

# HOUSE . . . . . No. 3471

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## The Commonwealth of Massachusetts

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PRESENTED BY:

*Kay Khan*

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*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.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/15/2015</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>5/11/2015</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>5/13/2015</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>5/14/2015</i>

# HOUSE . . . . . No. 3471

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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.

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## The Commonwealth of Massachusetts

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

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

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

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

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

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

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

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

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

(d) Retail establishments shall conspicuously post at each purchase counter a notice developed and provided by the department clearly communicating that certain dietary 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.