



854382

LEGISLATIVE ACTION

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| Senate     | . | House |
| Comm: RCS  | . |       |
| 01/19/2016 | . |       |
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The Committee on Health Policy (Gaetz) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Restrictions on sale of dextromethorphan.-

(1) As used in this section, the term:

(a) "Finished drug product" means a drug legally marketed  
under the Federal Food, Drug, and Cosmetic Act that is in  
finished dosage form. For purposes of this paragraph, the term  
"drug" has the same meaning as provided in s. 499.003(18).



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11           (b) "Proof of age" means any document issued by a  
12 governmental agency that contains the date of birth and a  
13 description or photograph of the person purchasing the finished  
14 drug product. The term includes, but is not limited to, a  
15 passport, a driver license, or an identification card issued by  
16 this state, another state, or any branch of the United States  
17 Armed Forces.

18           (2) (a) A manufacturer, distributor, or retailer, or its  
19 employees and representatives, may not knowingly or willfully  
20 sell a finished drug product containing any quantity of  
21 dextromethorphan to a person younger than 18 years of age.

22           (b) A person 18 years of age or younger may not purchase a  
23 finished drug product containing any quantity of  
24 dextromethorphan.

25           (3) An employee or representative of a retailer making a  
26 retail sale of a finished drug product containing any quantity  
27 of dextromethorphan must require and obtain proof of age from  
28 the purchaser before completing the sale, unless from the  
29 purchaser's outward appearance the person making the sale would  
30 reasonably presume the purchaser to be 25 years of age or older.

31           (4) (a) Each sales location of a manufacturer, distributor,  
32 or retailer whose employee or representative, during the course  
33 of the employee's or representative's employment or association  
34 with the manufacturer, distributor, or retailer, sells  
35 dextromethorphan in violation of this section is subject to a  
36 written warning for an initial violation and, for each  
37 subsequent violation, a civil citation imposing a fine of not  
38 more than \$100, which shall accrue and may be recovered in a  
39 civil action brought by the local jurisdiction. A manufacturer,



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40 distributor, or retailer who demonstrates a good faith effort to  
41 comply with this section is not subject to citation.

42 (b) An employee or representative of a manufacturer,  
43 distributor, or retailer who, during the course of the  
44 employee's or representative's employment or association with  
45 the manufacturer, distributor, or retailer, sells  
46 dextromethorphan in violation of this section is subject to a  
47 written warning.

48 (c) A person who possesses or receives dextromethorphan in  
49 violation of this section with the intent to distribute is  
50 subject to a civil citation imposing a fine of not more than  
51 \$100 for each violation, which shall accrue and may be recovered  
52 in a civil action brought by the local jurisdiction. A civil  
53 citation issued to a person pursuant to this paragraph shall  
54 include information regarding how to dispute the citation and  
55 shall clearly state that the violation is a noncriminal  
56 violation.

57 (5) A civil citation issued to a manufacturer, distributor,  
58 or retailer pursuant to this section shall be provided to the  
59 manager on duty at the time the citation is issued. If a manager  
60 is not available, a local law enforcement officer shall attempt  
61 to contact the manager to issue the citation. If the local law  
62 enforcement officer is unsuccessful in contacting the manager,  
63 he or she may leave a copy of the citation with an employee 18  
64 years of age or older and mail a copy of the citation by  
65 certified mail to the owner's business address, as filed with  
66 the Department of State, or he or she may return to issue the  
67 citation at a later time. The civil citation shall provide:

68 (a) The date and approximate time of the sale in violation



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69 of this section.

70 (b) The location of the sale, including the address.

71 (c) The name of the employee or representative that  
72 completed the sale.

73 (d) Information regarding how to dispute the citation.

74 (e) Notice that the violation is a noncriminal violation.

75 (6) To dispute the citation, the recipient of the citation  
76 must provide notice of the dispute to the clerk of the county  
77 court in the jurisdiction in which the violation occurred within  
78 15 days after receipt of the citation. The local jurisdiction,  
79 through its duly authorized officers, shall hold a hearing in  
80 the court of competent jurisdiction when a citation for a  
81 violation of this section is issued, when the violation is  
82 disputed, and when the recipient is issued the citation by a  
83 local law enforcement officer employed by or acting on behalf of  
84 the jurisdiction. If the court finds in favor of the  
85 jurisdiction, the court shall require payment of the fine as  
86 provided in this section.

87 (7) This section shall be applied uniformly throughout the  
88 state. Enforcement of this section shall remain with local law  
89 enforcement departments and officials charged with the  
90 enforcement of the laws of the state.

91 (8) This section does not:

92 (a) Impose any restriction on the placement of products in  
93 a retail store, direct access of customers to finished drug  
94 products, or the maintenance of transaction records.

95 (b) Apply to a medication containing dextromethorphan that  
96 is sold by a retailer pursuant to a valid prescription.

97 (c) Create a criminal violation. A person who violates this



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98 section commits a noncriminal violation as defined in s.  
99 775.08(3).

100 (9) This section preempts any ordinance regulating the  
101 sale, distribution, receipt, or possession of dextromethorphan  
102 enacted by a county, municipality, or other political  
103 subdivision of the state, and dextromethorphan is not subject to  
104 further regulation by such political subdivisions.

105 Section 2. This act shall take effect January 1, 2017.

107 ===== T I T L E A M E N D M E N T =====

108 And the title is amended as follows:

109 Delete everything before the enacting clause  
110 and insert:

111 A bill to be entitled  
112 An act relating to the retail sale of  
113 dextromethorphan; providing definitions; prohibiting a  
114 manufacturer, distributor, or retailer, or its  
115 employees and representatives, from knowingly or  
116 willfully selling a finished drug product containing  
117 dextromethorphan to a person younger than 18 years of  
118 age; prohibiting a person younger than 18 years of age  
119 from purchasing a finished drug product containing  
120 dextromethorphan; requiring an employee or  
121 representative of a retailer making a retail sale of a  
122 finished drug product containing any quantity of  
123 dextromethorphan to obtain certain proof of age from  
124 the purchaser; providing an exception; providing  
125 penalties; providing requirements for imposing or  
126 disputing civil citations; specifying information to



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127 be provided in such citations; providing  
128 applicability; preempting local government regulation  
129 of dextromethorphan; providing an effective date.