

2SHB 2163 - S COMM AMD
By Committee on Health Care

ADOPTED 03/04/2014

1 Strike everything after the enacting clause and insert the
2 following:

3 NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires otherwise.

5 (1) "Common carrier" means any person who holds himself or herself
6 out to the general public as a provider for hire of the transportation
7 by water, land, or air of merchandise, whether or not the person
8 actually operates the vessel, vehicle, or aircraft by which the
9 transportation is provided, between a port or place and a port or place
10 in the United States.

11 (2) "Finished drug product" means a drug legally marketed under the
12 federal food, drug, and cosmetic act, 21 U.S.C. 321 et seq., that is in
13 finished dosage form.

14 (3) "Proof of age" means any document issued by a governmental
15 agency that contains a description or photograph of the person and
16 gives the person's date of birth, including a passport, military
17 identification card, or driver's license.

18 (4) "Unfinished dextromethorphan" means dextromethorphan in any
19 form, compound, mixture, or preparation that is not a drug in finished
20 dosage form.

21 NEW SECTION. **Sec. 2.** (1) A person making a retail sale of a
22 finished drug product containing any quantity of dextromethorphan must
23 require and obtain proof of age from the purchaser before completing
24 the sale, unless from the purchaser's outward appearance the person
25 making the sale would reasonably presume the purchaser to be twenty-
26 five years of age or older.

27 (2) It is unlawful for any:

28 (a) Commercial entity to knowingly or willfully sell or trade a

1 finished drug product containing any quantity of dextromethorphan to a
2 person less than eighteen years of age; or

3 (b) Person who is less than eighteen years of age to purchase a
4 finished drug product containing any quantity of dextromethorphan;

5 (3) Subsection (2)(a) and (b) of this section do not apply if an
6 individual under eighteen years of age:

7 (a) Supplies proof at the time of sale that such individual is
8 actively enrolled in the military and presents a valid military
9 identification card; or

10 (b) Supplies proof of emancipation.

11 (4)(a) Any manufacturer, distributor, or retailer whose employee or
12 representative, during the course of the employee's or representative's
13 employment or association with that manufacturer, distributor, or
14 retailer sells or trades dextromethorphan in violation of subsection
15 (2)(a) of this section must be given a written warning by a law
16 enforcement agency for the first offense. For any subsequent offense,
17 the manufacturer, distributor, or retailer is guilty of a class 1 civil
18 infraction as provided in RCW 7.80.120, except for any manufacturer,
19 distributor, or retailer who demonstrates a good faith effort to comply
20 with the requirements of this chapter.

21 (b) Any employee or representative of a manufacturer, distributor,
22 or retailer who, during the course of the employee's or
23 representative's employment or association with that manufacturer,
24 distributor, or retailer sells or trades dextromethorphan in violation
25 of subsection (2)(a) of this section must be given a written warning by
26 a law enforcement agency for the first offense. For any subsequent
27 offense, the employee or representative is guilty of a class 1 civil
28 infraction as provided in RCW 7.80.120.

29 (c) Any person who purchases dextromethorphan in violation of
30 subsection (2)(b) of this section must be given a written warning by a
31 law enforcement agency for the first offense. For any subsequent
32 offense, the person is guilty of a class 1 civil infraction as provided
33 in RCW 7.80.120.

34 NEW SECTION. **Sec. 3.** The trade association representing
35 manufacturers of dextromethorphan shall supply to the pharmacy quality
36 assurance commission and requesting licensed retailers an initial list
37 of products containing dextromethorphan that its members market. This

1 list shall be updated on an annual basis. The trade association
2 representing manufacturers of dextromethorphan shall make other
3 reasonable efforts to communicate the requirements of this act.

4 NEW SECTION. **Sec. 4.** (1) Nothing in this chapter is construed to
5 impose any compliance requirement on a retail entity other than
6 manually obtaining and verifying proof of age as a condition of sale,
7 including placement of products in a specific place within a store,
8 other restrictions on consumers' direct access to finished drug
9 products, or the maintenance of transaction records.

10 (2) The provisions of this chapter do not apply to medication
11 containing dextromethorphan that is sold pursuant to a valid
12 prescription.

13 NEW SECTION. **Sec. 5.** This chapter preempts any ordinance
14 regulating the sale, distribution, receipt, or possession of
15 dextromethorphan enacted by a county, city, town, or other political
16 subdivision of this state, and dextromethorphan is not subject to
17 further regulation by such subdivisions.

18 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute
19 a new chapter in Title 69 RCW.

20 NEW SECTION. **Sec. 7.** This act takes effect July 1, 2015."

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21 On page 1, line 1 of the title, after "dextromethorphan;" strike the
22 remainder of the title and insert "adding a new chapter to Title 69
23 RCW; prescribing penalties; and providing an effective date."

EFFECT: (1) Persons under the age of 18 may purchase

dextromethorphan products if they are actively enrolled in the military and present a valid identification card at time of sale or if they are emancipated and are able to provide proof of emancipation.

(2) The trade association representing manufacturers of dextromethorphan must supply a list of products containing dextromethorphan that its members market to the Pharmacy Quality Assurance Commission as well as to requesting licensed retailers.

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