

HOUSE BILL NO. 5830

June 25, 2024, Introduced by Reps. Byrnes, Paiz, McFall, Rheingans, Wegela, Glanville, Tsernoglou, Wilson, Price, Hope, Dievendorf, Hood, Whitsett, Farhat, Brabec, McKinney, Andrews, Brixie, Miller, MacDonell, Conlin, Pohutsky, Edwards, Weiss, Brenda Carter, Young, Scott, Hill, Martus, Herzberg, Hoskins, Breen, Koleszar, Neeley, O'Neal and Grant and referred to the Committee on Families, Children and Seniors.

A bill to prohibit the sale of certain dietary supplements and diet pills to minors; to prescribe civil sanctions and provide remedies; to provide for the promulgation of rules; and to provide for the powers and duties of certain state and local governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "weight loss products and
2 minors act".

3 Sec. 2. As used in this act:

1 (a) "Board" means the Michigan board of pharmacy created under
2 section 17721 of the public health code, 1978 PA 368, MCL
3 333.17721.

4 (b) "Department" means the department of licensing and
5 regulatory affairs.

6 (c) "Diet pill" means a drug, as that term is defined in 21
7 USC 321, that is labeled, marketed, or represented for the purpose
8 of achieving weight loss and for which a prescription is not
9 required under the federal food, drug, and cosmetic act, 21 USC 301
10 to 399i.

11 (d) "Dietary supplement" means a dietary supplement, as that
12 term is defined in 21 USC 321, that is labeled, marketed, or
13 represented for the purpose of achieving weight loss, fat burning,
14 or appetite control and that contains an ingredient that is
15 regulated by the United States Food and Drug Administration for
16 weight loss.

17 (e) "Minor" means an individual who is less than 18 years of
18 age.

19 (f) "Person" means an individual, partnership, corporation,
20 limited liability company, association, governmental entity, or
21 other legal entity.

22 (g) "Physical sale" means a sale of a qualified dietary
23 supplement or diet pill by a retailer to a customer at a physical
24 location.

25 (h) "Qualified dietary supplement or diet pill" means a
26 dietary supplement or diet pill that is included in the list under
27 section 5.

28 (i) "Retailer" means a person that, in the regular course of
29 business, sells dietary supplements or diet pills directly to

1 consumers in this state.

2 (j) "Rule" means that term as defined in section 7 of the
3 administrative procedures act of 1969, 1969 PA 306, MCL 24.207.

4 (k) "Virtual sale" means an online, mail order, or telephonic
5 sale of a qualified dietary supplement or diet pill by a retailer
6 to a customer.

7 Sec. 3. (1) A retailer may not sell, offer to sell, or
8 otherwise give a qualified dietary supplement or diet pill to a
9 minor.

10 (2) Before a retailer makes a physical sale, a retailer shall
11 request identification from the consumer and confirm that the
12 consumer is not a minor.

13 (3) A retailer that makes a virtual sale may not accept an
14 order from a consumer unless both of the following occur:

15 (a) The consumer provides the consumer's full name, birth
16 date, and residential address.

17 (b) The retailer verifies the identity and age of the consumer
18 using a commercially available database or aggregate of databases
19 to which all of the following apply:

20 (i) The database or databases consist primarily of data from
21 government sources.

22 (ii) The database or databases are regularly used by
23 governmental agencies or businesses for the purpose of age and
24 identity verification.

25 (iii) The database or databases are not in the possession or
26 control of the retailer or person responsible for delivery of the
27 qualified dietary supplements or diet pills.

28 (iv) The database or databases are not subject to change or
29 supplementation by the retailer.

1 (4) A retailer that makes a virtual sale shall use a method of
2 shipping that does both of the following:

3 (a) Prohibits a minor from accepting the delivery.

4 (b) Requires that the consumer accepting the delivery provide
5 the person responsible for the delivery with valid identification
6 that proves that the consumer is not a minor.

7 Sec. 4. A retailer shall not maintain a qualified dietary
8 supplement or diet pill behind a counter where the public is not
9 permitted or within a locked case so that a customer wanting access
10 to the product must ask a store employee for assistance.

11 Sec. 5. (1) The department shall do both of the following by
12 rule:

13 (a) Develop a list of dietary supplements and diet pills that
14 are sold in this state.

15 (b) Make the list described in subdivision (a) available to
16 retailers for the purpose of complying with this act.

17 (2) In determining whether to place a dietary supplement or
18 diet pill on the list described in subsection (1), the department
19 may consider 1 or both of the following:

20 (a) Whether the labeling or marketing of the dietary
21 supplement or diet pill includes a statement or image that
22 expressly states or implies that the dietary supplement or diet
23 pill will help modify, maintain, or reduce body fat, weight, or
24 appetite.

25 (b) The dietary supplement or diet pill is otherwise
26 represented for the purpose of achieving weight loss.

27 (3) In developing the list described in subsection (1), the
28 department may refer to the National Institutes of Health's dietary
29 supplement label database to determine whether a product

1 constitutes a dietary supplement or diet pill.

2 (4) The department, in consultation with the board, shall
3 update the list described in subsection (1) annually.

4 Sec. 6. The department shall consult with the board in the
5 promulgation of rules under the administrative procedures act of
6 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this act.

7 Sec. 7. If a retailer violates this act, the attorney general
8 may bring a civil action for 1 or more of the following:

9 (a) A civil fine of not more than \$1,000.00.

10 (b) Injunctive relief.

11 (c) Any other relief the court deems appropriate.