

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; providing a definition; prohibiting obtaining  
 5           or 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.

18  
 19   Be It Enacted by the Legislature of the State of Florida:

20  
 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:

28           (a) "Ephedrine, dextromethorphan, or related compounds"

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

32 (b) "Ephedrine or related compounds" means ephedrine,  
 33 pseudoephedrine, phenylpropanolamine, or any of their salts,  
 34 optical isomers, or salts of optical isomers.

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

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

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

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

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

55 (4) A person who is the owner or primary operator of a  
 56 retail outlet where any nonprescription compound, mixture, or

57 preparation containing ephedrine, dextromethorphan, or related  
 58 compounds is available for sale may not knowingly allow an  
 59 employee to engage in the retail sale of such compound, mixture,  
 60 or preparation unless the employee has completed an employee  
 61 training program that shall include, at a minimum, basic  
 62 instruction on state and federal regulations relating to the  
 63 sale and distribution of such compounds, mixtures, or  
 64 preparations.

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

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

70 b.2. Produce a government-issued photo identification  
 71 showing his or her name, date of birth, address, and photo  
 72 identification number or an alternative form of identification  
 73 acceptable under federal regulation 8 C.F.R. s.  
 74 274a.2(b) (1) (v) (A) and (B).

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

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

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

84 (b) For a second offense, a misdemeanor of the first

CS/HB 487

2011

85 degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

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