

HOUSE No. 4271

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, December 2, 2021.

The committee on Public Health to whom was referred the petition (accompanied by bill, House, No. 2331) of Kay Khan and others relative to the sale of dietary supplements for weight loss and muscle building, reports recommending that the accompanying bill (House, No. 4271) ought to pass.

For the committee,

MARJORIE C. DECKER.

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In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act protecting children from harmful diet pills and muscle-building supplements.

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

including hormone modulators and hormone mimetics, appetite suppressants, or ingredients deemed adulterated under 21 U.S.C.A § 342.

“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 under chapter 112 sections 37 to 39C, grocery stores, mail-order or internet sale vendors, and other retail stores.

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

(c) Any retail establishment that sells over-the-counter diet pills, or dietary supplements for weight loss or muscle building shall request, examine and reasonably rely upon a current and valid photographic identification establishing a person's age as at least 18 years of age prior to selling such person over-the-counter diet pills or dietary supplements for weight loss or muscle building.

(d) Any retail establishment that sells over-the-counter diet pills, or dietary supplements for weight loss or muscle building shall limit access to such products in a manner designed to prevent the misuse or abuse of such products. Such products shall not be directly accessible by customers, and may only be accessed by a manager, assistant manager, acting manager or other supervisory personnel at such location. Such products 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.

(e) Retail establishments shall conspicuously post at each purchase counter a notice developed and provided by the department of public health clearly communicating that certain

over-the-counter diet pills, or dietary supplements for weight loss or muscle building are known to cause gastrointestinal impairment, tachycardia, hypertension, myocardial infarction, stroke, severe liver injury sometimes requiring transplant or leading to death, organ failure, other serious injury, and death.

(f) Retail establishments that violate subsection (b), (c) or (d) shall be punished by a fine of no more than \$2,000.

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

SECTION 2. The department of public health, in consultation with the U.S. Food and Drug Administration and stakeholders including, but not limited to, organizations concerned with eating disorders, shall determine which over-the-counter diet pills or dietary supplements for weight loss or muscle building shall be subject to subsections (c) and (d).

SECTION 3. The department of public health may promulgate such procedures, rules or regulations as necessary to implement this act.

SECTION 4. This act shall take effect in 180 days.