

ASSEMBLY BILL

No. 1178

Introduced by Assembly Member Quirk

February 21, 2019

An act to add Section 110422.1 to the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1178, as introduced, Quirk. Dietary supplements: labeling: live microorganisms.

Existing law, the Sherman Food, Drug, and Cosmetics Law, provides for the regulation of various subjects relating to the processing, labeling, advertising, and sale of food under the administration and enforcement of the State Department of Public Health. Existing applicable federal law includes dietary supplements, as defined, within the definition of food for these purposes. Existing law requires, to the extent permitted by federal law, that any warning label on products defined as dietary supplements pursuant to specified federal law, that are manufactured or distributed in the state, be clear and conspicuous. Under existing law, a violation of that requirement constitutes an infraction, punishable by specified fines.

This bill would, commencing January 1, 2022, and to the extent permitted by federal law, require a manufacturer or distributor of dietary supplements sold in the state that contain live microorganisms to include on its label the genus, species, and strain of each live microorganism in the dietary supplement and the total estimated quantity of all live microorganisms in the dietary supplement at the end of its shelf life, as measured by colony forming units. The bill would provide that a violation of this requirement is an infraction, punishable by specified

ines. By creating a new crime, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 110422.1 is added to the Health and
2 Safety Code, to read:

3 110422.1. (a) Commencing January 1, 2022, a manufacturer
4 or distributor of dietary supplements, as defined in Section 321(ff)
5 of Title 21 of the United States Code, sold in the state that contain
6 live microorganisms shall include both of the following on the
7 label of the dietary supplement:

8 (1) The genus, species, and strain of each live microorganism
9 in the dietary supplement.

10 (2) The total estimated quantity of all live microorganisms in
11 the dietary supplement at the end of its shelf life, as measured by
12 colony forming units (CFU).

13 (b) This section does not in any way limit or restrict any rights,
14 remedies, or duties otherwise applicable by law.

15 (c) This section shall be implemented to the extent permitted
16 by federal law.

17 SEC. 2. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.

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