

STATE OF NEW YORK

4712

2017-2018 Regular Sessions

IN ASSEMBLY

February 3, 2017

Introduced by M. of A. ROSENTHAL -- read once and referred to the
Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to prohibiting the
sale of the dietary supplement creatine to individuals under eighteen
years of age

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. The general business law is amended by adding a new section
2 391-u to read as follows:

3 § 391-u. Restricted access to retail sale of dietary supplements
4 containing creatine. 1. No retail establishment shall offer for sale
5 dietary supplements containing any quantity of creatine to an individual
6 under eighteen years of age within New York state, except as authorized
7 by subdivision three of this section.

8 2. For purposes of this section, the following terms have the follow-
9 ing meanings:

10 (a) "dietary supplement" means: (1) a product (other than tobacco)
11 that is intended to supplement the diet and that bears or contains one
12 or more of the following dietary ingredients: a vitamin, a mineral, an
13 herb or other botanical, an amino acid, a dietary substance for the use
14 by a person to supplement the diet by increasing the total daily intake,
15 or a concentrate, metabolite, constituent, extract, or combinations of
16 these ingredients; (2) intended for ingestion in pill, capsule, tablet,
17 powder or liquid form; and (3) labeled as a "dietary supplement" pursu-
18 ant to the federal Dietary Supplement Health and Education Act, 21
19 U.S.C. 321, as amended.

20 (b) "creatine" means any natural or synthetic form of creatine includ-
21 ing, but not limited to, creatine monohydrate, creatine citrate, crea-
22 tine ethyl ester, creatine methyl ester, liquid creatine, micronized
23 creatine, creatine nitrate, creatine magnesium chelate, buffered crea-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 tine, creatine hydrochloride, creatine malate, creatine phosphate and
2 creatine pyruvate.

3 (c) "retail establishment" means every vendor that in the regular
4 course of business sells dietary supplements containing creatine at
5 retail directly to the public including, but not limited to, pharmacies,
6 grocery stores, and other retail stores.

7 3. Nothing in this section shall apply to nonprescription over-the-
8 counter drugs approved or regulated by the federal Food and Drug Admin-
9 istration.

10 4. Retail establishments shall require proof of legal age of such
11 products. Such identification need not be required of any individual who
12 reasonably appears to be at least twenty-five years of age provided,
13 however, that such appearance shall not constitute a defense in any
14 proceeding alleging the sale of dietary supplements containing creatine
15 to a minor.

16 5. Any retail establishment that violates the provisions of this
17 section by offering for sale a dietary supplement containing any quanti-
18 ty of creatine to an individual under eighteen years of age shall be
19 subject to a civil penalty of not more than five hundred dollars per
20 violation, recoverable in an action by any enforcement authority desig-
21 nated by any municipality or political subdivision.

22 6. It shall be a defense that any retail establishment that has sold a
23 dietary supplement containing creatine to an individual under eighteen
24 years of age did not have knowledge that the supplement contained any
25 quantity of creatine if such knowledge was not reasonably discoverable.

26 § 2. This act shall take effect immediately.