



NORTH CAROLINA GENERAL ASSEMBLY

2025 Session

Legislative Incarceration Fiscal Note

Short Title: Regulate Kratom Products.
Bill Number: House Bill 468 (First Edition)
Sponsor(s): Rep. McNeely, Rep. Cotham, Rep. Chesser, and Rep. Campbell

FISCAL IMPACT SUMMARY

Criminal offenses are classified as misdemeanors (Class 3 as the lowest and Class A1 as the highest) and felonies (Class I to Class A). There are three types of legislative changes to offenses that may result in a fiscal impact to the State's criminal justice system: creating a new offense, changing the class of an existing offense, or changing the scope of an existing offense.

This proposed legislation creates **two new Class H felonies, three new Class A1 misdemeanors, one new Class 1 misdemeanor, and one new Class 2 misdemeanor**. Because these are new offenses, there is no data to predict how many individuals may be charged or convicted. **Therefore, Fiscal Research is unable to project the fiscal impact** of the proposed legislation on the criminal justice system.

Each additional person charged under the proposed offenses will have a cost to the judicial system and each additional person convicted will have a cost to the correction system. The **cost of one charge and conviction** is listed in the table below, along with the percentage of cases that incur those costs at that offense level.

Cost of One Charge and Conviction										
	Prosecution and Defense		Active Sentence					Suspended Sentence		
Offense Class	Admin. Office of the Courts	Indigent Defense Services	DAC - Confinement			DAC - Post-Release Supervision (PRS)		DAC - Probation		
Felony	Cost	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
H	\$1,300	\$517	36%	\$26,937	10	\$2,527	9	64%	\$6,739	24
Misdemeanor	Cost	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
A1	\$599	\$284	Active sentences for misdemeanor convictions are served in County jail.			Misdemeanants do not receive PRS.		61%	\$4,493	16
1	\$346	\$254						61%	\$3,931	14
2	\$183	\$254						75%	\$3,650	13
Note: Court costs reflect the average cost per disposition. Costs for active sentences, probation, and post-release supervision reflect the total cost of the sentence or supervision period. Costs to the Statewide Misdemeanant Confinement Program (SMCP) only occur for active sentences > 90 days and impaired driving. The triangle symbols (▲) represent change, plus and minus (+/-) symbols reflect the increase or decrease in cost or time from the current to proposed changes in charge levels.										



FISCAL IMPACT OF H.B.468, V.1					
	<u>FY 2025-26</u>	<u>FY 2026-27</u>	<u>FY 2027-28</u>	<u>FY 2028-29</u>	<u>FY 2029-30</u>
State Impact					
General Fund Revenue	-	-	-	-	-
Less Expenditures	-	-	-	-	-
General Fund Impact	No Estimate Available - Refer to Fiscal Analysis section				
NET STATE IMPACT	No Estimate Available - Refer to Fiscal Analysis section				
TECHNICAL CONSIDERATIONS: See Technical Considerations Section					

FISCAL ANALYSIS

Section 1 of the bill creates Chapter 18E – *Regulation of Kratom Products* – of the General Statutes. The chapter includes new sections creating offenses related to the sale, purchase, manufacture and distribution of kratom products.

Proposed G.S. 18E-101 – *sales restrictions on kratom products* – imposes civil penalties for a person who does any of the following:

- 1) Knowingly selling a kratom product to a person under the age of 21. According to this section, “any retail dealer of kratom products shall demand proof of age from a prospective purchaser of kratom products before the kratom products are released to the purchaser if the retail dealer has reasonable grounds to believe the prospective purchaser is under 30 years of age.” Retail dealers who sell online are also required to verify the age of prospective purchasers and use a delivery method that requires a signature from purchasers under the age of 21 before the product is released.
- 2) Knowingly distributing samples of kratom products on a public street or sidewalk, or in a public park or building.
- 3) **Engaging in the business of selling a kratom product without a valid license.**
- 4) Knowingly selling at retail a kratom product that violates the subsequently proposed G.S. 18E-104 – *testing prior to distribution*.
- 5) Knowingly selling a kratom product that is not contained in an exit or child-proof package
- 6) Knowingly selling at a retail location or online a kratom product that is not in compliance with the subsequently proposed G.S. 18E-105 – *additional requirements for manufacturers and distributors*.

A new Class A1 misdemeanor is established for second violations of item 3) above which prohibits engaging in the business of selling a kratom product without a valid license. A new Class H felony is established for a third or greater violation of this same item.



Proposed G.S. 18E-101A – sale and transfer restrictions on a producer – imposes civil penalties for a producer who knowingly sells or transfers kratom that has been processed with the intent to be used in a kratom product to any entity other than a licensed manufacturer. **A new Class A1 misdemeanor is established for a second violation of this section, and a new Class H felony is established for a third or greater violation.**

Proposed G.S. 18E-102 – offenses involving the purchase, attempted purchase, or possession of kratom products by a person under 21 years of age – creates offenses for the following:

- 1) Giving a kratom product to anyone under age 21 without the consent of that person's parent or guardian
- 2) Purchasing or attempting to purchase a kratom product when under the age of 21
- 3) Using a fraudulent or altered form of identification to obtain or attempt to obtain kratom products, or to enter or attempt to enter a place where kratom products are sold or consumed
- 4) Allowing another person to use any form of identification belonging to the person allowing its usage

The section creates a new Class 2 misdemeanor for violations of this section by people under the age of 21, and a new Class 1 misdemeanor for violations by persons at least 21 years of age.

