S-3316.2

SENATE BILL 6032

State of Washington 63rd Legislature 2014 Regular Session

By Senators Becker and Keiser

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

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

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

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

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

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

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

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

(2) It is unlawful for any:

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

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

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

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

(3)(a) Any manufacturer, distributor, or retailer whose employee or representative, during the course of the employee's or representative's employment or association with that manufacturer, distributor, or retailer sells or trades dextromethorphan in violation of subsection (2)(a) of this section is guilty of a misdemeanor except for any manufacturer, distributor, or retailer who demonstrates a good faith effort to comply with the requirements of this chapter.

(b) Any employee or representative of a manufacturer, distributor, or retailer who, during the course of the employee's or representative's employment or association with that manufacturer, distributor, or retailer sells or trades dextromethorphan in violation of subsection (2)(a) of this section is guilty of a misdemeanor.

(c) Any person who purchases dextromethorphan in violation of subsection (2)(b) of this section is guilty of a misdemeanor.

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

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

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

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

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

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

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

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

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