

State of California

DIETARY SUPPLEMENT LABELING AND ADVERTISING

Health and Safety Code Sections 110422-110424

§110422.

- a) Whenever a warning label is included on any product defined as a dietary supplement pursuant to Section 321(ff) of Title 21 of the United States Code, that is manufactured or distributed in this state, the label shall be clear and conspicuous.
- b) Nothing in this section shall in any way limit or restrict any rights, remedies, or duties otherwise applicable by law.
- c) This section shall be implemented to the extent permitted by federal law.

§110423.

(a)

- (1) The sale or distribution of any dietary supplement product containing ephedrine group alkaloids is prohibited unless the product label clearly and conspicuously contains the following statement:

"THIS PRODUCT HAS (INSERT THE AMOUNT OF PRODUCT) MILLIGRAMS OF CONCENTRATED EPHEDRINE GROUP ALKALOIDS PER SERVING IN THE FORM OF HERBAL EXTRACTS."

- (2) The sale or distribution of any dietary supplement product containing ephedrine group alkaloids is prohibited unless the product label clearly and conspicuously contains the following warning:

(A) "WARNING: NOT FOR USE BY INDIVIDUALS UNDER THE AGE OF 18 YEARS. DO NOT USE IF PREGNANT OR NURSING. Consult a physician or licensed qualified health care professional before using this product if you have, or have a family history of, heart disease, thyroid disease, diabetes, high blood pressure, depression or other psychiatric condition, glaucoma, difficulty in urinating, prostate enlargement, or seizure disorder, or if you are using a monoamine oxidase inhibitor (MAOI) or any other dietary supplement, prescription drug, or over-the-counter drug containing ephedrine, pseudoephedrine, or phenylpropanolamine (ingredients found in certain allergy, asthma, cough or cold, and weight control products)."

(B) "Do not exceed recommended serving. Exceeding recommended serving may cause serious adverse health effects, including heart attack and stroke."

- (C) "Discontinue use and call a physician or licensed qualified health care professional immediately if you experience rapid heartbeat, dizziness, severe headache, shortness of breath, or other similar symptoms."
 - (D) "Individuals who are sensitive to the effects of caffeine should consult a licensed health care professional before consuming this product."
 - (E) "KEEP OUT OF REACH OF CHILDREN."
- (b) The sale or distribution of dietary supplements containing steroid hormone precursors is prohibited unless the product label for these dietary supplements clearly and conspicuously contains the following warning:

"WARNING: NOT FOR USE BY INDIVIDUALS UNDER THE AGE OF 18 YEARS. DO NOT USE IF PREGNANT OR NURSING. Consult a physician or licensed qualified health care professional before using this product if you have, or have a family history of, prostate cancer, prostate enlargement, heart disease, low "good" cholesterol (HDL), or if you are using any other dietary supplement, prescription drug, or over-the-counter drug. Do not exceed recommended serving. Exceeding recommended serving may cause serious adverse health effects. Possible side effects include acne, hair loss, hair growth on the face (in women), aggressiveness, irritability, and increased levels of estrogen. Discontinue use and call a physician or licensed qualified health care professional immediately if you experience rapid heartbeat, dizziness, blurred vision, or other similar symptoms. KEEP OUT OF REACH OF CHILDREN."

- (c) The product label for any dietary supplement product containing ephedrine group alkaloids or steroid hormone precursors shall clearly and conspicuously display the following statement: "To report any adverse events call 1-800-332-1088."

§110423.2.

- (a) It is a misdemeanor for any manufacturer, wholesaler, retailer, or other person, to sell, transfer, or otherwise furnish any of the following to a person under 18 years of age:
- (1) A dietary supplement containing an ephedrine group alkaloid.
 - (2) A dietary supplement containing any of the following:
 - (A) Androstenediol.
 - (B) Androstenedione.
 - (C) Androstenedione.
 - (D) Norandrostenediol.
 - (E) Norandrostenedione.
 - (F) Dehydroepiandrosterone.
- (b) A seller shall request valid identification from any individual who attempts to purchase a dietary supplement set forth in subdivision (a) if that individual reasonably appears to the seller to be under 18 years of age.

