

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 2030 (Lowenthal)
Version: April 16, 2026
Hearing Date: June 30, 2026
Fiscal: Yes
Urgency: No
AM

SUBJECT

Dietary supplements for weight loss and over-the-counter diet pills

DIGEST

This bill prohibits a person and a delivery seller from selling, offering to sell, or giving away as either a retail or wholesale promotion over-the-counter diet pills or dietary supplements for weight loss or muscle building, as defined, to any person under 18 years of age and requires a specified age identification check be conducted. The bill provides an exception for a person under 18 years of age who has a prescription. The bill provides that a person who violates this section is liable for a civil penalty of no more than \$1,000 for each violation to be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by a county counsel, or a city attorney in any court of competent jurisdiction.

EXECUTIVE SUMMARY

The author and proponents of the bill argue that dietary supplements for weight loss or over-the-counter (OTC) diet pills or dietary supplement for weight loss or muscle building pose a serious risk to children, noting that the American Academy of Pediatrics has strongly cautioned against teens using weight-loss supplements. In light of these concerns, the bill prohibits a retail establishment from these OTC supplements and pills to any person under 18 years of age without a prescription. The bill requires age verification to be conducted. This bill was previously analyzed by the Senate Health Committee – where it passed by a vote of 9 to 0 – regarding issues relating to the public health implications of the bill’s provisions. This analysis, however, is limited to the issues within the Committee’s jurisdiction – namely, the enforcement and potential legal issues implicated by the bill’s provisions.

The bill is sponsored by The Strategic Training Initiative for the Prevention of Eating Disorders and supported by numerous health and advocacy organizations regarding eating disorders, the California Commission on the Status of Women and Girls, the

Consumer Federation of California, and 6 individuals. The bill is opposed by the American Herbal Products Association and the Consumer Healthcare Products Association. The Senate Health Committee passed this bill with a vote of 9 to 0.

PROPOSED CHANGES TO THE LAW

Existing federal law:

- 1) Establishes the Federal Food, Drug, and Cosmetics Act (FDCA), which, among other things, grants the Food and Drug Administration (FDA) authority to oversee the safety of food, drugs, medical devices, and cosmetics. (21 U.S.C. §§ 301 to 399i.)
- 2) Establishes the Nutrition Labeling and Education Act, which amends the FDCA to prescribe requirements for nutrition labeling. (Pub. L. 101-535, 104 Stat. 2353.)
- 3) Establishes the Dietary Supplement Health and Education Act, which amends the FDCA to regulate dietary supplements. (Pub. L. No. 103-417, 108 Stat. 4325.)
- 4) Establishes various requirements for food labels including requiring specified nutrition information, a listing of all ingredients, and whether a produce contains any of eight major food allergens, such as milk, eggs, shellfish, tree nuts, etc. (*Id.*; 21 C.F.R. §§ 101, et seq.)

Existing state law:

- 1) Establishes the Sherman Food, Drug, and Cosmetic Law (Sherman Law), which regulates the packaging, labeling, and advertising of food, drugs, medical devices, and cosmetics and is administered by the California Department of Public Health (CDPH). (Health & Saf. Code §§ 109875-111915.)

This bill:

- 1) Prohibits a person from selling, offering to sell, or giving away as either a retail or wholesale promotion, over-the-counter diet pills or dietary supplements for weight loss or muscle building to any person under 18 years of age.
 - a) Requires a retail establishment to request valid identification from any person who attempts to purchase over-the-counter diet pills or dietary supplements for weight loss or muscle building if the retail establishment cannot reasonably determine that the person appears to be under 18 years of age.
 - b) Any retail establishment that sells over-the-counter diet pills or dietary supplements for weight loss or muscle building may limit access to those products in a manner designed to prevent unauthorized access to those products.

