

SENATE BILL 602

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CF HB 634

By: **Senators Benson, King, and Corderman**

Introduced and read first time: February 6, 2023

Assigned to: Finance

A BILL ENTITLED

AN ACT concerning

Public Health – Sale of Diet Pills to Minors – Prohibition

FOR the purpose of establishing prohibitions and requirements regarding the sale of diet pills to individuals under a certain age; requiring the Maryland Department of Health to develop a notice with information about the potential health risks of diet pills; authorizing the Department to establishing limitations on which diet pills are subject to this Act; and generally relating to the sale of diet pills to minors.

BY adding to

Article – Health – General

Section 21–259.4

Annotated Code of Maryland

(2019 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 21–1215

Annotated Code of Maryland

(2019 Replacement Volume and 2022 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

21–259.4.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2) “DELIVERY SALE” MEANS A SALE OF DIET PILLS TO A CONSUMER IN WHICH:

(I) 1. THE CONSUMER SUBMITS THE ORDER FOR THE SALE BY MEANS OF A TELEPHONE OR OTHER METHOD OF VOICE TRANSMISSION, THE MAIL, OR THE INTERNET; OR

2. THE SELLER IS OTHERWISE NOT IN THE PHYSICAL PRESENCE OF THE BUYER WHEN THE REQUEST FOR PURCHASE IS MADE; OR

(II) 1. THE DIET PILLS ARE DELIVERED TO THE BUYER BY COMMON CARRIER, PRIVATE DELIVERY SERVICE, OR OTHER METHOD OF REMOTE DELIVERY; OR

2. THE SELLER IS OTHERWISE NOT IN THE PHYSICAL PRESENCE OF THE BUYER WHEN THE BUYER OBTAINS POSSESSION OF THE DIET PILLS.

(3) “DELIVERY SELLER” MEANS A PERSON, INCLUDING AN ONLINE RETAILER, WHO MAKES DELIVERY SALES OF OVER-THE-COUNTER DIET PILLS.

(4) (I) “DIET PILLS” MEANS ONE OF THE FOLLOWING PRODUCTS THAT IS LABELED, MARKETED, OR OTHERWISE REPRESENTED FOR THE PURPOSE OF ACHIEVING WEIGHT LOSS OR BUILDING MUSCLE:

1. A DIETARY SUPPLEMENT, AS DEFINED IN 21 U.S.C. § 321; OR

2. A DRUG, AS DEFINED IN 21 U.S.C. § 321 FOR WHICH A PRESCRIPTION IS NOT REQUIRED UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(II) “DIET PILLS” DOES NOT INCLUDE DIETARY FIBER PRODUCTS.

(5) “RETAIL ESTABLISHMENT” MEANS ANY VENDOR THAT, IN THE COURSE OF REGULAR BUSINESS, SELLS DIET PILLS AT RETAIL DIRECTLY TO THE PUBLIC.

(B) (1) A PERSON MAY NOT SELL, TRANSFER, OR OTHERWISE FURNISH DIET PILLS TO AN INDIVIDUAL UNDER THE AGE OF 18 YEARS WITHOUT A PRESCRIPTION.

(2) A RETAIL ESTABLISHMENT THAT SELLS DIET PILLS SHALL LIMIT ACCESS TO THE DIET PILLS IN AN AREA THAT IS DIRECTLY ACCESSIBLE ONLY BY EMPLOYEES OF THE RETAIL ESTABLISHMENT, SUCH AS BEHIND A RETAIL COUNTER OR IN A LOCKED CASE.

(3) A PERSON SHALL REQUEST VALID IDENTIFICATION FROM AN INDIVIDUAL ATTEMPTING TO PURCHASE DIET PILLS IF THE INDIVIDUAL REASONABLY APPEARS TO BE UNDER THE AGE OF 18 YEARS.

(C) A DELIVERY SELLER:

(1) MAY NOT SELL, DELIVER, OR CAUSE TO BE DELIVERED ANY DIET PILLS TO AN INDIVIDUAL UNDER THE AGE OF 18 YEARS;

(2) MAY NOT ACCEPT A DELIVERY SALE ORDER FROM AN INDIVIDUAL UNLESS THE DELIVERY SELLER:

(I) OBTAINS THE FULL NAME, BIRTH DATE, AND RESIDENTIAL ADDRESS OF THE INDIVIDUAL; AND

(II) VERIFIES THE INFORMATION REQUIRED UNDER ITEM (I) OF THIS ITEM THROUGH THE USE OF A COMMERCIALY ACCEPTABLE DATABASE, CONSISTING PRIMARILY OF DATA FROM GOVERNMENT SOURCES, THAT ARE REGULARLY USED BY GOVERNMENT AND BUSINESSES FOR THE PURPOSES OF AGE AND IDENTITY VERIFICATION; AND

