

SENATE BILL REPORT

SB 6032

As of January 24, 2014

Title: An act relating to dextromethorphan.

Brief Description: Establishing dextromethorphan provisions.

Sponsors: Senators Becker and Keiser.

Brief History:

Committee Activity: Health Care: 1/23/14.

SENATE COMMITTEE ON HEALTH CARE

Staff: Kathleen Buchli (786-7488)

Background: Washington State prohibits the sale of certain over-the-counter drugs to persons under the age of 18. These drugs include ephedrine, pseudoephedrine, and phenylpropanolamine.

Dextromethorphan, also known as DXM, is used as a cough suppressant in more than 140 over-the-counter cough and cold remedies. When ingested in high doses, dextromethorphan produces behavioral effects ranging from a mild stimulation to euphoria, hallucinations, and loss of motor coordination. Some people, including minors under the age of 18, intentionally take high doses of dextromethorphan to experience these side effects. Over-the-counter products that contain dextromethorphan often contain other ingredients such as acetaminophen, chlorpheniramine, and guaifenesin. These additional ingredients, when taken in large doses, can lead to liver damage, increased heart rate, lack of coordination, seizures, coma, and vomiting.

Summary of Bill: Over-the-counter products that contain dextromethorphan may not be sold to a person who is under the age of 18, and a person under the age of 18 may not purchase dextromethorphan products. Any manufacturer, distributor, or retailer whose employee sells over-the-counter dextromethorphan products to a person under the age of 18 is guilty of a misdemeanor, and the employee who makes the sale is also guilty of a misdemeanor. A person under the age of 18 who purchases over-the-counter dextromethorphan products is guilty of a misdemeanor.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

No person may possess, receive, or distribute unfinished dextromethorphan unless that person is registered under the Federal Food, Drug, and Cosmetic Act, licensed by the Pharmacy Quality Assurance Commission, or is a common carrier distributing dextromethorphan to persons so registered or licensed. A person who violates this provision is guilty of a class C felony.

A person making a retail sale of a product that contains dextromethorphan must require proof of age before making a sale to anyone who looks younger than 25 years of age.

Local governments are preempted from regulating the sale, distribution, receipt, or possession of dextromethorphan.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2015.

Staff Summary of Public Testimony: PRO: Similar restrictions on pseudoephedrine have worked well to stop misuse and abuse of those drugs. This bill provides a layer of accountability to retailers and is an important public safety issue. This is a positive step that will curb abuse of dextromethorphan by teens and preteens. Other states passed similar laws to adopt the abuse of dextromethorphan by minors. Many retailers voluntarily restrict the sales of dextromethorphan now. The penalty provisions can be modified. This provides the prevention community with another tool to restrict teen access to harmful substances. The prevention community can partner with business to increase employee education and this system can be easily implemented.

CON: A number of retailers are already restricting the sale of dextromethorphan to minors. We prefer that a federal approach be implemented so that there will be uniform regulations across the country. The penalties should be moved from a criminal action to a civil action. For the first violation, a warning instead of a penalty should be provided. Some retailers do not have the point of sale system necessary to alert clerks that these products must be carded. We need more information on this issue because we do not know how expansive this problem is in the state. This bill will be extremely expensive to implement. This has a negative effect on employees who may lose their jobs over a violation.

Persons Testifying: PRO: Senator Becker, prime sponsor; Scott Sigmon, Consumer Health Products Assn.; Sean Moore, Consumer Healthcare Products Assn.; Priscilla Lisicich, Pierce County Safe Streets.

CON: Mark Johnson, WA Retail Assn.; Carolyn Logue, WA Food Industry Assn.; Holly Chisa, NW Grocery Assn.