HOUSE DOCKET, NO. 2504 FILED ON: 1/15/2015

HOUSE . . . . . No. 3471

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act regulating the sale of dietary supplements for weight loss or muscle building.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kay Khan	*11th Middlesex*
Tackey Chan	*2nd Norfolk*
Marcos A. Devers	*16th Essex*
Denise Provost	*27th Middlesex*

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HOUSE . . . . . No. 3471

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 3471) of Kay Khan and others for legislation to further regulate the sale and display of dietary supplements for weight loss or muscle building. Public Health.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act regulating the sale of dietary supplements for weight loss or muscle building.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 111 of the General Laws is hereby amended by adding the following section:-

Section 233. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Dietary supplements for weight loss or muscle building", a class of dietary supplements marketed for or used with the intent to achieve weight loss, and build muscle that are lawfully sold, transferred, or furnished over the counter with or without a prescription pursuant to the federal Food, Drug, and Cosmetic Act, 21 U.S.C. section 301 et. seq., or regulations adopted thereunder. "Dietary supplements for weight loss or muscle building" may include, but are not limited to, thermogens, which are substances that produce heat in the body and promote more calorie burning, lipotropics, which are compounds that help break down fat during body

12 metabolism, hormones, including hormone modulators and hormone mimetics, appetite
13 suppressants, diuretics and laxatives.

14 “Pharmacy”, a store registered under sections 37 to 39C, inclusive, of chapter 112 to
15 transact a retail drug business or a retail store or retail food store with a pharmacy department
16 registered under said sections 37 to 39C, inclusive, of said chapter 112 to transact a retail drug
17 business.

18 “Retail establishment", any vendor that in the regular course of business sells dietary
19 supplements for weight loss or muscle building at retail directly to the public including, but
20 not limited to, pharmacies, grocery stores, and other retail stores.

21 (b) No dietary supplements for weight loss or muscle building shall be sold to any person
22 under 18 years of age.

23 (c) All dietary supplements for weight loss or muscle building sold in a retail
24 establishment shall be made secure such that the dietary supplements may only be accessed by
25 a manager, assistant manager, acting manager or other supervisory personnel at such location;
26 provided, however, if the retail establishment is a pharmacy, all dietary supplements for weight
27 loss or muscle building shall be placed behind the pharmacy counter. Such dietary supplements
28 may only be purchased upon a request made by a customer to the manager, assistant manager,
29 acting manager or other supervisory personnel at such location, or in the case of a pharmacy, an
30 employee of the pharmacy located behind the pharmacy counter.

31 (d) Retail establishments shall conspicuously post at each purchase counter a notice
32 developed and provided by the department clearly communicating that certain dietary
33 supplements for weight loss or muscle building are known to cause gastrointestinal impairment,

34 tachycardia, hypertension, myocardial infarction, stroke, severe liver injury sometimes requiring
35 transplant or leading to death, organ failure, other serious injury, and death.

36 (e) Whoever violates subsection (b), (c) or (d) shall be punished by a fine of not less than
37 $100 for the first offense, not less than $200 for a second offense and not less than $300 for any
38 third or subsequent offense.

39 (f) Any violation of this section shall constitute an unfair method of competition or an
40 unfair or deceptive act or practice pursuant to chapter 93.

41 SECTION 2. This act shall take effect in 180 days.