(3) SHALL SHIP DIET PILLS THROUGH A METHOD OF SHIPPING THAT REQUIRES:

(I) THE CONSUMER PLACING THE DELIVERY SALE ORDER, OR AN ADULT WHO IS AT LEAST 18 YEARS OF AGE, TO SIGN TO ACCEPT DELIVERY; AND

(II) THE INDIVIDUAL WHO SIGNS THE DELIVERY TO PROVIDE PROOF, IN THE FORM OF A VALID, GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION, THAT THE INDIVIDUAL IS AT LEAST 18 YEARS OF AGE.

(D) THE DATABASE USED UNDER SUBSECTION (C)(2)(II) OF THIS SECTION MAY NOT BE:

(1) IN THE POSSESSION OF OR UNDER THE CONTROL OF THE DELIVERY SELLER; OR

(2) SUBJECT TO ANY CHANGES OR SUPPLEMENTATION BY THE DELIVERY SELLER.

(E) (1) THE DEPARTMENT SHALL DEVELOP A NOTICE STATING THAT SPECIFIED DIET PILLS MAY CONTRIBUTE TO GASTROINTESTINAL IMPAIRMENT, TACHYCARDIA, HYPERTENSION, MYOCARDIAL INFARCTION, STROKE, ORGAN FAILURE, SEVERE LIVER INJURY SOMETIMES REQUIRING TRANSPLANT OR LEADING TO DEATH, OR OTHER SERIOUS INJURIES OR DEATH.

(2) EACH RETAILER THAT SELLS DIET PILLS SHALL PROMINENTLY DISPLAY THE NOTICE DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN A LOCATION WHERE CUSTOMERS OF THE RETAIL ESTABLISHMENT CAN SEE THE NOTICE.

(F) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$1,000.

(G) (1) THE DEPARTMENT, IN CONSULTATION WITH THE U.S. FOOD AND DRUG ADMINISTRATION AND OTHER INTERESTED STAKEHOLDERS, MAY ADOPT REGULATIONS ESTABLISHING LIMITATIONS ON WHICH DIET PILLS ARE SUBJECT TO THIS SECTION.

(2) WHEN DETERMINING WHETHER TO LIMIT THE APPLICATION OF THIS SECTION, THE DEPARTMENT MAY CONSIDER WHETHER:

(I) THE DIET PILLS CONTAIN:

1. AN INGREDIENT APPROVED BY THE U.S. FOOD AND DRUG ADMINISTRATION FOR WEIGHT LOSS;

2. A STEROID; OR

3. CREATINE, GREEN TEA EXTRACT, RASPBERRY KETONE, GARCINIA CAMBOGIA, OR GREEN COFFEE BEAN EXTRACT;

(II) THE LABELING OR MARKETING OF THE DIET PILLS INCLUDES STATEMENTS OR IMAGES THAT EXPRESSLY STATE OR IMPLY THAT THE DIET PILLS WILL HELP MODIFY, MAINTAIN, OR REDUCE BODY FAT, APPETITE, OVERALL METABOLISM, OR THE PROCESS BY WHICH NUTRIENTS ARE METABOLIZED; AND

(III) THE DIET PILLS OR THEIR INGREDIENTS ARE OTHERWISE REPRESENTED FOR THE PURPOSE OF ACHIEVING WEIGHT LOSS.

21-1215.

(a) This section does not apply to a violation of § 21-220(b)(4) [or], § 21-259.2, **OR § 21-259.4** of this title.

(b) A person who violates any provision of Subtitle 2 of this title or any regulation adopted under Subtitle 2 of this title is guilty of a misdemeanor and on conviction is subject to:

(1) A fine not exceeding \$10,000 or imprisonment not exceeding 1 year or both; or

(2) If the person has been convicted once of violating Subtitle 2 of this title, a fine not exceeding \$25,000 or imprisonment not exceeding 3 years or both.

(c) In addition to any criminal penalties imposed under this section, a person who violates any provision of Subtitle 2 of this title, any rule or regulation adopted under Subtitle 2 of this title, or any term, condition, or limitation of any license or registration issued under Subtitle 2 of this title:

(1) Is subject to a civil penalty not exceeding \$5,000, in an action in any District Court; and

(2) May be enjoined from continuing the violation.

(d) Each day on which a violation occurs is a separate violation under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.