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HOUSE BILL NO. 1585

Offered January 13, 2025

Prefiled January 1, 2025

A *BILL* to amend the Code of Virginia by adding in Article 4 of Chapter 8 of Title 18.2 a section numbered 18.2-371.5, relating to the prohibition of the sale or distribution of certain weight loss or muscle building products to persons under 18 years of age; civil penalty.

Patrons—Ennis and Green

Referred to Committee on Health and Human Services

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 4 of Chapter 8 of Title 18.2 a section numbered 18.2-371.5 as follows:

§ 18.2-371.5. Prohibiting sale or distribution of over-the-counter diet pills or dietary supplements for weight loss or muscle building to persons under 18 years of age; civil penalties.

A. As used in this section:

"Dietary supplement for weight loss or muscle building" means a dietary supplement, as defined in 21 U.S.C. § 321(ff), that is labeled, marketed, or otherwise represented for the purpose of achieving weight loss or building muscle. A dietary supplement is considered to be labeled, marketed, or otherwise represented for the purpose of achieving weight loss or building muscle based on the following factors:

1. Whether the product contains (i) an ingredient approved by the U.S. Food and Drug Administration for weight loss or muscle building; (ii) a steroid; or (iii) creatine, green tea extract, raspberry ketone, garcinia cambogia, or green coffee bean extract;

2. Whether the product's labeling or marketing bears statements or images that express or imply that the product will help (i) modify, maintain, or reduce body weight, fat, appetite, overall metabolism, or the process by which nutrients are metabolized or (ii) maintain or increase muscle or strength;

3. Whether the product or its ingredients are otherwise represented for the purpose of achieving weight loss or building muscle; and

4. Whether the seller has (i) placed signs or categorized or tagged the product with statements described in subdivision 2; (ii) grouped the product with other weight loss or muscle building products in a display, advertisement, website, or area of the store or website; or (iii) otherwise represented that the product is for weight loss or muscle building.

"Over-the-counter diet pill" means a drug, as defined in 21 U.S.C. § 321(g)(1) that is labeled, marketed, or otherwise represented for the purpose of achieving weight loss and for which a prescription is not required.

B. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person younger than 18 years of age, knowing or having reason to believe that such person is younger than 18 years of age, an over-the-counter diet pill or dietary supplement for weight loss or muscle building.

C. No person shall sell an over-the-counter diet pill or dietary supplement for weight loss or muscle building to any individual who does not demonstrate, by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least 18 years of age.

D. Subsection C shall not apply to mail order or Internet sales, provided that the person offering an over-the-counter diet pill or dietary supplement for weight loss or muscle building for sale through mail order or the Internet (i) prior to the sale of the over-the-counter diet pill or dietary supplement for weight loss or muscle building verifies that the purchaser is at least 18 years of age through a commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of mailing, shipping, or delivery that requires the signature of a person at least 18 years of age before the over-the-counter diet pill or dietary supplement for weight loss or muscle building will be released to the purchaser.

E. Over-the-counter diet pills or dietary supplements for weight loss or muscle building shall only be displayed for sale behind a store counter that is not accessible to consumers or in a locked case that requires assistance from a store employee for customer access.

F. A violation of this section is punishable by a civil penalty in the amount of \$500 for a first violation and a civil penalty in the amount of \$2,500 for a second or subsequent violation within a three-year period. For any violation of this section by an employee of a retail establishment, such penalty shall be assessed against the retail establishment. Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer may issue a summons for a violation of this section.

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