

HOUSE No. 4641

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 11, 2022.

The committee on Public Health to whom were referred the petition (accompanied by bill, Senate, No. 1516) of Rebecca L. Rausch for legislation to prohibit the sale of dextromethorphan to minors and the petition (accompanied by bill, House, No. 2353) of David Paul Linsky relative to prohibiting the sale of dextromethorphan to minors, reports recommending that the accompanying bill (House, No. 4641) ought to pass.

For the committee,

MARJORIE C. DECKER.

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**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act prohibiting the sale of dextromethorphan to minors.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 94C of the General Laws is hereby amended by inserting after section 27A the
2 following section:-

3 Section 27B. (a)(1) It shall be unlawful to sell a nonprescription material, compound,
4 mixture or preparation containing any detectable quantity of dextromethorphan, its salts or
5 optical isomers, or salts of optical isomers to any person under the age of 18.

6 (2) It shall be unlawful for any person under the age of 18 to purchase or attempt to
7 purchase a nonprescription material, compound, mixture or preparation containing any detectable
8 quantity of dextromethorphan, its salts or optical isomers, or salts of optical isomers.

9 (3) A nonprescription material, compound, mixture or preparation containing any
10 detectable quantity of dextromethorphan, its salts or optical isomers, or salts of optical isomers
11 shall not be sold unless the purchaser presents photo identification that validates the individual's
12 age or from the purchaser's outward appearance the person making the sale would reasonably
13 presume the purchaser to be twenty-seven years of age or older. Valid identification shall include

14 a valid, current form of photo identification issued by a federal, state, county or municipal
15 government, or subdivision or agency thereof, including but not limited to a motor vehicle
16 operator's license, a Massachusetts state identification card, an identification card issued to a
17 member of the Armed Forces or a passport.

18 (4) Any retail establishment that sells a nonprescription material, compound, mixture or
19 preparation containing any detectable quantity of dextromethorphan shall limit access to such
20 products in a manner designed to prevent the misuse or abuse of such products. Such products
21 shall not be directly accessible by customers, and may only be accessed by a manager, assistant
22 manager, acting manager or other supervisory personnel at such location. Such products may
23 only be purchased upon a request made by a customer to the manager, assistant manager, acting
24 manager or other supervisory personnel at such location.

25 (5) Nothing in the act shall be construed to impose any compliance requirement on a
26 retail entity other than manually obtaining and verifying proof of age as a condition of sale,
27 including placement of products in a specific place within a store, other restrictions on
28 consumers' direct access to finished drug products, or the maintenance of transaction records.
29 Any manufacturer, distributor, or retailer whose employee or representative, during the course of
30 the employee or representative's employment or association with the manufacturer, distributor,
31 or retailer sells or trades dextromethorphan in violation of paragraph (1) shall receive a warning
32 letter from the state Bureau of Health Care Safety and Quality for the first such violation. Any
33 employee or representative of a manufacturer, distributor, or retailer who, during the course of
34 employee or representative's employment or association with that manufacturer distributor, or
35 retailer sells or trades dextromethorphan in violation of paragraph (1) shall be subject to a civil
36 penalty in an amount of a) not more than \$150 for the second such violation by a person b) not

37 more than \$250 for the third such violation or subsequent such violation by a person. Any person
38 who purchases dextromethorphan in violation of paragraph (2) is subject to a civil fine of \$50.

39 (b) This section shall not apply to a compound, mixture or preparation containing any
40 detectable quantity of dextromethorphan which is dispensed pursuant to a valid prescription from
41 a licensed practitioner with prescriptive authority.

42 This act preempts any ordinance regulating the sale, distribution, receipt, or possession of
43 dextromethorphan enacted by a county, city, town, or other political subdivision of this state, and
44 dextromethorphan is not subject to further regulation by such subdivisions.