
SECOND SUBSTITUTE HOUSE BILL 2163

State of Washington

63rd Legislature

2014 Regular Session

By House Appropriations Subcommittee on General Government & Information Technology (originally sponsored by Representatives Harris, Haler, and Morrell)

READ FIRST TIME 02/11/14.

1 AN ACT Relating to dextromethorphan; adding a new chapter to Title
2 69 RCW; prescribing penalties; and providing an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

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

1 (4) "Unfinished dextromethorphan" means dextromethorphan in any
2 form, compound, mixture, or preparation that is not a drug in finished
3 dosage form.

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

10 (2) It is unlawful for any:

11 (a) Commercial entity to knowingly or willfully sell or trade a
12 finished drug product containing any quantity of dextromethorphan to a
13 person less than eighteen years of age; or

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

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

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

34 (c) Any person who purchases dextromethorphan in violation of
35 subsection (2)(b) of this section must be given a written warning by a
36 law enforcement agency for the first offense. For any subsequent

1 offense, the person is guilty of a class 1 civil infraction as provided
2 in RCW 7.80.120.

3 NEW SECTION. **Sec. 3.** The trade association representing
4 manufacturers of dextromethorphan shall supply to the requesting
5 licensed retailers an initial list of products containing
6 dextromethorphan that its members market. This list shall be updated
7 on an annual basis. The trade association representing manufacturers
8 of dextromethorphan shall make other reasonable efforts to communicate
9 the requirements of this act.

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

16 (2) The provisions of this chapter do not apply to medication
17 containing dextromethorphan that is sold pursuant to a valid
18 prescription.

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

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

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

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