

CERTIFICATION OF ENROLLMENT

**SECOND SUBSTITUTE HOUSE BILL 2163**

Chapter 64, Laws of 2014

63rd Legislature  
2014 Regular Session

DEXTROMETHORPHAN

EFFECTIVE DATE: 07/01/15

Passed by the House March 10, 2014  
Yeas 86 Nays 12

FRANK CHOPP

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**Speaker of the House of Representatives**

Passed by the Senate March 4, 2014  
Yeas 49 Nays 0

BRAD OWEN

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**President of the Senate**

Approved March 27, 2014, 9:46 a.m.

JAY INSLEE

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**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 2163** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

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**Chief Clerk**

FILED

March 27, 2014

**Secretary of State  
State of Washington**

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**SECOND SUBSTITUTE HOUSE BILL 2163**

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AS AMENDED BY THE SENATE

Passed Legislature - 2014 Regular Session

**State of Washington                      63rd Legislature                      2014 Regular Session**

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

READ FIRST TIME 02/11/14.

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; or

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

16 (3) Subsection (2)(a) and (b) of this section do not apply if an  
17 individual under eighteen years of age:

18 (a) Supplies proof at the time of sale that such individual is  
19 actively enrolled in the military and presents a valid military  
20 identification card; or

21 (b) Supplies proof of emancipation.

22 (4)(a) Any manufacturer, distributor, or retailer whose employee or  
23 representative, during the course of the employee's or representative's  
24 employment or association with that manufacturer, distributor, or  
25 retailer sells or trades dextromethorphan in violation of subsection  
26 (2)(a) of this section must be given a written warning by a law  
27 enforcement agency for the first offense. For any subsequent offense,  
28 the manufacturer, distributor, or retailer is guilty of a class 1 civil  
29 infraction as provided in RCW 7.80.120, except for any manufacturer,  
30 distributor, or retailer who demonstrates a good faith effort to comply  
31 with the 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 must be given a written warning by

1 a law enforcement agency for the first offense. For any subsequent  
2 offense, the employee or representative is guilty of a class 1 civil  
3 infraction as provided in RCW 7.80.120.

4 (c) Any person who purchases dextromethorphan in violation of  
5 subsection (2)(b) of this section must be given a written warning by a  
6 law enforcement agency for the first offense. For any subsequent  
7 offense, the person is guilty of a class 1 civil infraction as provided  
8 in RCW 7.80.120.

9 NEW SECTION. **Sec. 3.** The trade association representing  
10 manufacturers of dextromethorphan shall supply to the pharmacy quality  
11 assurance commission and requesting licensed retailers an initial list  
12 of products containing dextromethorphan that its members market. This  
13 list shall be updated on an annual basis. The trade association  
14 representing manufacturers of dextromethorphan shall make other  
15 reasonable efforts to communicate the requirements of this act.

16 NEW SECTION. **Sec. 4.** (1) Nothing in this chapter is construed to  
17 impose any compliance requirement on a retail entity other than  
18 manually obtaining and verifying proof of age as a condition of sale,  
19 including placement of products in a specific place within a store,  
20 other restrictions on consumers' direct access to finished drug  
21 products, or the maintenance of transaction records.

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

25 NEW SECTION. **Sec. 5.** This chapter preempts any ordinance  
26 regulating the sale, distribution, receipt, or possession of  
27 dextromethorphan enacted by a county, city, town, or other political  
28 subdivision of this state, and dextromethorphan is not subject to  
29 further regulation by such subdivisions.

30 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute  
31 a new chapter in Title 69 RCW.

1        NEW SECTION.    **Sec. 7.**    This act takes effect July 1, 2015.  
Passed by the House March 10, 2014.  
Passed by the Senate March 4, 2014.  
Approved by the Governor March 27, 2014.  
Filed in Office of Secretary of State March 27, 2014.