- 2) Requires a delivery seller, including an online retailer, who mails or ships over-the-counter diet pills or dietary supplements for weight loss or muscle building to consumers to adhere to all of the following:
 - a) Shall not sell, deliver, or cause to be delivered any over-the-counter diet pills or dietary supplements for weight loss or muscle building to a person under 18 years of age;
 - b) Shall use a method of mailing or shipping that requires both of the following:
 - i. The purchaser placing the delivery sale order, or an adult who is at least 18 years of age, to sign to accept delivery of the shipping container at the delivery address.
 - ii. (ii) The person who signs to accept delivery of the shipping container to provide proof, in the form of a valid, government-issued identification bearing a photograph of the individual, that the person is at least 18 years of age.
 - c) Shall not accept a delivery sale order from a person without doing both of the following:
 - i. Obtaining the full name, birth date, and residential address of that person.
 - ii. Verifying the information provided in clause (i), through the use of a commercially available database or aggregate of databases, consisting primarily of data from government sources, that are regularly used by government and businesses for the purpose of age and identity verification and authentication, to ensure that the purchaser is at least 18 years of age.
 - iii. A database being used for age and identity verification under (ii) shall not be in the possession or under the control of the delivery seller, or be subject to any changes or supplementation by the delivery seller.
- 3) Defines various terms for these purposes.
 - a) "Dietary supplement for weight loss or muscle building" means a dietary supplement, as defined in 21 U.S.C. 321(ff), that is labeled, marketed, or otherwise represented for the purpose of achieving weight loss or building muscle.
 - b) "Over-the-counter diet pill" means a drug, as defined in 21 U.S.C. § 321(g)(1), that is 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. §§ 301 et seq.).
 - c) "Retail establishment" means any vendor that, in the regular course of business, sells dietary supplements for weight loss or muscle building or over-the-counter diet pills at retail directly to the public, including, but not limited to, pharmacies, grocery stores, other retail stores, and vendors that accept orders placed by mail, telephone, electronic mail, internet website, online catalog, or software application.

- d) "Delivery sale" means any sale of over-the-counter diet pills or dietary supplements for weight loss or muscle building to a buyer in either of the following cases:
 - i. The buyer submits the order for the sale by means of a telephone or other method of voice transmission, the mail, or the internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made.
 - ii. The over-the-counter diet pills or dietary supplements for weight loss or muscle building are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the over-the-counter diet pills or dietary supplements for weight loss or muscle building.
 - e) "Delivery seller" means a person, including online retailers, who makes delivery sales of over-the-counter diet pills or dietary supplements for weight loss or muscle building.
- 4) Authorizes the Attorney General, a county counsel, or a city attorney to apply to a court for, and that court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction enjoining or restraining any person or entity from violating these provisions.
- a) Provides that a person who violates this section is liable for a civil penalty of no more than \$1,000 for each violation, which may be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, a county counsel, or a city attorney.
 - b) A prevailing plaintiff in an action is entitled to an award of reasonable attorney's fees and costs.
 - c) The penalties established by this bill are cumulative and do not diminish rights, remedies, or penalties established under other laws.
- 5) Authorizes the court to consider, when determining whether a supplement is "labeled, marketed, or otherwise represented for the purpose of achieving weight loss or muscle building," certain factors.
- 6) Provides that these provisions do not apply to a person under 18 years of age with a prescription for an over-the-counter diet pill or dietary supplement for weight loss or muscle building.
- 7) Provides that specified existing penalties under the Sherman Food, Drug, and Cosmetic Act do not apply.

COMMENTS

1. Stated need for the bill

The author writes:

The growing public health threat posed by youth access to over-the-counter diet pills and muscle-building supplements is concerning and deserves immediate action. Nearly 1 in 10 young people report to have used these potentially harmful weight loss products in their lifetime. These products are aggressively marketed to young people, often online and on social media platforms, with promises of rapid weight loss, dramatic body transformation, and increased muscle mass, despite carrying serious risks including organ failure, heart attack, stroke, severe liver injury, testicular cancer, and even death. Many have been found to contain undisclosed ingredients such as illegal steroids, pharmaceutical drugs, heavy metals, or previously banned thermogenic stimulants. Because dietary supplements are not subject to the same premarket approval standards as prescription medications, dangerous products often remain on store shelves until after significant harm occurs. Federal oversight by the FDA usually only occurs after injuries have been reported, leaving our young population vulnerable to unsafe and misleading products.

AB 2030 addresses this gap by establishing clear, enforceable age restrictions on the sale of products marketed as weight loss or muscle building supplements. This bill created meaningful safeguards like those already in place for other age restricted products such as Tobacco and alcohol. Research shows that the use of weight-loss and muscle-building supplements is associated with higher rates of eating disorders, body dysmorphia, depression, and other mental health vulnerabilities among adolescents. AB 2030 represents a practical, immediate step to protect California's young people from preventable harm and to ensure that their health and well-being come before deceptive marketing and unregulated industry practices.

