STATE OF NEW YORK

16

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to establishing restrictions on the sale of over-the-counter diet pills and dietary supplements for weight loss or muscle building and increasing civil penalties for the sale or promotional distribution of dietary supplements containing ephedra

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

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

§ 391-oo. Sale of over-the-counter diet pills and dietary supplements for weight loss or muscle building. 1. No person, firm, corporation, partnership, association, limited liability company, or other entity shall sell or offer to sell or give away, as either a retail or wholesale promotion, an over-the-counter diet pill or dietary supplement for weight loss or muscle building within New York state to any person under eighteen years of age.

2. For purposes of this section the following terms shall have the following meanings:

(a) "dietary supplements for weight loss or muscle building" means a class of dietary supplement as defined in section three hundred ninety-one-o of this article sold for or used with the intent to achieve weight loss or build muscle;

(b) "over-the-counter diet pills" means a class of drugs, sold for or used with the intent to achieve weight loss or build muscle that are lawfully sold, transferred, or furnished over-the-counter with or without a prescription pursuant to the federal food, drug, and cosmetic act, 21 U.S.C. section 301 et. seq., or regulations adopted thereunder; and

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

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(c) "dietary supplements for weight loss or muscle building" and "over-the-counter diet pills" may include, but are not limited to, thermogens, which are substances that produce heat in the body and promote more calorie burning, 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.

3. Any person, firm, corporation, partnership, association, limited liability company, or other entity that that violates the provisions of this section by selling, offering to sell, or giving away as either a retail or wholesale promotion, an over-the-counter diet pill or dietary supplement for weight loss or muscle building to a person under eighteen years of age shall be subject to a civil penalty or not more than two thousand dollars per violation, recoverable in an action by any enforcement authority designated by any municipality or political subdivision.

4. Any violation of this section shall constitute a deceptive act or practice pursuant to article twenty-two-A of this chapter.

§ 2. Subdivision 4 of section 391-o of the general business law, as added by chapter 385 of the laws of 2003, is amended to read as follows:

4. Any person, firm, corporation, partnership, association, limited liability company, or other entity that violates the provisions of this section by selling, offering to sell, or giving away as either a retail or wholesale promotion, a dietary supplement containing any quantity of ephedrine alkaloids shall be subject to a civil penalty of not more than [~~five hundred~~] two thousand dollars per violation, recoverable in an action by any enforcement authority designated by any municipality or political subdivision.

§ 3. The department of health, in consultation with other state and federal agencies, as appropriate, and relevant stakeholders including, but not limited to, the eating disorders community, shall determine what products constitute over-the-counter diet pills, or dietary supplements for weight loss or muscle building shall have limited accessibility.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.