(c) Notwithstanding subdivisions (a) and (b), a retail clerk who fails to request identification pursuant to subdivision (b) shall not be guilty of a misdemeanor pursuant to subdivision (a), subject to any civil penalties, or subject to any disciplinary action or discharge by his or her employer. This subdivision shall not apply to a retail clerk who is a willful participant in an ongoing criminal conspiracy to violate this article.

§110423.4.

- (a) This article shall not apply to a licensed health care practitioner practicing within his or her scope of practice who prescribes, dispenses, or both, herbs in the course of treatment of patients under the care of the licensed practitioner.
- (b) This article shall not apply to herbal products that are sold or distributed directly to a licensed health care practitioner when the herbal product is used solely for the purpose of the treatment of patients under the care of the practitioner.

§110423.6.

- (a) Except as provided in subdivision (b), a retail establishment that sells, transfers, or otherwise furnishes a dietary supplement product in violation of Section 110423.2 shall not be guilty of a misdemeanor pursuant to subdivision (a) of Section 110423.2 if all of the following conditions are met:
 - (1) Every checkout clerk at the retail establishment has completed standardized training that includes, but is not limited to, the law with respect to selling dietary supplement products subject to this article, methods of easily identifying dietary supplement products subject to this article when checking out customers, and procedures for requesting identification from any customer attempting to purchase dietary supplement products subject to this article who reasonably appears to the clerk to be a minor.
 - (2) Every checkout clerk at the retail establishment is provided with training updates that cover any changes in the law with respect to selling dietary supplement products subject to this article and any other responsibilities of the retail establishment under this article.
 - (3) Every programmable checkout scanner or computer used to check out customers with purchases is programmed to identify dietary supplement products subject to this article at the checkout station. A retail establishment that does not use programmable checkout scanners or computers is not required to satisfy this condition.
 - (4) Every checkout clerk has received a written list of dietary supplement products subject to this article that are sold by the retail establishment that may be posted at the checkout station for easy access.
- (b) Notwithstanding the fact that a retail establishment has met all of the conditions specified in subdivision (a), the retail establishment shall be guilty of a misdemeanor

pursuant to subdivision (a) of Section 110423.2 if the retail establishment violates this article three or more times in a 12-month period.

§110423.8.

Nothing in this article limits or restricts any rights, remedies, or duties otherwise applicable by law.

§110423.100.

Notwithstanding Article 4 (commencing with Section 110423), the sale or distribution of any dietary supplement products containing ephedrine group alkaloids is prohibited.

§110423.101.

This article shall not apply, but Article 4 (commencing with Section 110423) shall apply, to any of the following:

- (a) A California licensed health care practitioner who is practicing within his or her scope of practice and who prescribes or dispenses, or both, dietary supplement products containing ephedrine group alkaloids in the course of the treatment of a patient under the direct care of that licensed health care practitioner, except that a licensed health care practitioner shall not prescribe or dispense dietary supplements containing ephedrine group alkaloids for purposes of weight loss, body building, or athletic performance enhancement.
- (b) Dietary supplement products containing ephedrine group alkaloids that are sold or distributed directly to a licensed health care practitioner when the dietary supplement product containing ephedrine group alkaloids is used solely for the purpose of the treatment of patients under the direct care of the health care practitioner.
- (c) Dietary supplement products containing ephedrine group alkaloids that are sold or distributed directly to a licensed pharmacist for resale to a patient for whom the products have been prescribed pursuant to subdivision (a).
- (d) Dietary supplement products containing ephedrine group alkaloids that are not for resale in California and that are sold or distributed directly to businesses not located in California.

§110424.

Violation of this article by any person, as defined in Section 109995, shall constitute an infraction, punishable by a fine not to exceed the following:

- (a) One thousand dollars (\$1,000) for the first violation.
- (b) Two thousand dollars (\$2,000) for the second violation.
- (c) Five thousand dollars (\$5,000) for the third and each subsequent violation.