

# SENATE BILL REPORT

## 2SHB 2163

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As Reported by Senate Committee On:  
Health Care, February 27, 2014

**Title:** An act relating to dextromethorphan.

**Brief Description:** Establishing dextromethorphan provisions.

**Sponsors:** House Committee on Appropriations Subcommittee on General Government & Information Technology (originally sponsored by Representatives Harris, Haler and Morrell).

**Brief History:** Passed House: 2/17/14, 91-7.

**Committee Activity:** Health Care: 2/25/14, 2/27/14 [DPA].

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### SENATE COMMITTEE ON HEALTH CARE

**Majority Report:** Do pass as amended.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Pedersen, Ranking Member; Angel, Bailey, Cleveland, Keiser and Parlette.

**Staff:** Kathleen Buchli (786-7488)

**Background:** Washington State prohibits the sale of certain over-the-counter drugs to persons under the age of 18. These drugs include ephedrine, pseudoephedrine, and phenylpropanolamine.

Dextromethorphan, also known as DXM, is used as a cough suppressant in more than 140 over-the-counter cough and cold remedies. When ingested in high doses, dextromethorphan produces behavioral effects ranging from a mild stimulation to euphoria, hallucinations, and loss of motor coordination. Some people, including minors under the age of 18, intentionally take high doses of dextromethorphan to experience these side effects. Over-the-counter products that contain dextromethorphan often contain other ingredients such as acetaminophen, chlorpheniramine, and guaifenesin. These additional ingredients, when taken in large doses, can lead to liver damage, increased heart rate, lack of coordination, seizures, coma, and vomiting.

**Summary of Bill (Recommended Amendments):** The sale of over-the-counter dextromethorphan products to a person under the age of 18 is prohibited; however, persons who are under the age of 18 may purchase products containing dextromethorphan if they are

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actively enrolled in the military and present a valid identification card at time of sale or if they are emancipated and are able to provide proof of emancipation at time of purchase. Before completing a sale of a finished drug product that contains dextromethorphan, a retailer must require and obtain proof of age from a purchaser unless the purchaser appears to be 25 years of age or older. A manufacturer, distributor, or retailer whose employee sells dextromethorphan products to a person under the age of 18 must be given a written warning from law enforcement for the first offense, subsequent offenses are punishable as a class 1 civil infraction unless the manufacturer, distributor, or retailer demonstrates a good faith effort to comply with this requirement. An employee of the manufacturer, distributor, or retailer who sells dextromethorphan products to a person under the age of 18 must also be given a written warning from law enforcement for the first offense and is subject to a class 1 civil infraction for subsequent offenses. Employees are not provided with an opportunity to demonstrate a good faith effort to comply with this requirement. Other than obtaining proof of age as a condition of sale, no other product or record restrictions are placed on the retailer.

Any person under the age of 18 who purchases a dextromethorphan product must be given a written warning from law enforcement for the first offense and is subject to a class 1 civil infraction for subsequent offenses.

The trade association representing manufacturers of dextromethorphan must supply the Pharmacy Quality Assurance Commission and requesting retailers a list of products containing dextromethorphan that its members market. This list must be updated annually.

Local government ordinances regulating the sale, distribution, receipt, or possession of dextromethorphan are preempted and dextromethorphan is not subject to further regulation by local governments.

**EFFECT OF CHANGES MADE BY HEALTH CARE COMMITTEE (Recommended Amendments):** Persons who are under the age of 18 may purchase products containing dextromethorphan if they are actively enrolled in the military and present a valid identification card at time of sale or if they are emancipated and are able to provide proof of emancipation at time of purchase. The trade association representing manufacturers must also provide the list of products containing dextromethorphan to the Pharmacy Quality Assurance Committee.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill takes effect on July 1, 2015.

**Staff Summary of Public Testimony on Second Substitute House Bill:** PRO: Most retailers do this now; almost every seller of cough syrup requires identification now. Retailers have expressed concerns about costs, but this is not going to result in costs. It is a good safety bill. This attempts to address teen and pre-teen abuse of dextromethorphan. The bill has been changed and criminal penalties have been removed. A violation is a civil

infraction with a warning for the first violation. It is dangerous for teens to take these products. Not only can they overdose on dextromethorphan, but they can overdose on the other drugs that are present in these products. This is the beginning of a problem and this bill allows us to get ahead of the problem before it grows. There is a minimal burden on the retailer in requesting identification. We ask that you review the federal efforts in this area and ensure the bill matches that language.

**Persons Testifying:** PRO: Representative Harris, prime sponsor; Scott Sigmon, Consumer Health Products Assn.; Steve Lindstrom, Evergreen High School Students; Seth Dawson, WA Assn. for Substance Abuse & Violence Prevention; Chris Humberson, Dept. of Health, Pharmacy Commission, Executive Director.