



# Fiscal Note

## Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

### SB 25-072: REGULATION OF KRATOM

**Prime Sponsors:**

Sen. Mullica; Pelton B.  
Rep. Lindsay; Soper

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**Published for:** House Finance  
**Drafting number:** LLS 25-0580

**Version:** Second Revised Note  
**Date:** April 29, 2025

**Fiscal note status:** The revised fiscal note reflects the reengrossed bill.

### Summary Information

**Overview.** The bill creates a registration program for kratom products.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- State Revenue
- State Loans
- State Expenditures
- Local Government
- TABOR Refunds

**Appropriations.** For FY 2025-26, the bill requires and includes an appropriation of \$280,606 to the Department of Revenue.

**Table 1**  
**State Fiscal Impacts**

Type of Impact <sup>1</sup>	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
State Revenue	\$0	\$715,950	\$380,342
State Expenditures <sup>2</sup>	\$0	\$409,606	\$380,342
State Loans	\$306,344	\$0	\$0
Change in TABOR Refunds	\$0	\$715,950	not estimated
Change in State FTE	1.9 FTE	2.9 FTE	2.6 FTE

<sup>1</sup> Fund sources for these impacts are shown in the tables below.

<sup>2</sup> Expenditures in FY 2025-26 include \$306,344 in new cash funds spending which is offset by reductions from other cash funds.

**Table 1A  
 State Revenue**

<b>Fund Source</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
General Fund	\$0	\$0	\$0
Kratom Consumer Protection Cash Fund	\$0	\$715,950	\$380,342
<b>Total Revenue</b>	<b>\$0</b>	<b>\$715,950</b>	<b>\$380,342</b>

**Table 1B  
 State Loans**

<b>Fund Source</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
Tobacco Litigation Settlement Cash Fund	-\$306,344	\$0	\$0
Kratom Consumer Protection Cash Fund	\$306,344	\$0	\$0
<b>Net Transfer</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Table 1C  
 State Expenditures**

<b>Fund Source</b>	<b>Budget Year FY 2025-26<sup>1</sup></b>	<b>Out Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
General Fund	\$0	\$0	\$0
Kratom Consumer Protection CF	\$306,344	\$371,813	\$347,848
Tobacco Litigation Settlement CF	-\$306,344	\$0	\$0
Centrally Appropriated	\$0	\$37,793	\$32,494
<b>Total Expenditures</b>	<b>\$0</b>	<b>\$409,606</b>	<b>\$380,342</b>
<b>Total FTE</b>	<b>1.9 FTE</b>	<b>2.9 FTE</b>	<b>2.6 FTE</b>

<sup>1</sup> Includes \$280,606 in direct costs, and \$25,738 in centrally appropriated costs.

## Summary of Legislation

The bill creates a program in the Department of Revenue (DOR) to regulate kratom processors, which are people who manufacture, package, label, or distribute products made from the plant *Mitragyna speciosa*. It establishes standards for kratom products and requires kratom processors to hold a food facility registration from the federal Food and Drug Administration. DOR may require a kratom product suspected of adulteration be tested by a third party, and any violation may result in the registration being suspended or revoked.

A manufacturer that makes or distributes a kratom product without a registration is subject to a civil penalty as follows:

- for the first violation, up to \$1,000;
- for the second violation, up to \$5,000; and
- for each subsequent violation, between \$5,000 and \$20,000, and a three-year ban on making or distributing kratom products in the state.

In order to fund the registration program in advance of fee collection, the bill requires a loan in FY 2025-26 from the Tobacco Litigation Settlement Cash Fund. The loan must be repaid, with any applicable interest, by June 30, 2027.

Under current law, it is a civil infraction to furnish a kratom product to anyone under 21 years old and, and retailers must check identification before selling kratom. The bill makes it a deceptive trade practice to sell a kratom product:

- to a person under 21 years old, or that is accessible to a person under that age;
- that is adulterated or fails to meet certain composition standards;
- mimics candy or is marketed to appeal to children;
- is combustible; or
- that fails to meet certain labelling requirements.

The bill also specifies that local governments may enact and enforce their own regulation of kratom products if they are more restrictive than the bill's requirements.

