

RESOLUTION 07-07-05

DIGEST

Diet Pills: Regulation of Sale To Minors

Amends Health and Safety Code section 110423.2 to add to the list of diet pills restricted for sale to minors those that contain ephedra-substitute products.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Health and Safety Code section 110423.2 to add to the list of diet pills restricted for sale to minors those that contain ephedra-substitute products. This resolution should be approved in principle because it reasonably restricts sales to minors of diet pills containing ingredients that are believed to be risks to health if not properly taken.

The regulation and control of dietary supplements and diet pills is a growing controversy. In response to harmful effects of ephedra to the health of people, including in some cases death, the Food and Drug Administration has banned the use of supplements that contain ephedra. Substitutes for the banned product have been developed and are being marketed as dietary supplements that are "ephedra-free." Such products may also be dangerous to health if improperly taken.

This resolution would add to the growing list of ephedra substitutes those that have been identified in the medical literature as potential risks to health and restrict the sale of diet products that contain such substitutes to those under 18 years of age.

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that section 110423.2 of the Health & Safety Code be amended as follows:

- 1 § 110423.2
- 2 (a) It is a misdemeanor for any manufacturer, wholesaler, retailer, or other person, to sell, transfer, or
- 3 otherwise furnish any of the following to a person under 18 years of age:
- 4 (1) A dietary supplement containing an ephedrine group alkaloid.(2) A dietary supplement containing
- 5 any of the following:
- 6 (A) Androstenediol.
- 7 (B) Androstenedione.
- 8 (C) Androstenedione.
- 9 (D) Norandrostenediol.
- 10 (E) Norandrostenedione.
- 11 (F) Dehydroepiandrosterone.
- 12 (G) Synephrine.
- 13 (H) Octopamine.
- 14 (I) Tyramine.
- 15 (b) A seller shall request valid identification from any individual who attempts to purchase a dietary
- 16 supplement set forth in subdivision (a) if that individual reasonably appears to the seller to be under
- 17 18 years of age.
- 18 (c) Notwithstanding subdivisions (a) and (b), a retail clerk who fails to request identification pursuant
- 19 to subdivision (b) shall not be guilty of a misdemeanor pursuant to subdivision (a), subject to any civil
- 20 penalties, or subject to any disciplinary action or discharge by his or her employer. This subdivision
- 21 shall not apply to a retail clerk who is a willful participant in an ongoing criminal conspiracy to violate
- 22 this article.

(Proposed new language underlined; language to be deleted stricken.)

STATEMENT OF REASONS

Existing Law: Currently, there are no age restrictions on purchase or sale of ephedra-substitute dietary supplements. Section 110423.2 prohibits the sale of diet supplements containing ephedra and also prohibits the sale of steroid-type substitutes. It does not prohibit the sale of the ephedra substitutes that have popped up.

Resolution: This resolution would place a reasonable restriction on the use of ephedra-substitute dietary supplements by minors.

Problem: As of April 12, 2004 the FDA instituted a final rule prohibiting the sale of dietary supplements containing ephedra. Ephedra, also called Ma huang, is a naturally occurring substance derived from plants. Its principal active ingredient is ephedrine, which had long been used as a cough expectorant. However, by marketing ephedra products in the form of dietary supplements and energy drinks producers do not have to chemically synthesize the active ingredient thus making it medication and bringing it under closer FDA scrutiny.

Use of ephedra-based products have resulted in severe side effects ranging from high blood pressure, stroke, heart attack and even death. In Texas, at least 37 hospitalizations, including ten teenagers, and two deaths have been attributed to ephedra.

Since the FDA ban several months ago, the market has been flooded with new “ephedra-free” diet aids that claim to be safe. However, according to the chair of the American Society of Pharmacology, these new substitutes may still raise heart and blood pressure to dangerous levels if not taken properly, and are still not currently regulated.

The National Eating Disorder Information Center believes that there should be age restrictions for the purchase of diet pills, just like there are on cigarettes. According to a recent article published with the Center, “experts say diet pills are often the first step in a self-destructive path to an eating disorder. They can be followed by the use of laxatives, diuretics, self-induced vomiting or starvation. All this in pursuit of the so-called perfect body.”

Between media influencing youth with the need for constant thinness, a national rise in early development of eating disorders (often 12 to 13 years old) and the documented danger of ephedra-based supplements the time has come for greater restriction on the sale and access of minors to these products.

IMPACT STATEMENT:

This resolution does not affect any other law, statute or rule.

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