



DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

March 16, 2023

The Honorable Melony Griffith
Chair, Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 602 - Public Health - Sale of Diet Pills to Minors - Prohibition - Letter of Concern

Dear Chair Griffith and Committee members:

The Maryland Department of Health (MDH) submits this letter of concern for Senate Bill (SB) 602 - Public Health - Sale of Diet Pills to Minors - Prohibition (Protecting Teenagers From Unregulated Diet Pills). SB 602 will prohibit the retail sale, or otherwise providing of diet pills, to a minor under the age of 18 without a prescription. The bill also requires a retailer to verify a person's age at sale through the use of a commercial database that contains and verifies age.

Diet pills and supplements are over-the-counter products that claim to help an individual lose weight or build muscle through curbing appetite, speeding up metabolism, burning fat, and other mechanisms. Historically, diet pills and supplements have been regulated as food items rather than drugs, subjecting them to less oversight and regulation.¹ However, these products often contain a mix of ingredients like caffeine, herbs, extracts, and synthetic substances that are not individually regulated by the federal Food and Drug Administration (FDA). Recent reports have linked the use of some dietary supplements to eating disorders, but the extent of the problem, and the scale of adverse health outcomes that can be attributed to diet pills, is not known.^{2,3,4}

MDH has several concerns about SB 602. First, the broad definition of "diet pills" in SB 602 potentially includes every substance marketed as a diet pill or supplement, not just those that can cause harmful biological effects. The definition laid out in U.S.C. § 321 indicates that a dietary "pill" or supplement can include vitamins, minerals, amino acids, and herbs. As written, the bill could impose unintended consequences involving the restriction of substances commonly found outside of diet pills and supplements (e.g., caffeine, green tea extract, herbs), thus restricting those substances in products not labeled as a diet pill or supplement.

¹ <https://www.fda.gov/consumers/consumer-updates/dietary-supplements>

² Levinson JA, Sarda V, Sonnevile K, et al. Diet Pill and Laxative Use for Weight Control and Subsequent Incident Eating Disorder in US Young Women: 2001-2016. *Am J Public Health*. 2020 Jan;110(1):109-111. doi: 10.2105/AJPH.2019.305390. Epub 2019 Nov 21. PMID: 31751147; PMCID: PMC6893330.

³ Ghaderi A, Welch E. Appearance and Performance-Enhancing Drugs and Supplements, Eating Disorders Symptoms, Drive for Muscularity, and Sexual Orientation in a Sample of Young Men. *Nutrients*. 2022 Nov 21;14(22):4920. doi: 10.3390/nu14224920. PMID: 36432606; PMCID: PMC9695459.

⁴ Nagata JM, McGuire FH, Lavender JM, et al. Appearance and performance-enhancing drugs and supplements, eating disorders, and muscle dysmorphia among gender minority people. *Int J Eat Disord*. 2022 May;55(5):678-687. doi: 10.1002/eat.23708. Epub 2022 Mar 30. PMID: 35352378; PMCID: PMC9106876.

MDH is also concerned about potential jurisdictional and subject matter expertise requirements of the bill. Because the federal government regulates these products, MDH does not have any dedicated subject matter experts in this area of policy, and if enacted, SB 602 will necessitate the establishment of an additional unit with appropriate expertise within MDH to meet the requirements of the bill. This is consistent with the experience of other states. California and New York recently enacted similar legislative initiatives which were subsequently met with a gubernatorial veto. In carrying out the veto, both governors cited issues with implementation related to the lack of subject matter expertise and the state's capacity to carry out the provisions of the legislation.

The bill also references a database containing data collected by the government to be used by retailers, raising concerns around the privacy of minors and database stewardship. As written, it is unclear which database will be used and who would have the authority to access or maintain it. However, MDH understands that the sponsor may be amending this section.

If you would like to discuss this further, please do not hesitate to contact Megan Peters, Acting Director of Governmental Affairs at megan.peters@maryland.gov or (410) 260-3190.

Sincerely,

A handwritten signature in blue ink, appearing to read "LH Scott".

Laura Herrera Scott, M.D., M.P.H.
Secretary