## **Assumptions**

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The fiscal note assumes that DOR will establish the registration program in FY 2025-26, and that it will begin accepting applications for registration in FY 2026-27. Start-up costs for FY 2025-26 are covered by the loan from the Tobacco Litigation Settlement Cash Fund.

The fiscal note also assumes that about 87 kratom processors will apply to register an average of 15 products each, and that the number of kratom processors will modestly grow each year.

## **State Revenue**

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Beginning in FY 2026-27, the bill increases state revenue from kratom product registration fees to the Kratom Consumer Protection Cash Fund. It may increase civil penalties and filing fees.

## **Fee Impact on Kratom Processors**

Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The fee amounts shown in Table 2 are estimates only, actual fees will be set administratively by DOR based on cash fund balance, program costs, and the number of products subject to the fee. The fee in FY 2026-27 accounts for revenue to cover the first two years of expenditures in order to repay the loan, and the fee decreases starting in FY 2027-28 to reflect the lower ongoing costs in the department. Revenue in FY 2026-27 may increase to

account for interest on the loan from the Tobacco Litigation Settlement Cash Fund, which has not been estimated here. These fees are subject to TABOR.

**Table 2**  
**Fee Impact on Kratom Processors**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Estimated Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
FY 2026-27	Registration Fee	\$511	1,400	<b>\$715,950</b>
FY 2027-28	Registration Fee	\$238	1,600	<b>\$380,342</b>

<sup>1</sup> Totals may not align due to rounding.

### Civil Penalties

Under the Colorado Consumer Protection Act, a person committing a deceptive trade practice may be subject to a civil penalty of up to \$20,000 for each violation. Additional penalties may be imposed for subsequent violations of a court order or injunction. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

### Filing Fees

The bill may minimally increase revenue to the Judicial Department from an increase in civil case filings. Revenue from filing fees is subject to TABOR.

### State Expenditures

The bill increases state expenditures in the Department of Revenue by about \$310,000 in FY 2025-26, \$410,000 in FY 2026-27, and \$380,000 beginning in FY 2027-28, paid from the Kratom Consumer Protection Cash Fund. Costs in FY 2025-26 are offset by reductions in expenditures in other programs funded by the Tobacco Litigation Settlement Cash Fund. These costs are summarized in Table 3 and discussed below. The bill also minimally affects workload in the Department of Law and the Judicial Department.

**Table 3**  
**State Expenditures**  
**All Departments**

<b>Department</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
Department of Revenue	\$306,344	\$409,606	\$380,342
Tobacco Settlement Programs	-\$306,344	\$0	\$0
<b>Total Costs</b>	<b>\$0</b>	<b>\$409,606</b>	<b>\$380,342</b>

**Department of Revenue**

Beginning in FY 2025-26, the bill increases costs for the DOR to implement the registration program, as show in Table 3A and discussed below.

**Table 3A  
 State Expenditures  
 Department of Revenue**

<b>Cost Component</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
Personal Services	\$103,108	\$139,237	\$122,326
Operating Expenses	\$1,664	\$2,560	\$2,176
Capital Outlay Costs	\$6,670	\$6,670	\$0
Legal Services	\$144,439	\$223,346	\$223,346
Software Updates	\$24,725	\$0	\$0
Centrally Appropriated Costs	\$25,738	\$37,793	\$32,494
FTE – Personal Services	1.3 FTE	2.0 FTE	1.7 FTE
FTE – Legal Services	0.6 FTE	0.9 FTE	0.9 FTE
<b>Total Costs</b>	<b>\$306,344</b>	<b>\$409,606</b>	<b>\$380,342</b>
<b>Total FTE</b>	<b>1.9 FTE</b>	<b>2.9 FTE</b>	<b>2.6 FTE</b>

**Staff**

DOR requires 1.3 FTE in FY 2025-26 to develop the new registration program, which includes 1.0 FTE to administer the program, and 0.3 FTE to support rulemaking in FY 2025-26 only. Once the program begins accepting applications in FY 2026-27, DOR requires additional staff to process applications and for compliance. The workload decreases in subsequent years under the assumption that application renewals take less time to process than new applications. Standard operating and capital outlay costs are included.

**Legal Services**

DOR requires 1,080 hours of legal services in FY 2025-26 and 1,670 hours in subsequent years to conduct rulemaking for the program, to handle administrative cases that arise, and for general counsel. Legal services are provided by the Department of Law at a rate of \$133.74 per hour. The additional hours equate to 0.6 FTE in FY 2025-26 and 0.9 FTE beginning in FY 2026-27.