2. Prior Legislation

In 2022, the Legislature passed AB 1341 (Cristina Garcia, 2022), which was similar to this bill but was vetoed by Governor Newsom. In the Governor's veto message of AB 1341, he wrote:

I commend the work of the author as this bill raises an important public health issue related to the safety of diet or weight loss pills that can result in injury. However, dietary supplements for weight loss are not considered drugs and, therefore, this measure would require CDPH 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 CDPH 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.

CDPH is prepared to work with the legislature next session to address sales age limits and other potential legislative actions to address the responsible sale of dietary supplements for weight loss and over-the-counter diet pills that do not require the state to undertake lengthy and costly pharmacological studies on the many supplements on the market today.

The California Department of Public Health established an AB 1341 Workgroup in response to the Governor's veto to address the potential risks associated with the use of dietary supplements for weight loss and over-the-counter (OTC) diet pills by youth. The Workgroup came up with various policy recommendations; however, the recommendations did not represent a position of the California Health and Human Services Agency, the California Department of Health, or the Governor's Office. Some of the Legislative proposals included:

- restricting the sale of OTC diet pills and weight loss dietary supplements to adults 18-years-old and over;
- mandating these products are kept behind the counter; and
- restricting access to OTC diet pills carrying drug facts panel to adults 18-years-old and over, but do not restrict access to dietary supplements.¹

In 2024, this Committee heard AB 82 (Weber), which was substantially similar to this bill. AB 82 passed this Committee on a vote of 10 to 0 but died in the Senate Appropriations Committee.

3. Legal issues raised by the bill and enforcement

a. FDCA and dietary supplements

Under the FDCA, the FDA does not have pre-market approval like it does for drugs. Dietary supplements are regulated by FDA in a similar manner as food, meaning they are subject to requirements relating to food manufacturing practices and must meet certain labeling standards, among other requirements. According to the FDA, "it is the responsibility of dietary supplement companies to ensure their products meet the safety standards for dietary supplements and are not otherwise in violation of the law. Dietary supplement labels are required to have nutrition information in the form of a Supplement Facts label that includes the serving size, the number of servings per

¹ Cal. Dept. of Pub. Health, *AB 1341 Workgroup Report*, (Feb. 2024), p. 2.

container, a listing of all dietary ingredients in the product, and the amount per serving of those ingredients. They also must have a statement on the front of the product identifying it as a “dietary supplement” or similar descriptive term (e.g., “herbal supplement” or “calcium supplement”).

b. Federal preemption

The courts have held that when Congress acts under its constitutional powers, it may preempt state laws by one of the following means: (1) an express preemption provision that “withdraw[s] specified powers from the States”; (2) field preemption that “precludes [States] from regulating conduct in a field that Congress . . . has determined must be regulated by its exclusive governance”; or (3) conflict preemption, which occurs when either “compliance with both federal and state regulations is a physical impossibility,” or the “state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.” (*Arizona v. United States* (2012) 567 U.S. 387, 399 [internal quotation marks omitted].)

On the other hand, courts also apply a strong presumption against federal preemption of state law, particularly with respect to matters within states’ traditional police powers. “[T]he structure and limitations of federalism . . . allow the States great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all persons.” (*Gonzales v. Oregon* (2006) 546 U.S. 243, 270 [internal quotation marks omitted].) “[Police] regulations may validly be imposed if they constitute a reasonable exertion of governmental authority for the public good.” (*In re Fuller* (1940) 15 Cal. 2d 425, 428.) Ensuring the safety of minors by prohibiting the sale of dietary supplements and drugs to minors is at least presumptively within the state’s power to regulate for the “protection of the lives, limbs, health, comfort, and quiet of all persons.” (*Gonzales v. Oregon*, *supra*, at 270.)

