

[First Reprint]

**ASSEMBLY, No. 1848**

**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

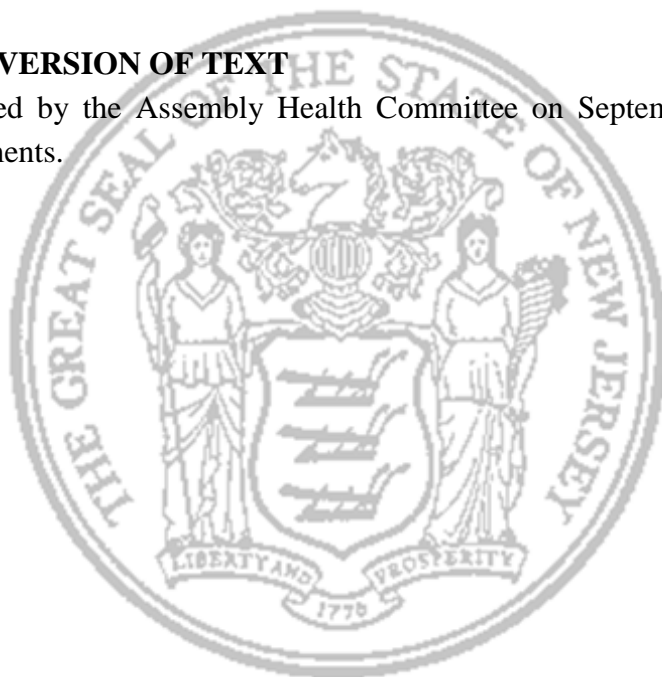
**Assemblywoman Speight, Assemblymen Stanley, Freiman,  
Assemblywomen Drulis, Reynolds-Jackson, Assemblyman Sampson and  
Assemblywoman Lampitt**

**SYNOPSIS**

Prohibits sale of certain diet pills and dietary supplements for weight loss or muscle building to persons under 18 years of age under certain circumstances.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Health Committee on September 23, 2024, with amendments.



**(Sponsorship Updated As Of: 10/28/2024)**

1 AN ACT concerning the sale of certain diet pills or dietary  
2 supplements to minors and supplementing Title 2A of the New  
3 Jersey Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. a. <sup>1</sup>(1)<sup>1</sup> No person <sup>1</sup>, firm, corporation, partnership,  
9 association, limited liability company, or other entity<sup>1</sup> shall sell,  
10 offer to sell, or offer for promotional purposes, either directly or  
11 indirectly by an agent or employee, any over-the-counter diet pill or  
12 dietary supplement for <sup>1</sup>weight loss or<sup>1</sup> muscle building to a minor  
13 under 18 years of age, unless the minor is accompanied by a parent  
14 or guardian.

15 <sup>1</sup>(2) No person shall complete a delivery of any over-the-counter  
16 diet pill or dietary supplement for weight loss or muscle building to  
17 a residence in this State without first obtaining, upon delivery of the  
18 over-the-counter diet pill or dietary supplement for weight loss or  
19 muscle building, the signature of an individual who is at least 18  
20 years of age and who resides in that residence. Consistent with  
21 federal law, the provisions of this subsection shall not apply to an  
22 individual performing his or her assigned duties as an employee of  
23 the United States Postal Service.

24 (3) The establishment of the following shall constitute a defense  
25 to any prosecution brought for a violation of paragraph (2) of this  
26 subsection: that the purchaser or recipient of the over-the-counter  
27 diet pill or dietary supplement for weight loss or muscle building, or  
28 the individual signing for the delivery of the over-the-counter diet  
29 pill or dietary supplement for weight loss or muscle building,  
30 falsely represented, by producing either a driver's license or non-  
31 driver identification card issued by the New Jersey Motor Vehicle  
32 Commission, a similar card issued pursuant to the laws of another  
33 state or the federal government of Canada, or a photographic  
34 identification card issued by a county clerk, that the purchaser or  
35 recipient was of legal age to make the purchase, sign for the  
36 delivery, or receive the delivery.