**Software Updates**

DOR requires changes to its licensing software to accommodate the new registration in FY 2025-26 only. This includes programming contracted to the vendor and testing.

## Centrally Appropriated Costs

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which may include employee insurance, supplemental employee retirement payments, leased space, and indirect cost assessments, are shown in the expenditure table above.

## Tobacco Master Settlement Agreement Programs

Money from the Tobacco Master Settlement Agreement is used to fund a variety of programs, with the amounts determined by a formula. Because this bill reduces the money available for distribution in FY 2025-26 before the formula is applied, it reduces funding to each of the programs, as shown in Table 4. The amount unallocated by the formula is used as a financing mechanism that repays an accelerated payment from the General Fund to stabilize expenditures from tobacco settlement programs. For more information, see this [Joint Budget Committee Staff report](#).

**Table 3B  
State Expenditures  
Modifications to Tobacco Master Settlement Agreement Revenue Distributions**

Program	Dept.	Current Law	SB 25-072	Change
<b>Nurse Home Visitor Program</b>	CDEC	\$22,556,960	\$22,469,039	-\$87,921
<b>Children's Basic Health Plan Trust</b>	HCPF	\$14,147,222	\$14,092,080	-\$55,142
<b>CU Health Sciences Center</b>	DHE	\$13,754,244	\$13,700,634	-\$53,610
<b>Tony Gramscas Youth Services Program</b>	DHS	\$5,894,676	\$5,871,700	-\$22,976
<b>Tobacco Litigation Settlement</b>	Law	\$1,964,892	\$1,957,233	-\$7,659
<b>State Veterans Trust Fund</b>	DMVA	\$785,957	\$782,893	-\$3,063
<b>Supplemental State Contribution</b>	DPA	\$1,807,701	\$1,800,655	-\$7,046
<b>State Drug Assistance Program</b>	CDPHE	\$3,929,784	\$3,914,467	-\$15,317
<b>AIDS and HIV Prevention</b>	CDPHE	\$2,750,849	\$2,740,127	-\$10,722
<b>Immunizations</b>	CDPHE	\$1,964,892	\$1,957,233	-\$7,659
<b>Dental Loan Repayment</b>	CDPHE	\$785,957	\$782,893	-\$3,063
<b>CO Health Services Corps</b>	CDPHE	\$785,957	\$782,893	-\$3,063
<b>Fitzsimons Lease Purchase</b>	DHE	\$6,287,654	\$6,263,147	-\$24,508
<b>Unallocated Amount</b>	n/a	\$1,178,935	\$1,174,340	-\$4,595
<b>Total</b>		<b>\$78,595,680</b>	<b>\$78,289,336</b>	<b>-\$306,344</b>

## Department of Law

Workload in the Department of Law will minimally increase to the extent that deceptive trade practice complaints are filed. The department will review complaints under the bill and prioritize investigations as necessary within the overall number of deceptive trade practice complaints and available resources.

## **Judicial Department**

The trial courts in the Judicial Department may have an increase in cases filed under the Colorado Consumer Protection Act from the addition of a new deceptive trade practice. It is assumed that kratom retailers and manufacturers will abide by the law and that any violation of the legislation will result in minimal number of new cases. The fiscal note assumes that this can be accomplished within existing resources and that no change in appropriations is required.

## **TABOR Refunds**

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The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2025 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2026-27. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

## **Local Government**

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Similar to the state, to the extent district attorneys receive deceptive trade practice complaints related to the new deceptive trade practice under the bill, workload will increase to investigate complaints and seek relief when appropriate. It is assumed most such cases will be handled at the state level by the Attorney General.

## **Effective Date**

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The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to conduct occurring on or after that date.

## **State Appropriations**

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For FY 2025-26, the bill requires and includes an appropriation of \$280,606 from the Kratom Consumer Protection Cash Fund to the Department of Revenue, and 1.3 FTE. Of this, \$144,439 is reappropriated to the Department of Law, with an additional 0.6 FTE.

## State and Local Government Contacts

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Information Technology  
Law  
Personnel

Revenue  
Treasury