

By Senator Benacquisto

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1 A bill to be entitled
2 An act relating to the retail sale of
3 dextromethorphan; providing definitions; prohibiting a
4 retail entity from knowingly or willfully selling a
5 finished drug product containing dextromethorphan to a
6 person younger than 18 years of age; prohibiting a
7 person younger than 18 years of age from purchasing a
8 finished drug product containing dextromethorphan;
9 requiring a person making a retail sale of a finished
10 drug product containing any quantity of
11 dextromethorphan to obtain certain proof of age from
12 the purchaser; providing an exception; providing
13 penalties; providing applicability; preempting local
14 government regulation of dextromethorphan; providing
15 an effective date.

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

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19 Section 1. Restrictions on sale of dextromethorphan.-

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

21 (a) "Finished drug product" means a drug legally marketed
22 under the Federal Food, Drug, and Cosmetic Act that is in
23 finished dosage form.

24 (b) "Proof of age" means any document issued by a
25 governmental agency that contains the date of birth and a
26 description or photograph of the person purchasing the finished
27 drug product. The term includes, but is not limited to, a
28 passport, military identification card, or driver license.

29 (2) (a) A retail entity may not knowingly or willfully sell

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30 a finished drug product containing any quantity of
31 dextromethorphan to a person younger than 18 years of age.

32 (b) A person younger than 18 years of age may not purchase
33 a finished drug product containing any quantity of
34 dextromethorphan.

35 (3) A person making a retail sale of a finished drug
36 product containing any quantity of dextromethorphan must require
37 and obtain proof of age from the purchaser before completing the
38 sale, unless from the purchaser's outward appearance the person
39 making the sale would reasonably presume the purchaser to be 25
40 years of age or older.

41 (4) (a) A manufacturer, distributor, or retailer whose
42 employee or representative, during the course of the employee's
43 or representative's employment or association with the
44 manufacturer, distributor, or retailer, sells dextromethorphan
45 in violation of this section is subject to a \$100 fine, except
46 that a manufacturer, distributor, or retailer who demonstrates a
47 good faith effort to comply with this section is not subject to
48 such penalty.

49 (b) An employee or representative of a manufacturer,
50 distributor, or retailer who, during the course of the
51 employee's or representative's employment or association with
52 the manufacturer, distributor, or retailer, sells
53 dextromethorphan in violation of this section is subject to a
54 \$25 fine.

55 (c) A person who purchases dextromethorphan in violation of
56 this section is subject to a \$25 fine.

57 (d) A person who possesses or receives dextromethorphan in
58 violation of this section, with the intent to distribute, is

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59 subject to a \$25 fine.

60 (5) This section does not:

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

64 (b) Apply to a medication containing dextromethorphan that
65 is sold by a retail entity pursuant to a valid prescription.

66 (6) This section preempts any ordinance regulating the
67 sale, distribution, receipt, or possession of dextromethorphan
68 enacted by a county, municipality, or other political
69 subdivision of the state, and dextromethorphan is not subject to
70 further regulation by such political subdivisions.

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