37 (4) No delivery seller shall place any over-the-counter diet pill or  
38 dietary supplement for weight loss or muscle building for delivery  
39 to a residence in this State unless the outside of the package, which  
40 contains the over-the-counter diet pill or dietary supplement for  
41 weight loss or muscle building, clearly indicates that there is an  
42 over-the-counter diet pill or a dietary supplement for weight loss or  
43 muscle building within the package.<sup>1</sup>

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AHE committee amendments adopted September 23, 2024.

1       b. <sup>1</sup>(1)<sup>1</sup> A person who violates the provisions of subsection a. of  
2 this section, including an employee of a retail establishment who  
3 actually sells any over-the-counter diet pill or dietary supplement  
4 for weight loss or<sup>1</sup> muscle building to a minor under 18 years of  
5 age, who is not accompanied by a parent or guardian, shall be liable  
6 to a civil penalty of not more than \$750. In the case of a retail  
7 establishment that is part of a chain with two or more locations in  
8 the State, the violation shall be assessed against the retail  
9 establishment at which the violation occurred and not the chain.  
10 The civil penalty shall be collected by and in the name of the State  
11 by the local health agency pursuant to the "Penalty Enforcement  
12 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary  
13 proceeding before the municipal court having jurisdiction.

14       An official authorized by statute or ordinance to enforce the  
15 State or local health codes or a law enforcement officer having  
16 enforcement authority in that municipality may issue a summons for  
17 a violation of the provisions of subsection a. of this section, and  
18 may serve and execute all process with respect to the enforcement  
19 of this section consistent with the Rules of Court.

20       A penalty recovered under the provisions of this subsection shall  
21 be paid into the treasury of the municipality in which the violation  
22 occurred for the general uses of the municipality.

23       <sup>1</sup>(2) When determining whether an over-the-counter diet pill or  
24 dietary supplement is labeled, marketed, or otherwise represented  
25 for the purpose of achieving weight loss or muscle building in a  
26 summary proceeding before a municipal court having jurisdiction,  
27 pursuant to paragraph (1) of this subsection, the court shall consider  
28 the following factors:

29       (a) whether the product contains:

30       (i) an ingredient approved by the federal Food and Drug  
31 Administration for weight loss or muscle building;

32       (ii) a steroid; or

33       (iii) creatine, green tea extract, raspberry ketone, garcinia  
34 ambogia, or green coffee bean extract;

35       (b) whether the product's labeling or marketing bears statements  
36 or images that express or imply that the product will help:

37       (i) modify, maintain, or reduce body weight, fat, appetite, overall  
38 metabolism, or the process by which nutrients are metabolized; or

39       (ii) maintain or increase muscle or strength;

40       (c) whether the product or its ingredients are otherwise  
41 represented for the purpose of achieving weight loss or building  
42 muscle; or

43       (d) whether the retailer has categorized the dietary supplement  
44 for weight loss or muscle building by:

45       (i) placing signs, categorizing, or tagging the supplement with  
46 statements described in subparagraph (b) of this paragraph;

1 (ii) grouping the supplements with other weight loss or muscle  
2 building products in a display, advertisement, webpage, or area of  
3 the store; or

4 (iii) otherwise representing that the product is for weight loss or  
5 muscle building.<sup>1</sup>

6 c. The provisions of this section shall not apply to any over-the-  
7 counter diet pill or dietary supplement for <sup>1</sup>weight loss or<sup>1</sup> muscle  
8 building that has been prescribed by a licensed health care  
9 professional legally authorized to prescribe such pill or dietary  
10 supplement pursuant to State and federal law.