The bill ensures that a minor could be sold a dietary supplement or OTC diet pill if they have a valid prescription. As noted in this Committee’s analysis of AB 1321, existing state law bars the sale of FDA-approved OTC drugs to minors that contain any quantity of dextromethorphan without a prescription, as well as 16 other states, and that none of these laws have been struck down by courts as federally preempted. (Health & Saf. Code §§ 11110-11111.) The FDA has approved at least one weight loss drug for over-the-counter sale. This exception aids against claims that bill is somehow an obstacle to the federal law.

c. Enforcement

The bill provides that a person who violates this section is liable for a civil penalty of no more than \$1,000 for each violation to be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, a county counsel, or a city attorney in any court of competent jurisdiction. These same

public prosecutors can also seek injunctive relief. Under the bill, a prevailing plaintiff entitled to an award of reasonable attorney's fees and costs.

d. Dormant Commerce Clause

Section 8 of Article I of the United States Constitution grants the United States Congress the power to regulate interstate commerce. The converse proposition – that states may not usurp Congress's express power to regulate interstate commerce – is known as the Dormant Commerce Clause – "the [Commerce] Clause also contains a further, negative command, one effectively forbidding the enforcement of certain state economic regulations even when Congress has failed to legislate on the subject." The United States Supreme Court recently affirmed that the dormant Commerce Clause generally does not prohibit a state from regulating commerce within its borders, even if the prohibition affects out-of-state sellers, unless the prohibition acts to discriminate against out-of-state interests for the benefit of in-state commerce. The Court has held that "[s]tate laws that 'regulat[e] even-handedly [across all in-state and out-of-state businesses] to effectuate a legitimate local public interest...will be upheld unless the burden imposed upon such commerce is clearly excessive in relation to the putative local benefits.'"

The bill currently does not state that its provisions apply to sales made to a person in this state. In order to avoid any arguments that the bill is trying to regulate commerce outside of the state, which would be a violation of the federal constitution, the author has agreed to amend the bill. The specific amendments are described in Comment 4, below.

With the amendments, the bill's prohibition on the sale of specified weight loss products to minors does not implicate the dormant Commerce Clause as they will apply equally to all retailers that sell to Californians, regardless of whether they are physically located within the state. There is no implication that the bill benefits in-state retailers over out-of-state retailers. A statute may also violate the dormant Commerce Clause, even if it "regulates even handedly to effectuate a legitimate local public interest, and its effects on interstate commerce are only incidental" and the burden imposed on commerce "is clearly excessive in relation to the putative local benefits" or substantially burdens interstate commerce. (*Pike v. Bruce Church, Inc.* (1970) 397 U.S. 137, 142.) As the rationale for the bill is to ensure the health and safety of minors, which is a valid exercise of the state's police powers, this bill would likely not be found to substantially burden interstate commerce in violation of the Dormant Commerce Clause.

4. Amendments

The amendments to address the potential Commerce Clause issues raised in Comment 3)d) (subject to any technical changes Legislative Counsel may make) are:

SECTION 1. Section 110423.7 as added to the Health and Safety Code, is amended to read:

110423.7. (a) For purposes of this section, the following terms shall have the following meanings:

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

(2) "Over-the-counter diet pill" means a drug, as defined in 21 U.S.C. 321(g)(1), that is 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. Sec. 301 et seq.).

(3) "Retail establishment" means any vendor that, in the regular course of business, sells dietary supplements for weight loss or muscle building or over-the-counter diet pills at retail directly to the public, including, but not limited to, pharmacies, grocery stores, other retail stores, and vendors that accept orders placed by mail, telephone, electronic mail, internet website, online catalog, or software application.

(4) "Delivery sale" means any sale of over-the-counter diet pills or dietary supplements for weight loss or muscle building to a buyer in either of the following cases:

(A) The buyer submits the order for the sale by means of a telephone or other method of voice transmission, the mail, or the internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made.

(B) The over-the-counter diet pills or dietary supplements for weight loss or muscle building are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the over-the-counter diet pills or dietary supplements for weight loss or muscle building.

(5) "Delivery seller" means a person, including online retailers, who makes delivery sales of over-the-counter diet pills or dietary supplements for weight loss or muscle building.

(b) (1) A person shall not sell, 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 to any person *in this state* under 18 years of age.

(2) For purposes of paragraph (1), and subject to subdivision (c), a retail establishment shall request valid identification from any person *in this state* who attempts to purchase over-the-counter diet pills or dietary supplements for weight loss or muscle building if the retail establishment cannot reasonably determine that the person appears to be under 18 years of age.

(3) Any retail establishment that sells over-the-counter diet pills or dietary supplements for weight loss or muscle building *in this state* may limit access to those products in a manner designed to prevent unauthorized access to those products.

(c) (1) Notwithstanding paragraph (2) of subdivision (b), a delivery seller, including an online retailer, who mails or ships over-the-counter diet pills or dietary supplements for weight loss or muscle building to consumers *in this state* shall adhere to all of the following:

(A) Shall not sell, deliver, or cause to be delivered any over-the-counter diet pills or dietary supplements for weight loss or muscle building to a person *in this state* under 18 years of age. [...]

