
SUBSTITUTE HOUSE BILL 2163

State of Washington 63rd Legislature 2014 Regular Session

By House Public Safety (originally sponsored by Representatives Harris, Haler, and Morrell)

READ FIRST TIME 02/04/14.

1 AN ACT Relating to dextromethorphan; adding a new chapter to Title
2 69 RCW; prescribing penalties; and providing an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Common carrier" means any person who holds himself or herself
7 out to the general public as a provider for hire of the transportation
8 by water, land, or air of merchandise, whether or not the person
9 actually operates the vessel, vehicle, or aircraft by which the
10 transportation is provided, between a port or place and a port or place
11 in the United States.

12 (2) "Finished drug product" means a drug legally marketed under the
13 federal food, drug, and cosmetic act, 21 U.S.C. 321 et seq., that is in
14 finished dosage form.

15 (3) "Proof of age" means any document issued by a governmental
16 agency that contains a description or photograph of the person and
17 gives the person's date of birth, including a passport, military
18 identification card, or driver's license.

1 (4) "Unfinished dextromethorphan" means dextromethorphan in any
2 form, compound, mixture, or preparation that is not a drug in finished
3 dosage form.

4 NEW SECTION. **Sec. 2.** (1) A person making a retail sale of a
5 finished drug product containing any quantity of dextromethorphan must
6 require and obtain proof of age from the purchaser before completing
7 the sale, unless from the purchaser's outward appearance the person
8 making the sale would reasonably presume the purchaser to be twenty-
9 five years of age or older.

10 (2) It is unlawful for any:

11 (a) Commercial entity to knowingly or willfully sell or trade a
12 finished drug product containing any quantity of dextromethorphan to a
13 person less than eighteen years of age;

14 (b) Person who is less than eighteen years of age to purchase a
15 finished drug product containing any quantity of dextromethorphan;

16 (c) Person to possess or receive unfinished dextromethorphan,
17 unless the person is registered under section 510 of the federal food,
18 drug, and cosmetic act, 21 U.S.C. 321 et seq., or appropriately
19 licensed with the pharmacy quality assurance commission; or

20 (d) Person to distribute unfinished dextromethorphan to any person
21 other than a person registered under section 510 of the federal food,
22 drug, and cosmetic act, 21 U.S.C. 321 et seq., or appropriately
23 licensed with the pharmacy quality assurance commission.

24 (3)(a) Any manufacturer, distributor, or retailer whose employee or
25 representative, during the course of the employee's or representative's
26 employment or association with that manufacturer, distributor, or
27 retailer sells or trades dextromethorphan in violation of subsection
28 (2)(a) of this section is guilty of a class 1 civil infraction as
29 provided in RCW 7.80.120, except for any manufacturer, distributor, or
30 retailer who demonstrates a good faith effort to comply with the
31 requirements of this chapter.

32 (b) Any employee or representative of a manufacturer, distributor,
33 or retailer who, during the course of the employee's or
34 representative's employment or association with that manufacturer,
35 distributor, or retailer sells or trades dextromethorphan in violation
36 of subsection (2)(a) of this section is guilty of a class 1 civil
37 infraction as provided in RCW 7.80.120.

1 (c) Any person who purchases dextromethorphan in violation of
2 subsection (2)(b) of this section is guilty of a class 1 civil
3 infraction as provided in RCW 7.80.120.

4 (d) Any person who possesses or receives dextromethorphan in
5 violation of subsection (2)(c) of this section, with intent to
6 distribute, is guilty of a class C felony.

7 (e) Any person who distributes dextromethorphan in violation of
8 subsection (2)(d) of this section is guilty of a class C felony.

9 (4) This section does not apply to a common carrier that possesses,
10 receives, or distributes unfinished dextromethorphan for purposes of
11 distributing such unfinished dextromethorphan between persons
12 registered under section 510 of the federal food, drug, and cosmetic
13 act, 21 U.S.C. 321 et seq., or appropriately licensed with the pharmacy
14 quality assurance commission.

15 NEW SECTION. **Sec. 3.** (1) Nothing in this chapter is construed to
16 impose any compliance requirement on a retail entity other than
17 manually obtaining and verifying proof of age as a condition of sale,
18 including placement of products in a specific place within a store,
19 other restrictions on consumers' direct access to finished drug
20 products, or the maintenance of transaction records.

21 (2) The provisions of this chapter do not apply to medication
22 containing dextromethorphan that is sold pursuant to a valid
23 prescription.

24 NEW SECTION. **Sec. 4.** This chapter preempts any ordinance
25 regulating the sale, distribution, receipt, or possession of
26 dextromethorphan enacted by a county, city, town, or other political
27 subdivision of this state, and dextromethorphan is not subject to
28 further regulation by such subdivisions.

29 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute
30 a new chapter in Title 69 RCW.

31 NEW SECTION. **Sec. 6.** This act takes effect July 1, 2015.

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