

By: Cook

S.B. No. 566

A BILL TO BE ENTITLED

AN ACT

relating to the prohibited retail sale and provision to minors of certain over-the-counter weight loss drugs and dietary supplements; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 6, Health and Safety Code, is amended by adding Chapter 446 to read as follows:

CHAPTER 446. OVER-THE-COUNTER WEIGHT LOSS DRUGS AND DIETARY

SUPPLEMENTS

Sec. 446.001. DEFINITIONS. In this chapter:

(1) "Dietary supplement" means a dietary supplement, as defined by 21 U.S.C. Section 321, labeled, marketed, or otherwise represented for the purpose of achieving weight loss or muscle building.

(2) "Over-the-counter weight loss drug" means a drug, as defined by 21 U.S.C. Section 321, labeled, marketed, or otherwise represented for the purpose of achieving weight loss for which a prescription is not required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Chapter 9).

(3) "Retailer" means a person that, in the regular course of business, sells over-the-counter weight loss drugs or dietary supplements to individuals, including a pharmacy or grocery store.

Sec. 446.002. DIETARY SUPPLEMENT LABELED, MARKETED, OR

1 OTHERWISE REPRESENTED FOR WEIGHT LOSS OR MUSCLE BUILDING. For the
2 purposes of this chapter, a dietary supplement may be considered
3 labeled, marketed, or otherwise represented for the purpose of
4 achieving weight loss or muscle building, if:

5 (1) the supplement:

6 (A) contains:

7 (i) an ingredient approved by the United
8 States Food and Drug Administration for weight loss or muscle
9 building;

10 (ii) a steroid; or

11 (iii) creatine, green tea extract,
12 raspberry ketone, garcinia cambogia, or green coffee bean extract;
13 or

14 (B) is labeled or marketed using statements or
15 images that express or imply the supplement will help:

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

19 (ii) maintain or increase muscle or
20 strength;

21 (2) the supplement or the supplement's ingredients are
22 otherwise represented for the purpose of achieving weight loss or
23 muscle building; or

24 (3) the retailer or person described by Section
25 446.005(b) selling the drug or supplement categorizes the drug or
26 supplement for weight loss or muscle building by:

27 (A) placing signs or otherwise categorizing or

1 labeling the drug or supplement with statements or images described
2 by Subdivision (1)(B);

3 (B) grouping the drug or supplement with other
4 weight loss or muscle building products in a display,
5 advertisement, Internet webpage, or area of a store; or

6 (C) otherwise representing the drug or
7 supplement for weight loss or muscle building.

8 Sec. 446.003. PROHIBITED SALE OR PROVISION OF DRUG OR
9 SUPPLEMENT TO MINORS. A person may not sell, offer to sell, or give
10 away, as either a retail or wholesale promotion, an
11 over-the-counter weight loss drug or dietary supplement to an
12 individual younger than 18 years of age.

13 Sec. 446.004. RETAILER RESPONSIBILITIES. (a) A retailer
14 that sells an over-the-counter weight loss drug or dietary
15 supplement shall:

16 (1) ensure the drug or supplement is only accessible
17 to the retailer's employees and not directly accessible to
18 customers; and

19 (2) limit access to the drug or supplement to prevent
20 unauthorized access by customers, including by placing the drug or
21 supplement behind the retail counter or in a locked case.

22 (b) A retailer shall request identification from an
23 individual who attempts to purchase an over-the-counter weight loss
24 drug or dietary supplement if the retailer cannot reasonably
25 determine the individual is 18 years of age or older.

26 Sec. 446.005. RESPONSIBILITIES FOR CERTAIN SALES INVOLVING
27 REMOTE ORDERING OR DELIVERY. (a) This section applies only to the

1 sale of an over-the-counter weight loss drug or dietary supplement
2 to an individual if:

3 (1) the individual orders the drug or supplement by
4 telephone, by mail or other delivery service, through the Internet
5 or another online service, or by another method by which the seller
6 is not in the physical presence of the individual when the order is
7 placed; or

8 (2) the drug or supplement is delivered to the
9 individual by common carrier, private delivery service, another
10 remote delivery method, or any other method by which the seller is
11 not in the physical presence of the individual at the time the
12 individual obtains possession of the drug or supplement.

13 (b) A person, including an online retailer, that sells an
14 over-the-counter weight loss drug or dietary supplement to which
15 this section applies and that mails or ships the drug or supplement
16 to individuals:

17 (1) may not sell, deliver, or cause to be delivered the
18 drug or supplement to an individual younger than 18 years of age;

19 (2) must use a method of mailing or shipping that
20 requires:

21 (A) an individual placing the order to sign and
22 accept the delivery at the delivery address; and

23 (B) the individual who signs and accepts the
24 delivery to provide proof the individual is 18 years of age or older
25 in the form of a government-issued driver's license or personal
26 identification certificate bearing a photograph of the individual;

27 and

1 (3) may not accept an order for pickup or delivery from
2 an individual without:

3 (A) obtaining the full name, birth date, and
4 residential address of the individual; and

5 (B) ensuring the individual is 18 years of age or
6 older by verifying the information provided in Paragraph (A)
7 through the use of a commercially available database or aggregate
8 of databases, consisting primarily of data from government sources,
9 that the government and businesses regularly use to verify and
10 authenticate an individual's age and identity.

11 (c) A person that sells an over-the-counter weight loss drug
12 or dietary supplement to which this section applies may not use a
13 database for age and identity verification under Subsection
14 (b)(3)(B) that the person owns or controls or that is subject to any
15 changes or supplementation by the person.

16 Sec. 446.006. CIVIL PENALTY; INJUNCTION; AFFIRMATIVE
17 DEFENSE. (a) A person who violates this chapter is liable to this
18 state for a civil penalty of not more than \$500 for each violation.

19 (b) The attorney general may bring an action to:

20 (1) recover the civil penalty imposed under this
21 section; or

22 (2) restrain or enjoin the person from violating this
23 chapter.

24 (c) It is an affirmative defense to liability in a civil
25 action under this chapter if a person demonstrates the individual
26 younger than 18 years of age presented an apparently valid driver's
27 license or personal identification certificate issued by a

1 governmental entity and the license or certificate passed the age
2 verification method.

3 (d) The attorney general may recover reasonable attorney's
4 fees and other reasonable expenses incurred in investigating and
5 bringing an action under this section.

6 (e) The attorney general shall deposit a civil penalty
7 collected under this section in the state treasury to the credit of
8 the general revenue fund.

9 Sec. 446.007. RULES. The executive commissioner shall
10 adopt rules as necessary to implement this chapter.

11 SECTION 2. Notwithstanding Chapter 446, Health and Safety
12 Code, as added by this Act, a person is not required to comply with
13 that chapter until December 1, 2025.

14 SECTION 3. This Act takes effect September 1, 2025.