

Date of Hearing: January 18, 2024

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

AB 82 (Weber) – As Introduced December 15, 2022

Policy Committee:	Health	Vote:	13 - 0
	Judiciary		9 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill prohibits the sale of dietary supplements for weight loss or over-the-counter (OTC) diet pills (collectively, “diet pills”) to youth.

Specifically, this bill:

- 1) Prohibits, effective July 1, 2024, a retail establishment from selling, transferring, or otherwise furnishing diet pills to any person under 18 years of age without a prescription.
- 2) Requires the Department of Public Health (DPH) to develop a notice on the health risks of diet pills, as specified.
- 3) Requires a retail establishment to request valid identification (ID) from any person who attempts to purchase diet pills and reasonably appears to be under 18 years of age, and to post the notice described above.
- 4) Requires DPH, in consultation with the U.S. Food and Drug Administration (FDA) and specified stakeholders, to determine which diet pills are subject to this bill.
- 5) Makes a person who violates this section liable for a civil penalty of no more than \$1,000 for each violation. Exempts a retail clerk from being subject to any civil penalty or disciplinary action by the retail establishment for a violation of this bill.

FISCAL EFFECT:

DPH estimates ongoing costs of \$807,000 to \$834,000 per year for regulatory and enforcement workload (General Fund).

DPH would promulgate regulations to determine which items are subject to the restrictions under this bill, and because industry will continue to bring additional supplements and drugs to market after the list is published, DPH staff would need to periodically update the list. DPH notes enforcement would include investigating complaints, issuing notices of violation, imposing embargo of violative product, development of regulatory correspondence, preparation of civil penalty documents, assisting management during regulatory office meetings, and verification of corrective actions taken by manufacturers found in violation.

COMMENTS:

1) **Purpose.** According to the author:

Children are abusing over the counter weight loss products without the knowledge of their parents and without the supervision of their doctors. With limited regulatory oversight, some dietary supplements are laced with banned pharmaceuticals, steroids, and other toxic ingredients. Dangerous stimulants are also often found in widely available supplements for weight loss. Due to the ease of accessibility of these products, minors take them to lose weight quickly, while ignoring the label on the bottle stating the products are not to be consumed by those under 18 years of age.

2) **Background.**

Use of diet pills among youth. A 2019 study published in the *American Journal of Public Health* found use of diet pills and laxatives for weight control was associated with higher odds of a first eating disorder diagnosis within one to three years than for those who did not report using these products. Among these participants, 4.2% of those who used laxatives for weight control received a subsequent first eating disorder diagnosis compared to 0.8% of those who did not use these products for weight control.

Current restriction on the sale of diet pills to youth. Existing law makes it a misdemeanor for any manufacturer, wholesaler, retailer or other person to sell, transfer or furnish to anyone under 18 years of age a dietary supplement containing an ephedrine group alkaloid or specified steroids. A seller must request valid ID from any individual who attempts to purchase a restricted diet pill if that individual reasonably appears to be under 18 years of age, with penalties of \$1,000 for the first violation, \$2,000 for the second violation, and \$5,000 for the third and each subsequent violation.

DPH workgroup. In response to Governor Newsom's veto message for AB 1341 (C. Garcia), of the 2021-22 Legislative Session, which was substantially similar to this bill, DPH convened a stakeholder group to develop policy recommendations on how to address the problem of youth use of diet pills. DPH has not yet publicly shared the results of this work.

3) **Opposition.** The Natural Products Association (NPA) writes that supplements are natural products found in food and nature. NPA contends its members invest significant human resources and capital to ensure their products are safe and that FDA found no data suggesting weight-management and muscle-building dietary supplement use is correlated to eating disorders. NPA further argues this bill will place onerous restrictions on small businesses.

4) **Prior Legislation.**

AB 1341 was substantially similar to this bill. Governor Newsom vetoed AB 1341, stating, in part:

...[D]ietary supplements for weight loss are not considered drugs and, therefore, this measure would require DPH to evaluate every individual weight loss and dietary supplement product for safety, which is beyond the scope of the department's capabilities.

Recognizing the need to educate and protect the public-particularly California's youth-of the dangers of using dietary supplements for weight loss, I am directing DPH to form a workgroup, inclusive of academic and medical experts, that would develop public policy recommendations on the best way to address this important public health challenge.

AB 3042 (Limon), of the 2019-20 Legislative Session, was substantially similar to this bill, but due to the shortened legislative calendar brought on by the COVID-19 pandemic, was not set for a hearing in the Assembly Health Committee.

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