

By Senator Garcia

40-01395A-11

20111156\_\_

1                   A bill to be entitled  
2           An act relating to dextromethorphan; providing a short  
3           title; amending s. 893.1495, F.S., and reenacting  
4           subsection (11), relating to penalties; revising a  
5           definition; prohibiting obtaining or delivering to an  
6           individual in a retail sale any nonprescription  
7           compound, mixture, or preparation containing  
8           dextromethorphan or related compounds in excess of  
9           specified amounts; regulating retail display of  
10          products containing dextromethorphan or related  
11          compounds; requiring the training of retail employees;  
12          requiring a person who purchases or otherwise acquires  
13          a nonprescription compound, mixture, or preparation  
14          containing any detectable quantity of dextromethorphan  
15          or related compounds to meet specified requirements;  
16          providing criminal penalties; providing limited civil  
17          immunity for the release of information to law  
18          enforcement officers; providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22           Section 1. This act may be cited as the "Andy Maxfield  
23 Dextromethorphan Act."

24           Section 2. Subsections (1) through (4), paragraph (a) of  
25 subsection (5), and subsection (13) of section 893.1495, Florida  
26 Statutes, are amended, and subsection (11) of that section is  
27 reenacted, to read:

28           893.1495 Retail sale of ephedrine, dextromethorphan, and  
29 related compounds.-

40-01395A-11

20111156

30 (1) For purposes of this section, the term "ephedrine,  
31 dextromethorphan, or related compounds" means ephedrine,  
32 pseudoephedrine, phenylpropanolamine, dextromethorphan, or any  
33 of their salts, optical isomers, or salts of optical isomers.

34 (2) A person may not knowingly obtain or deliver to an  
35 individual in any retail over-the-counter sale any  
36 nonprescription compound, mixture, or preparation containing  
37 ephedrine, dextromethorphan, or related compounds in excess of  
38 the following amounts:

39 (a) In any single day, any number of packages that contain  
40 a total of 3.6 grams of ephedrine, dextromethorphan, or related  
41 compounds;

42 (b) In any single retail, over-the-counter sale, three  
43 packages, regardless of weight, containing ephedrine,  
44 dextromethorphan, or related compounds; or

45 (c) In any 30-day period, in any number of retail, over-  
46 the-counter sales, a total of 9 grams or more of ephedrine,  
47 dextromethorphan, or related compounds.

48 (3) A person may not knowingly display and offer for retail  
49 sale any nonprescription compound, mixture, or preparation  
50 containing ephedrine, dextromethorphan, or related compounds  
51 other than behind a checkout counter where the public is not  
52 permitted or other such location that is not otherwise  
53 accessible to the general public.

54 (4) A person who is the owner or primary operator of a  
55 retail outlet where any nonprescription compound, mixture, or  
56 preparation containing ephedrine, dextromethorphan, or related  
57 compounds is available for sale may not knowingly allow an  
58 employee to engage in the retail sale of such compound, mixture,

40-01395A-11

20111156

59 or preparation unless the employee has completed an employee  
60 training program that shall include, at a minimum, basic  
61 instruction on state and federal regulations relating to the  
62 sale and distribution of such compounds, mixtures, or  
63 preparations.

64 (5) (a) 1. Any person purchasing, receiving, or otherwise  
65 acquiring any nonprescription compound, mixture, or preparation  
66 containing any detectable quantity of ephedrine,  
67 dextromethorphan, or related compounds must:

68 a.1. Be at least 18 years of age.

69 b.2. Produce a government-issued photo identification  
70 showing his or her name, date of birth, address, and photo  
71 identification number or an alternative form of identification  
72 acceptable under federal regulation 8 C.F.R. s.  
73 274a.2(b) (1) (v) (A) and (B).

74 2.3. Any person purchasing, receiving, or otherwise  
75 acquiring any nonprescription compound, mixture, or preparation  
76 containing any detectable quantity of ephedrine or related  
77 compounds must sign his or her name on a record of the purchase,  
78 either on paper or on an electronic signature capture device.

79 (11) Any individual who violates subsection (2), subsection  
80 (3), or subsection (4) commits:

81 (a) For a first offense, a misdemeanor of the second  
82 degree, punishable as provided in s. 775.083.

83 (b) For a second offense, a misdemeanor of the first  
84 degree, punishable as provided in s. 775.082 or s. 775.083.

85 (c) For a third or subsequent offense, a felony of the  
86 third degree, punishable as provided in s. 775.082, s. 775.083,  
87 or s. 775.084.

40-01395A-11

20111156\_\_

88           (13) A person who sells any product containing ephedrine,  
89 dextromethorphan, or related compounds who in good faith  
90 releases information under this section to federal, state, or  
91 local law enforcement officers, or any person acting on behalf  
92 of such an officer, is immune from civil liability for the  
93 release unless the release constitutes gross negligence or  
94 intentional, wanton, or willful misconduct.

95           Section 3. This act shall take effect July 1, 2011.