy that our own family had experienced led me to find out as much as I could about Kratom, including traveling to Indonesia and the jungles of Borneo where kratom grows naturally. I have seen how this plant grows, how it is harvested, and the processes of grinding kratom leaves into powder for shipment. I have talked with local farmers and government officials in Indonesia about the challenges that they experience in shipping kratom to the US because of the interference from our FDA.

I am convinced that the only way to hold the FDA accountable is for the states to provide protections for kratom consumers that the FDA refuses to do today. I believe our first obligation in the states is to formulate good public policies that provide those consumer protections for our citizens. We cannot allow ourselves to be pawns for the FDA to prosecute their own biased regulatory agendas that puts consumers at significant health risks.

The legislation that is before you today, as the legislation that I sponsored in Utah, protects consumers. It is based on good science and aligns with the position of the National Institute on Drug Abuse, the report language passed by the United States Congress, the review of the Department of Health and Human Services, and the review by the Expert Committee on Drug Dependence at the WHO that kratom should not be banned, but appropriately regulated.

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