11 d. As used in this section:

12 <sup>1</sup>"Delivery sale" means any sale of over-the-counter diet pills or  
13 dietary supplements for weight loss or muscle building to a  
14 consumer if: the consumer submits the order for the sale by  
15 telephone, other method of voice transmission, postal mail, Internet,  
16 other online service, or the seller is otherwise not in the physical  
17 presence of the buyer when the request for purchase or order is  
18 made; or the over-the-counter diet pills or dietary supplements for  
19 weight loss or muscle building are delivered to the buyer by  
20 common carrier, private delivery service, other method of remote  
21 delivery, or the seller is not in the physical presence of the buyer  
22 when the buyer obtains possession of the over-the-counter diet pills  
23 or dietary supplements for weight loss or muscle building.

24 "Delivery seller" means a vendor, including an online retailer,  
25 who makes delivery sales of over-the-counter diet pills or dietary  
26 supplements for weight loss or muscle building. Such vendors shall  
27 include persons who accept orders placed by mail, telephone,  
28 electronic mail, Internet website, online catalog, or software  
29 application.<sup>1</sup>

30 "Dietary supplement for <sup>1</sup>weight loss or<sup>1</sup> muscle building"  
31 means a <sup>1</sup>【dietary supplement sold for or used with the intent to  
32 build muscle, but shall not include protein powders, protein drinks,  
33 and foods marketed as containing protein unless the protein  
34 powders, drinks, and foods contain one or more ingredients, other  
35 than protein which would, considered alone, constitute a diet  
36 supplement for muscle building】 class of dietary supplements that  
37 is labeled, marketed, or otherwise represented for the purpose of  
38 achieving weight loss or muscle building, but shall not include  
39 protein powders, protein drinks and foods marketed as containing  
40 protein unless the protein powder, protein drink, or food marketed  
41 as containing protein contains an ingredient other than protein  
42 which would, considered alone, constitute a dietary supplement for  
43 weight loss or muscle building<sup>1</sup>.

44 "Over-the-counter diet pill" means a <sup>1</sup>【drug sold for or used with  
45 the intent to achieve weight loss that contains a label that meets the  
46 requirements of 21 CFR 201.66, including (1) a "Drug Facts" panel;  
47 or (2) a statement of the "active ingredient" or "active ingredients"

1 with a list of those ingredients contained in the compound,  
2 substance, or preparation] class of drugs labeled, marketed, or  
3 otherwise represented for the purpose of achieving weight loss that  
4 are lawfully sold, transferred, or furnished over-the-counter, with or  
5 without a prescription, pursuant to the "Federal Food, Drug, and  
6 Cosmetic Act," 21 U.S.C. s.301 et seq., or pursuant to regulations  
7 adopted thereunder<sup>1</sup>.

8 <sup>1</sup>"Retail establishment" means any vendor that, in the regular  
9 course of business, sells dietary supplements for weight loss or  
10 muscle building or over-the-counter diet pills at retail directly to the  
11 public, including, but not limited to, vendors that are pharmacies,  
12 grocery stores, other retail stores, and vendors that accept orders  
13 placed by mail, telephone, electronic mail, Internet website, online  
14 catalog, or software application.<sup>1</sup>

15  
16 <sup>1</sup>2. Nothing in this act shall be construed to impose liability on  
17 news media that accept advertising, publish advertising, or both, for  
18 any over-the-counter diet pill or dietary supplement for weight loss  
19 or muscle building.<sup>1</sup>

20  
21 <sup>1</sup>[2.] 3.<sup>1</sup> The Commissioner of Health shall, pursuant to the  
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
23 1 et seq.), promulgate rules and regulations to effectuate the  
24 purposes of this act.

25  
26 <sup>1</sup>[3.] 4.<sup>1</sup> This act shall take effect on the first day of the sixth  
27 month next following the date of enactment.

28 The provisions of the bill do not apply to the sale of any over-  
29 the-counter diet pill or dietary supplement for muscle building that  
30 has been prescribed by a licensed health care professional legally  
31 authorized to prescribe such pill or dietary supplement pursuant to  
32 State and federal law.