

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 739 (Delegate Vogel)
 Health and Government Operations

Maryland Department of Health - List of Diet Pills (Weight Loss Supplement Identification)

This bill requires the Maryland Department of Health (MDH) to (1) develop a list of over-the-counter diet pills sold in the State, as specified; (2) make the list publicly accessible by January 1, 2025; and (3) update the list on a quarterly basis.

Fiscal Summary

State Effect: MDH general fund expenditures increase by \$233,900 in FY 2025 for personnel. Future years reflect annualization, inflation, elimination of one-time costs, and reduction of one full-time position to part-time in FY 2026. Revenues are not affected.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	233,900	191,100	199,600	208,300	217,500
Net Effect	(\$233,900)	(\$191,100)	(\$199,600)	(\$208,300)	(\$217,500)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: “Diet pill” means one of the following products that is labeled, marketed, or otherwise represented for the purpose of achieving weight loss: (1) a dietary supplement as defined in federal law; or (2) a drug, as defined in federal law, that does not require a

prescription under the federal Food, Drug, and Cosmetic Act. “Diet pill” does not include a dietary fiber product.

When determining whether a product constitutes a diet pill, MDH may consider whether (1) the labeling or marketing of the pill includes statements or images that expressly state or imply that the pill will help modify, maintain, or reduce body fat, appetite, overall metabolism, or the process by which nutrients are metabolized and (2) the pill or its ingredients are otherwise represented for the purpose of achieving weight loss.

Current Law: Federal law defines “dietary supplement” as a product intended to supplement the diet that contains one or more dietary ingredients (vitamins or minerals, herbs or other botanicals, amino acids, dietary substances used to supplement the diet by increasing the total dietary intake, or concentrates, metabolites, constituents, extracts, or combinations of any other dietary ingredient). To be a dietary supplement, a product must be labeled as a dietary supplement or equivalent.

The U.S. Food and Drug Administration (FDA) regulates dietary supplements as foods unless the product meets the definition of a drug. FDA does not have the authority to approve dietary supplements before they are marketed. FDA regulations require those who manufacture, package, or hold dietary supplements to follow current good manufacturing practices that help ensure the identity, purity, quality, strength, and composition of dietary supplements. FDA generally does not approve dietary supplement claims or other labeling before use. FDA is responsible for enforcing the laws and regulations governing dietary supplements. To identify violations, the agency conducts inspections, monitors the marketplace, examines dietary supplements and dietary ingredients offered for import, and reviews new dietary ingredient notifications and other regulatory submissions for dietary supplements.

State Expenditures: Additional MDH resources are required to implement the bill due to the compressed timeline for initial development of the list (the list must be made publicly accessible three months after the bill’s effective date) and the lack of current expertise within MDH regarding diet pills as defined by the bill.

Accordingly, MDH general fund expenditures increase by \$233,924 in fiscal 2025, which accounts for the bill’s October 1, 2024 effective date. This estimate reflects the cost to hire two personnel (one physician clinical specialist and one program administrator) to complete initial development of the list. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2.0
Salaries and Fringe Benefits	\$219,412
Operating Expenses	<u>14,512</u>
Total FY 2025 MDH Expenditures	\$233,924

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. MDH advises that ongoing updating of the list only requires a part-time (0.5) physician clinical specialist; thus, ongoing operating expenses reflect a reduction of the full-time physician clinical specialist to a part-time (0.5) position beginning in fiscal 2026.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 1137 (Senator Benson) - Rules.

Information Source(s): Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2024
km/jc

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