

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 884 (Delegate Vogel)
Health and Government Operations

Public Health - Sale of Diet Pills to Minors - Prohibition

This bill prohibits a person from selling, transferring, or otherwise furnishing “diet pills” to an individual younger than age 18 without a prescription unless the individual is accompanied by a parent or guardian. A “retail establishment” that sells diet pills must keep them in an area directly accessible only by employees. If a person attempts to purchase diet pills, an employee must request valid identification if the purchaser appears to be younger than 18. A “delivery seller” may not sell, deliver, or cause to be delivered any diet pills to an individual younger than 18 nor accept a “delivery sale” order from an individual without obtaining and verifying specified information. A delivery seller must ship diet pills through a method of shipping that meets specified requirements. A retail establishment or delivery seller that violates the restriction is subject to a civil penalty of up to \$750. If examining whether a drug or supplement is a diet pill, the court may consider specified aspects of ingredients, marketing, and product placement.

Fiscal Summary

State Effect: Although not specified under the bill, any operational impact on the Maryland Department of Health can likely be absorbed within existing budgeted resources. Potential minimal increase in general fund revenues due to the bill’s penalty provision.

Local Effect: Although the bill does not include an enforcement mechanism, to the extent that local health departments receive complaints, any additional workload can likely be handled within existing budgeted resources. Revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: “Delivery sale” means a sale of diet pills to a consumer in which (1) the consumer submits the order by telephone or other method of voice transmission, the mail, or the Internet; (2) the seller is otherwise not in the physical presence of the buyer when the request for purchase is made; (3) the diet pills are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery; or (4) the seller is otherwise not in the physical presence of the buyer when the buyer obtains possession of the diet pills. “Delivery seller” means a person, including an online retailer, who makes delivery sales of over-the-counter diet pills.

“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 or (2) a drug for which a prescription is not required under the Federal Food, Drug, and Cosmetic Act. “Diet pills” does not include (1) dietary fiber products; or (2) protein powders, protein drinks, or foods marketed as containing protein unless the product contains an ingredient other than protein that is a dietary supplement or drug. “Retail establishment” means any vendor that, in the course of regular business, sells diet pills at retail directly to the public.

Delivery Sellers

A delivery seller must ship diet pills:

- through a method of shipping that requires (1) the consumer placing the order or an adult who resides at the delivery address to sign to accept delivery, and (2) the individual who signs the delivery to provide identification proving they are at least 18 years old; and
- in packaging that clearly indicates the package contains a diet pill.

Civil Penalties and Court Considerations

If a civil penalty is imposed against a retail establishment with two or more locations in the State, the penalty must be imposed against the location where the violation occurred.

When determining whether a drug or dietary supplement constitutes a diet pill, a court may consider whether:

- the drug/supplement contains (1) an ingredient approved by the U.S. Food and Drug Administration (FDA) for weight loss or muscle building; (2) a steroid; or

- (3) creatine, green tea extract, raspberry ketone, garcinia cambogia, or green coffee bean extract;
- the labeling or marketing of the drug states or implies that the drug/supplement will help (1) modify, maintain, or reduce body fat, appetite, or metabolism; or (2) maintain or increase muscle or strength;
 - the drug/supplement or its ingredients are represented as intending to achieve weight loss or build muscle; or
 - the retailer has (1) placed signs, categorized, or tagged the drug/supplement with statements that imply that it modifies body fat, appetite, metabolism, muscle, or strength; (2) grouped the drug/supplement with other weight loss or muscle-building products in a display, advertisement, web page, or area of the store; or (3) otherwise represented that the drug/supplement is for weight loss or muscle building.

These considerations may not be used to hold news media liable for accepting or publishing advertising for a diet pill.

Violations of the bill are not subject to the same penalties and fines as other violations of the Maryland Food, Drug, and Cosmetic Act, as specified in § 21-1215 of the Health-General Article.

Current Law: Federal law defines “dietary supplement” as a product intended to supplement the diet that contains one or more dietary ingredients (vitamins or minerals, herbs or other botanicals, amino acids, dietary substances used to supplement the diet by increasing the total dietary intake, or concentrates, metabolites, constituents, extracts, or combinations of any other dietary ingredient). To be a dietary supplement, a product must be labeled as a dietary supplement or equivalent.

FDA regulates dietary supplements as foods unless the product meets the definition of a drug. FDA does not have the authority to approve dietary supplements before they are marketed. FDA regulations require those who manufacture, package, or hold dietary supplements to follow current good manufacturing practices that help ensure the identity, purity, quality, strength, and composition of dietary supplements. FDA generally does not approve dietary supplement claims or other labeling before use. FDA is responsible for enforcing the laws and regulations governing dietary supplements. To identify violations, the agency conducts inspections, monitors the marketplace, examines dietary supplements and dietary ingredients offered for import, and reviews new dietary ingredient notifications and other regulatory submissions for dietary supplements.

Small Business Effect: Small business retail establishments must limit access to diet pills and verify the age of an individual attempting to purchase diet pills if the individual reasonably appears to be younger than 18. A small business delivery seller must verify the

individual's identity and use specified shipping methods. Violators of the bill are subject to a civil penalty of up to \$750.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 634 and SB 602 of 2023.

Designated Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Legislative Services

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km/jc

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