

CHAPTER.....

AN ACT relating to drugs; prohibiting a person from knowingly selling or offering to sell a material, compound, mixture or preparation containing dextromethorphan to a minor under certain circumstances; prohibiting a minor from knowingly purchasing any material, compound, mixture or preparation containing dextromethorphan under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes grocers and dealers to sell without restriction any drug, medicine, remedy, poison or chemical that is not otherwise restricted, when prepared and sold in original and unbroken packages and, if poisonous, labeled and sold in accordance with federal law. (NRS 639.270) This bill prohibits a person from knowingly selling or offering to sell any material, compound, mixture or preparation containing dextromethorphan, a common ingredient in cough syrup, to a person under the age of 18 years. This bill also prohibits any person under the age of 18 years from knowingly purchasing any material, compound, mixture or preparation containing dextromethorphan. This bill also provides that a person or owner of a retail establishment who takes certain steps to prevent the sale of a material, compound, mixture or preparation containing dextromethorphan to a person under the age of 18 years shall be deemed to be in compliance with these provisions. Under this bill, any person who sells or offers to sell a material, compound, mixture or preparation containing dextromethorphan in violation of these provisions is required to: (1) for a first offense, receive a warning; and (2) for a second or subsequent offense, be assessed a civil penalty.

Finally, this bill prohibits a local government from enacting a local ordinance or regulation that conflicts with this bill or further regulates the sale, receipt or possession of dextromethorphan.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 453 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section:

(a) A person shall not knowingly sell or offer to sell any material, compound, mixture or preparation containing dextromethorphan to a minor.

(b) A minor shall not knowingly purchase any material, compound, mixture or preparation containing dextromethorphan.

2. If a minor has a valid prescription for a material, compound, mixture or preparation containing dextromethorphan:



(a) A person may sell or offer to sell the material, compound, mixture or preparation containing dextromethorphan for which the minor has a valid prescription; and

(b) The minor may purchase, receive or otherwise acquire the material, compound, mixture or preparation containing dextromethorphan for which he or she has a valid prescription.

3. A person shall be deemed to be in compliance with the provisions of subsection 1 if before the person sells or offers to sell any material, compound, mixture or preparation containing dextromethorphan to another person, he or she:

(a) Reasonably assumes, based on the appearance of the person to whom a material, compound, mixture or preparation containing dextromethorphan is sold or offered for sale, that the person is 25 years of age or older.

(b) Does the following:

(1) Demands that the other person present a valid driver's license or other identification which shows that the other person is 18 years of age or older;

(2) Is presented a valid driver's license or other identification which shows that the other person is 18 years of age or older; and

(3) Reasonably relies upon the driver's license or other identification presented by the other person.

4. With respect to any sale made by an employee of a retail establishment, the owner of the retail establishment shall be deemed to be in compliance with the provisions of paragraph (a) of subsection 1 if the owner:

(a) Had no actual knowledge of the sale; and

(b) Establishes and carries out a continuing program of training for employees which is reasonably designed to prevent violations of paragraph (a) of subsection 1.

5. A person who violates paragraph (a) of subsection 1:

(a) For a first offense, shall be issued a warning.

(b) For a second or subsequent offense, is liable for a civil penalty of \$50, unless the person provides sufficient documentation that a continuing program of training for employees is in place.

6. This section preempts any local charter, code, ordinance or regulation that is in conflict with the purposes and objectives of this section or seeks to further regulate the sale, receipt or possession of dextromethorphan.

7. As used in this section:



(a) "Identification" means any document issued by a governmental entity that contains a physical description or photograph of the person seeking to purchase the material, compound, mixture or preparation containing dextromethorphan and which provides the person's date of birth, including, without limitation, a passport, military identification card or identification card.

(b) "Minor" means a person under the age of 18 years.

Sec. 2. NRS 639.270 is hereby amended to read as follows:

639.270 Any drug, medicine, remedy, poison or chemical, the sale of which is not otherwise restricted as provided by this chapter ~~§~~ *or section 1 of this act*, and any patent or proprietary medicine, may be sold by grocers and dealers generally without restriction when prepared and sold in original and unbroken packages and, if poisonous, labeled with the official poison labels and sold in accordance with the requirements of the Federal Food, Drug and Cosmetic Act.