Proposed G.S. 18E-103 – offenses involving the manufacture and distribution of kratom products – creates a **new Class A1 misdemeanor for the following:**

- 1) Knowingly distributing samples of a kratom product on a public street or sidewalk or in a public park or building
- 2) Engaging in the business of manufacturing or distributing a kratom product without a valid license
- 3) Knowingly manufacturing or distributing a kratom product in violation of the subsequently proposed G.S. 18E-104 – *testing prior to distribution*.

Because all of the offenses created by this proposed legislation are new offenses, there is no historic data available for cost estimates. As such, **Fiscal Research is unable to provide any cost projections for this bill.**

Capital Expenses

Capital costs emerge when prison bed demand exceeds capacity. Based on the most recent prison population and bed capacity projections from the Sentencing and Policy Advisory Commission (SPAC), the State will have sufficient prison beds available beyond the five-year fiscal note horizon. Therefore, Fiscal Research anticipates there will be **no additional prison capital requirements** as a result of this proposed legislation.

Operating Expenses

The table in the Fiscal Impact Summary lists the costs specific to the charge or charges included in this proposal.



TECHNICAL CONSIDERATIONS

- Offense changes are typically effective on December 1. FRD assumes that costs incurred in the first year to the judicial and correction systems would be less than annualized costs due to lag time in charges and convictions.
- This estimate assumes that expanding existing or creating new criminal offenses produces no deterrent or incapacitative effect on crime rates. Likewise, FRD assumes no deterrent effects for any modifications to criminal penalties. The estimates in this Incarceration Note make no assumptions about the larger impact on crime rates or costs to society or the State.
- This estimate makes no prediction regarding the likelihood that a prosecutor will charge an offense based on any proposed increases or decreases to the offense class level. This estimate also does not attempt to predict the impact of offense class changes on plea negotiations. FRD assumes the proposed offense class is charged and convicted at the same rate as the prior level.
- For reference, Appendix A to this document shows the costs per charge/conviction for each class of offense in North Carolina.

DATA SOURCES

Department of Adult Correction; Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission; Office of Indigent Defense Services.

LEGISLATIVE FISCAL NOTE – PURPOSE AND LIMITATIONS

This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.

CONTACT INFORMATION

Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

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Signed copy located in the NCGA Principal Clerk's Offices

APPENDIX A: COSTS PER CHARGE/CONVICTION BY OFFENSE CLASS

Cost of One Charge and Conviction											
	Prosecution and Defense			Active Sentence					Suspended Sentence		
Offense Class	Admin. Office of the Courts	Indigent Defense Services		DAC - Confinement			DAC - Post- Release Supervision (PRS)		DAC - Probation		
Felony	Cost	Rate	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
A	\$55,469	95%	\$11,967	100%	NA	Life	N/A	N/A	0%	N/A	0
B1	\$23,852	78%	\$4,187	100%	\$178,610	242	\$2,994	12	0%	N/A	0
B2	\$17,704	85%	\$4,187	100%	\$115,137	156	\$2,994	12	0%	N/A	0
C	\$8,598	82%	\$2,317	100%	\$63,473	86	\$2,994	12	0%	N/A	0
D	\$7,027	89%	\$1,744	100%	\$47,236	64	\$2,994	12	0%	N/A	0
E	\$3,281	79%	\$909	57%	\$19,928	27	\$2,994	12	43%	\$7,356	31
F	\$1,849	74%	\$849	51%	\$13,285	18	\$2,282	9	49%	\$7,119	30
G	\$1,525	78%	\$706	39%	\$11,071	15	\$2,282	9	61%	\$6,170	26
H	\$1,016	78%	\$510	33%	\$8,119	11	\$2,282	9	67%	\$5,933	25
I	\$740	68%	\$407	15%	\$4,428	6	\$2,282	9	85%	\$5,221	22
Misdemeanor	Cost	Rate	Cost	Rate	Cost	Length (Days)			Rate	Cost	Length (Mo.)
A1	\$580	52%	\$281	Active sentences for misdemeanor convictions are served in County jail.			Misdemeanants do not receive PRS		64%	\$3,797	16
1	\$335	62%	\$237						64%	\$3,322	14
2	\$178	30%	\$237						78%	\$3,085	13
3	\$63	14%	\$202						84%	\$3,085	13

Note: Court costs reflect the average cost per disposition. Costs for active sentences, probation, and post-release supervision reflect the total cost of the sentence or supervision period. Costs to the Statewide Misdemeanant Confinement Program (SMCP) only occur for active sentences > 90 days and for impaired driving.