



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF AGRICULTURE
AND RURAL DEVELOPMENT

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ACTING DIRECTOR

DATE: January 11, 2023 ****This version supersedes the 3-17-2022 memo issued with the same subject.****

TO: All Local Health Departments (LHDs)
Attn: Medical Director / Health Officer / Director of Environmental Health

Michigan Department of Agriculture and Rural Development (MDARD)
Attn: Food and Dairy Division Managers

FROM: Tim Slawinski, Division Director
Food and Dairy Division

SUBJECT: Michigan Retail Food Establishments Selling Kava Products

Kava or kava kava (*Piper methysticum*) is a plant with over 100 varieties and is indigenous to the islands of the South Pacific. A beverage made from kava has a long history of consumption in the South Pacific and serves an important role in traditional community ceremonies. The traditional preparation of this beverage is the grinding or pounding of fresh or dried rhizome/root of the noble variety¹ of kava which is mixed with water to make a tea. The consumption of this kava beverage is known to have a sedative effect.

The World Health Organization (WHO) released a [Technical Report](#) in 2016 on kava consumption. According to the report, the traditional preparation method and consumption of kava beverage has a long history of usage with a low-level health risk. However, the commercialization and increased recreational use of kava has resulted in preparation methods extending beyond the historic traditional methods. These alternate preparation methods may include use of varieties of kava that are not of the noble variety and may include the use of the stems or leaves as well as the rhizome/root when mixing with water. The WHO document outlines these non-traditional preparation methods lack sufficient history and documentation of effects on human health and could be correlated to increased health risk. The WHO indicates further research is needed in understanding the effects of kava consumption on human health as it applies to non-traditional preparation methods.

Noble Kava Preparations as Conventional Food²: Based on the Technical Report by the WHO, MDARD considers the use of the noble variety of kava root mixed with water to make a tea to be a low risk to public health and Generally Recognized as Safe (GRAS) (21 CFR 170.30). Therefore, noble kava infused in water (tea) from the rhizome or root only is exempt from the definition of Food Additive (21 U.S.C. § 321(s)) based on its GRAS status.³ The provisions for approval of a food additive under 21 U.S.C. § 348, therefore, do not apply to this specific type and use of noble kava. Noble kava sold in this specific manner is, therefore, not a violation of the Michigan Food Law, MCL 289.1101 *et seq.*⁴

¹ The noble variety of kava is a cultivar of *Piper methysticum*.

² By "conventional food," MDARD means food that is not sold as a dietary supplement.

³ Food additives are generally deemed unsafe unless they meet the conditions set forth in 21 U.S.C. § 348. See also 21 USC § 342(a)(2)(C) ("A food shall be deemed to be adulterated . . . if it is or if it bears or contains (i) any food additive that is unsafe within the mean of [21 USC § 348.])

⁴ As long as all other requirements of the Michigan Food Law are met.

If any other preparations or varieties of kava are used, kava is considered a food additive because they do not have GRAS status, according to [21 CFR Part 170.30](#) or scientific evidence provided. Additionally, these other preparations or varieties of kava are not listed as approved food additives under [21 CFR part 172](#) or [21 CFR 181](#). If a facility sells kava as a conventional food,⁵ other than noble kava root mixed with water as described above, this can be cited under the Michigan Food Law as an unapproved additive or adulterated food. [Food Law MCL 289.6101 \(adopting the Food Code\); Food Code § 3-101.11; Food Code § 3-202.12](#).

Kava as a Dietary Supplement: Any kava, including the noble variety, in the form of a dietary ingredient in a dietary supplement (as opposed to as a conventional food item) falls under the requirements of the federal [Dietary Supplement Health Education Act \(DSHEA\)](#) and may only be offered in its packaged form identifying it as a dietary supplement. [21 U.S.C 321\(ff\)](#). Further, all dietary supplements can only be manufactured, processed, or packaged, and must be labeled as a dietary supplement, in a facility registered under the Food and Drug Administration (FDA) per 21 CFR Parts 101, 111, 119, and 190. Kava as a dietary supplement is not permitted to be used as an ingredient or component of a conventional food item including but not limited to teas, smoothies, or other beverages. 21 USC 350(c)(1)(B).

If the facility mixes kava as a supplement with a food or beverage this can be cited under the Food Michigan Food Law as adulterated. [Food Law MCL 289.6101 \(adopting the Food Code\); Food Code § 3-101.11; Food Code § 3-202.12](#).

Summary of Acceptable Uses: Michigan retail food establishments may choose to utilize kava within their establishments in the following ways:

- Kava root of the noble variety mixed with water to make a tea, which is considered GRAS based on the scientific data provided in the WHO Technical Report.
- Customers can purchase kava supplements in their properly labeled packages from the business and the customers can choose to add it to their food or beverage at their discretion. MDARD has not determined that it is safe for customers who choose to add kava to other food items.

MDARD recommends posting or providing a conspicuous consumer advisory statement reading: *"Please be advised kava is not for use by persons under 18 years of age, or by pregnant or breastfeeding women. Not for use with alcoholic beverages. Excessive use, or use with products that cause drowsiness, may impair your ability to operate a vehicle or heavy equipment. A potential risk of rare, but severe, liver injury may be associated with kava-containing dietary supplements."*

Additional Kava resources:

- [NIH's information on Kava](#) including what is known about its safety
- [FDA's Consumer Advisory: "Kava-Containing Dietary Supplements May be Associated with Severe Liver Injury"](#) March 25, 2002
- [CDC's MMWR Cases on "Hepatic Toxicity Possibly Associated with Kava-Containing Products --- United States, Germany, and Switzerland, 1999-2002"](#)
- [FDA's website for Dietary Supplements](#)
- [Kava: a review of the safety of traditional and recreational beverage consumption](#) World Health Organization, 2016

⁵ As opposed to a supplement, as discussed below.