5. Stakeholder statements

A coalition of health and advocacy organizations regarding eating disorders, including the sponsor of the bill, write in support stating:

[...] While these dietary supplements deceptively claim to promote healthy weight loss – some using celebrity endorsers – these products are not required to demonstrate rigorous testing for safety or efficacy before entering the market, are not medically recommended, and are inadequately regulated by the U.S. Food and Drug Administration (FDA). Alarming, there are no age restrictions on the sale of these products, leaving young people, who are particularly vulnerable to deceptive marketing claims, with no protection from purchasing these dangerous products. [...]

We must take action now to protect the children of California by making it harder for children to be targeted by the empty promises of under-regulated weight-loss supplements. These products pose a serious risk to children of all ethnicity groups, genders, and ages across the state. The American Academy of Pediatrics has strongly cautioned against teens using these products. The Food and Drug Administration has yet to approve any over-the-counter weight-loss products for children.

Restricting access puts California's public health approach in line with physician recommendations. [...]

The American Herbal Products Association writes in opposition stating:

[...] Dietary supplements are subject to well-established regulation and enforcement systems. The U.S. Federal Food and Drug Administration (FDA) has clear authority over dietary supplements through the Federal Food, Drug and Cosmetic Act and related laws and regulations. FDA is charged with inspecting manufacturing facilities, reviewing labeling and monitoring products for safety. Under federal law, products labeled as dietary supplements that contain drug substances not considered valid dietary ingredients (such as steroids) are already classified as unlawfully marketed drugs and should not be sold to anyone under any circumstances. Dietary supplement products adulterated with contaminants that can cause serious adverse events are similarly already prohibited under federal law. This bill does not address the harms caused by these unlawful products.

AHPA has addressed legislation similar to AB 2030 in California in previous years as well as in several other states, where it has consistently faced legal challenge or failed to pass into law. A common issue preventing the passage of such bills is that the scope of coverage is untenably broad.

As amended, enforcing counsel and court would be left to make individual case-by-case determinations about what ingredients, what mechanisms of action, and what communications would count as an implicit claim regarding any of the described biomechanical processes. Many basic nutrients play a role in muscle development and metabolic systems, including protein and vitamin D (creatine, explicitly mentioned in the bill, is similarly a deeply studied ingredient used safely across many demographics). A wide range of products not normally considered weight loss or musclebuilding supplements would thus be subject to the proposed restriction based solely on the identification of their ingredients. [...]

The Consumer Healthcare Products Association writes in an opposed unless amended position stating:

In the interest of reaching a workable agreement, CHPA is prepared to change our position to neutral on an age 18 restriction on the sale of dietary supplements and OTC weight loss drugs, provided that restriction is:

- Limited exclusively to products that are explicitly marketed or labeled for weight loss or muscle building.
- Implemented through a single, clearly defined verification standard at the point of sale, whether in person or online, without duplicative verification obligations.

We have accepted this general framework in other legislation in California and are prepared to do so again. [...]

SUPPORT

The Strategic Training Initiative for the Prevention of Eating Disorders (sponsor)

Academy for Eating Disorders

Alaska Eating Disorders Alliance

Be Real USA

California Commission on the Status of Women and Girls

Center for Science in the Public Interest

Children's Advocacy Institute

Consumer Federation of California

Eating Disorders Coalition

Eating Disorder Resource Center

Finxerunt Policy Institute,

For You

iCure Health International

International Socioeconomics Laboratory

Multi-Service Eating Disorders Association

National Association of Anorexia Nervosa and Associated Disorders

National Eating Disorders Association

NCARTH

Policy for the People

Project Heal

Realize Your Beauty

Renfrew Center for Eating Disorders

The Alliance for Eating Disorders Awareness

The Eating Disorder Foundation

9 individuals

OPPOSITION

American Herbal Products Association

Consumer Healthcare Products Association

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation: See Comment 2.

PRIOR VOTES

Senate Health Committee (Ayes 9, Noes 0)

Assembly Floor (Ayes 57, Noes 7)

Assembly Appropriations Committee (Ayes 11, Noes 3)

Assembly Judiciary Committee (Ayes 9, Noes 2)

Assembly Health Committee (Ayes 12, Noes 1)
