

Chapter 249

(House Bill 1230)

AN ACT concerning

Public Health – Tianeptine Consumer Protection Act

FOR the purpose of ~~requiring a retailer that prepares, distributes, sells, or exposes for sale a food that is represented to be a tianeptine product to disclose the factual basis on which the representation is made; prohibiting a retailer from preparing, distributing, selling, or exposing for sale tianeptine products that do not include certain information; prohibiting a retailer from distributing, selling, or exposing for sale, or advertising for sale a tianeptine product to an individual under a certain age; prohibiting a retailer from directly or indirectly advertising tianeptine products to minors; and generally relating to tianeptine and tianeptine retailers.~~

BY adding to

Article – Health – General

Section 21-2D-01 through ~~21-2D-04~~ 21-2D-03 to be under the new subtitle “Subtitle 2D. Tianeptine Consumer Protection Act”

Annotated Code of Maryland
(2023 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

SUBTITLE 2D. TIANEPTINE CONSUMER PROTECTION ACT.

21-2D-01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) “RETAILER” MEANS A PERSON THAT:

(I) SELLS, PREPARES, OR MAINTAINS TIANEPTINE PRODUCTS;

OR

(II) ADVERTISES, REPRESENTS, OR HOLDS ITSELF OUT AS SELLING, PREPARING, OR MAINTAINING TIANEPTINE PRODUCTS.

(2) “RETAILER” INCLUDES A MANUFACTURER, WHOLESALER, STORE, RESTAURANT, HOTEL, CATERING FACILITY, CAMP, BAKERY, DELICATESSEN,

SUPERMARKET, GROCERY STORE, CONVENIENCE STORE, GAS STATION, OR FOOD OR DRINK COMPANY.

(C) “TIANEPTINE PRODUCT” MEANS A ~~FOOD PRODUCT OR DIETARY INGREDIENT~~ PRODUCT THAT IS MARKETED FOR HUMAN CONSUMPTION CONTAINING ANY AMOUNT OF TIANEPTINE SODIUM OR TIANEPTINE SULFATE.

21-2D-02.

~~(A) (1) A RETAILER THAT PREPARES, DISTRIBUTES, SELLS, OR EXPOSES FOR SALE A FOOD THAT IS REPRESENTED TO BE A TIANEPTINE PRODUCT SHALL DISCLOSE ON THE PRODUCT LABEL THE FACTUAL BASIS ON WHICH THE REPRESENTATION IS MADE.~~

~~(2) A RETAILER MAY NOT PREPARE, DISTRIBUTE, SELL, OR EXPOSE FOR SALE A FOOD REPRESENTED TO BE A TIANEPTINE PRODUCT THAT DOES NOT CONFORM TO THE DISCLOSURE REQUIREMENT ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(B) A RETAILER MAY NOT PREPARE, DISTRIBUTE, SELL, OR EXPOSE FOR SALE A TIANEPTINE PRODUCT THAT DOES NOT INCLUDE ON ITS PACKAGE OR LABEL THE AMOUNT OF TIANEPTINE SODIUM AND TIANEPTINE SULFATE CONTAINED IN THE PRODUCT.~~

~~(C) (A) A RETAILER MAY NOT DISTRIBUTE, SELL, OR EXPOSE FOR SALE, OR ADVERTISE FOR SALE A TIANEPTINE PRODUCT TO AN INDIVIDUAL UNDER THE AGE OF 21 YEARS.~~

~~(D) IN A PROSECUTION FOR A VIOLATION OF THIS SECTION, IT IS A DEFENSE THAT THE DEFENDANT RELIED IN GOOD FAITH ON THE REPRESENTATIONS OF A MANUFACTURER, PROCESSOR, PACKER, OR DISTRIBUTOR OF FOOD REPRESENTED TO BE A TIANEPTINE PRODUCT.~~

~~(E) A RETAILER THAT VIOLATES SUBSECTION (A)(1) OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING:~~

~~(1) \$500 FOR A FIRST VIOLATION; OR~~

~~(2) \$1,000 FOR EACH SUBSEQUENT VIOLATION.~~

~~(F) (B) A RETAILER THAT VIOLATES SUBSECTION (A)(2), (B), OR (C) (A) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT~~

TO A FINE NOT EXCEEDING ~~\$500~~ \$5,000, IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR BOTH.

~~(C)~~ (C) IN ADDITION TO ANY OTHER PENALTIES UNDER THIS SECTION, A RETAILER WHO VIOLATES THIS SECTION IS LIABLE FOR CIVIL DAMAGES SUSTAINED BY THE INDIVIDUAL RESULTING FROM THE VIOLATION.

21-2D-03.

~~(A) A RETAILER MAY NOT DIRECTLY OR INDIRECTLY ADVERTISE OR MARKET TIANEPTINE PRODUCTS TO MINORS.~~

~~(B) IT IS A VIOLATION OF SUBSECTION (A) OF THIS SECTION FOR A RETAILER TO USE ANY OF THE FOLLOWING IN THE ADVERTISING, PROMOTION, PACKAGING, OR LABELING OF A TIANEPTINE PRODUCT:~~

~~(1) A CARTOON;~~

~~(2) A SUPERHERO;~~

~~(3) A VIDEO GAME REFERENCE;~~

~~(4) AN IMAGE OF A FOOD PRODUCT PRIMARILY INTENDED FOR MINORS;~~

~~(5) A TRADEMARK THAT IMITATES OR MIMICS THE TRADEMARK OF A PRODUCT THAT HAS BEEN ADVERTISED OR MARKETED PRIMARILY TO MINORS;~~

~~(6) A SYMBOL OR CELEBRITY THAT IS PRIMARILY ASSOCIATED WITH MINORS OR MEDIA PRIMARILY DIRECTED TO MINORS; AND~~

~~(7) AN IMAGE OF AN INDIVIDUAL WHO APPEARS TO BE UNDER THE AGE OF 27 YEARS.~~

~~(C) IT IS A VIOLATION OF SUBSECTION (A) OF THIS SECTION FOR A RETAILER TO ADVERTISE OR PROMOTE A TIANEPTINE PRODUCT:~~

~~(1) IN A NEWSPAPER, MAGAZINE, PERIODICAL, OR OTHER PUBLICATION FOR WHICH INDIVIDUALS UNDER THE AGE OF 21 YEARS CONSTITUTE 15% OR MORE OF THE TOTAL AUDIENCE, AS MEASURED BY COMPETENT AND RELIABLE SURVEY EVIDENCE;~~

~~(2) AT A CONCERT, STADIUM, SPORTING EVENT, OR OTHER PUBLIC EVENT FOR WHICH INDIVIDUALS UNDER THE AGE OF 21 YEARS CONSTITUTE 15% OR~~

~~MORE OF THE TOTAL AUDIENCE, AS MEASURED BY COMPETENT AND RELIABLE SURVEY EVIDENCE; OR~~

~~(3) ON AN OUTDOOR BILLBOARD OR SIGNBOARD THAT IS WITHIN 500 FEET OF A SCHOOL.~~

~~21-2D-04.~~

THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2024~~ *is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.*

Approved by the Governor, April 25, 2024.