

HB 487

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

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

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

25 893.1495 Retail sale of ephedrine, dextromethorphan, and
 26 related compounds.—

27 (1) For purposes of this section, the term "ephedrine,
 28 dextromethorphan, or related compounds" means ephedrine,

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29 pseudoephedrine, phenylpropanolamine, dextromethorphan, or any
30 of their salts, optical isomers, or salts of optical isomers.

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

36 (a) In any single day, any number of packages that contain
37 a total of 3.6 grams of ephedrine, dextromethorphan, or related
38 compounds;

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

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

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

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

57 training program that shall include, at a minimum, basic
 58 instruction on state and federal regulations relating to the
 59 sale and distribution of such compounds, mixtures, or
 60 preparations.

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

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

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

71 2.3. Any person purchasing, receiving, or otherwise
 72 acquiring any nonprescription compound, mixture, or preparation
 73 containing any detectable quantity of ephedrine or related
 74 compounds must sign his or her name on a record of the purchase,
 75 either on paper or on an electronic signature capture device.

76 (11) Any individual who violates subsection (2),
 77 subsection (3), or subsection (4) commits:

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

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

82 (c) For a third or subsequent offense, a felony of the
 83 third degree, punishable as provided in s. 775.082, s. 775.083,
 84 or s. 775.084.

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

92 Section 2. This act shall take effect July 1, 2011.