

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Michael F. Rush

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

PETITION OF:

NAME:

Michael F. Rush

DISTRICT/ADDRESS:

Norfolk and Suffolk

SENATE No.

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1465 OF 2023-2024.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

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

2 Section 243. Sale of over-the-counter diet pills and dietary supplements for weight loss or
3 muscle building

4 (a) Definitions: For purposes of this section the following terms shall have the
5 following meanings:

6 (1) “Dietary supplement for weight loss or muscle building” means a dietary
7 supplement as defined in 21 U.S.C. 321(ff) that is labeled, marketed, or otherwise represented
8 for the purpose of achieving weight loss or building muscle.

9 (2) “Over-the-counter diet pill” means a drug as defined in 21 U.S.C. 321(g)(1)
10 labeled marketed, or otherwise represented for the purpose of achieving weight loss for which a
11 prescription is not required under the federal Food, Drug and Cosmetic Act.

12 (3) “Retail establishment” means any vendor that, in the regular course of business,
13 sells dietary supplements for weight loss or muscle building or over-the-counter diet pills at retail
14 directly to the public, including, but not limited to, pharmacies, grocery stores, other retail stores,
15 and vendors that accept orders placed by mail, telephone, electronic mail, internet website,
16 online catalog, or software application.

17 (4) “Delivery sale ” means any sale of over-the-counter diet pills or dietary
18 supplements for weight loss or muscle building to a consumer if—

19 (i) The consumer submits the order for the sale by means of a telephone or other
20 method of voice transmission, the mails, or the Internet or other online service, or the seller is
21 otherwise not in the physical presence of the buyer when the request for purchase or order is
22 made; or

23 (ii) The over-the-counter diet pills or dietary supplements for weight loss or muscle
24 building are delivered to the buyer by common carrier, private delivery service, or other method
25 of remote delivery, or the seller is not in the physical presence of the buyer when the buyer
26 obtains possession of the over-the-counter diet pills or dietary supplements for weight loss or
27 muscle building.

28 (5) “Delivery Seller ” means a person, including online retailers, who makes delivery
29 sales of over-the-counter diet pills or dietary supplements for weight loss or muscle building.

30 (b) Prohibitions: No person shall sell or offer to sell or give away, as either a retail or
31 whole-sale promotion, an over-the-counter diet pill or dietary supplement for weight loss or
32 muscle building to any person under eighteen years of age.

33 (c) Responsibilities of retail establishments:

34 (1) Any retail establishment that sells over-the-counter diet pills or dietary
35 supplements for weight loss or muscle building shall limit access to such products in a manner
36 designed to prevent unauthorized access to such products. Such products shall not be directly
37 accessible by customers, and may be accessed only by employees of the establishment at such
38 location such as behind retail counter or in a locked case.

39 (2) For purposes of paragraph (1), and subject to paragraph (d), a retail establishment
40 shall request valid identification from any person who attempts to purchase a dietary supplement
41 for weight loss or over-the-counter diet pill if the retail establishment cannot reasonably
42 determine that the person appears to be under 18 years of age.

43 (d) Responsibilities of delivery sellers:

44 (1) Notwithstanding paragraph (c)(2), a delivery seller, including online retailers,
45 who mails or ships over-the-counter diet pills or dietary supplements for weight loss or muscle
46 building to consumers:

47 (i) Shall not sell, deliver, or cause to be delivered any over-the-counter diet pills or
48 dietary supplements for weight loss or muscle building to a person under eighteen years of age.

49 (ii) Shall use a method of mailing or shipping that requires—

50 (A) The purchaser placing the delivery sale order, or an adult who is at least 18 years
51 of age to sign to accept delivery of the shipping container at the delivery address; and

52 (B) The person who signs to accept delivery of the shipping container to provide
53 proof, in the form of a valid, government-issued identification bearing a photograph of the
54 individual, that the person is at least eighteen years of age and

55 (iii) Shall not accept a delivery sale order from a person without—

56 (A) Obtaining the full name, birth date, and residential address of that person; and

57 (B) Verifying the information provided in subclause (A), through the use of a
58 commercially available database or aggregate of databases, consisting primarily of data from
59 government sources, that are regularly used by government and businesses for the purpose of age
60 and identity verification and authentication, to ensure that the purchaser is at least eighteen years
61 of age.

62 (2) Limitation: No database being used for age and identity verification under
63 subparagraph (d)(iii) shall be in the possession or under the control of the delivery seller, or be
64 subject to any changes or supplementation by the delivery seller.

65 (e) Remedies:

66 (1) Whenever there shall be a violation of this section, an application may be made
67 by the attorney general in the name of the people of the Commonwealth of Massachusetts, to a
68 court or justice having jurisdiction by a special proceeding to issue an injunction, and upon
69 notice to the defendant of not less than five days, to enjoin and restrain the continuance of such
70 violation; and if it shall appear to the satisfaction of the court or justice that the defendant has, in

71 fact, violated this section, an injunction may be issued by the court or justice, enjoining and
72 restraining any further violations, without requiring proof that any person has, in fact, been
73 injured or damaged thereby.

74 (2) Whenever the court shall determine that a violation of this section has occurred,
75 the court may impose a civil penalty of not more than one thousand dollars (\$1,000).

76 (f) When determining whether supplement is “labeled marketed, or otherwise
77 represented for the purpose of achieving weight loss or muscle building” the Attorney General
78 shall consider, but is not limited to, the following factors:

79 (1) Whether the product contains:

80 (i) An ingredient approved by the federal Food and Drug Administration for weight
81 loss or muscle building;

82 (ii) A steroid; or

83 (iii) Creatine, green tea extract, raspberry ketone, garcinia cambogia, green coffee
84 bean extract; or

85 (2) Whether the product’s labeling or marketing bears statements or images that
86 express or imply that the product will help:

87 (i) Modify, maintain, or reduce body weight, fat, appetite, overall metabolism, or the
88 process by which nutrients are metabolized, and

89 (ii) Maintain or increase muscle or strength; and

90 (3) Whether the product or its ingredients are otherwise represented for the purpose
91 of achieving weight loss or building muscle.