

ASSEMBLY BILL NO. 453—COMMITTEE
ON COMMERCE AND LABOR

MARCH 23, 2015

Referred to Committee on Commerce and Labor

SUMMARY—Provides for the regulation of the sale of
dextromethorphan. (BDR 40-392)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to drugs; prohibiting a person from selling, distributing, bartering, dispensing or offering to sell a material, compound, mixture or preparation containing dextromethorphan to a minor under certain circumstances; prohibiting a minor from purchasing, receiving or otherwise acquiring any material, compound, mixture or preparation containing dextromethorphan under certain circumstances; establishing a civil penalty for certain violations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the sale of any drug, medicine, remedy, poison or chemical that is not otherwise restricted by grocers and dealers without restriction when prepared and sold in original and unbroken packages and, if poisonous, labeled and sold in accordance with the requirements of federal law. (NRS 639.270) This bill prohibits a person from selling, distributing, bartering, dispensing or offering to sell any material, compound, mixture or preparation containing dextromethorphan to a person under 18 years of age without a prescription. This bill also prohibits any person under 18 years of age from purchasing, receiving or otherwise acquiring 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 18 years of age shall be deemed to be in compliance with these provisions. Finally, this bill requires any person who sells, distributes, barter, dispenses or offers to sell a material, compound, mixture or preparation containing



16 dextromethorphan in violation of these provisions to: (1) for a first offense, receive
17 a warning; and (2) for a second or subsequent offense, be assessed a civil penalty.

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

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

3 1. *Except as provided in subsection 2:*

4 (a) *A person shall not sell, distribute, barter, dispense or offer*
5 *to sell any material, compound, mixture or preparation containing*
6 *dextromethorphan to a minor under the age of 18 years.*

7 (b) *A minor shall not knowingly purchase, receive or otherwise*
8 *acquire any material, compound, mixture or preparation*
9 *containing dextromethorphan.*

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

12 (a) *A person may sell, distribute, barter, dispense or offer to*
13 *sell the material, compound, mixture or preparation containing*
14 *dextromethorphan for which the minor has a valid prescription;*
15 *and*

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

19 3. *A person shall be deemed to be in compliance with the*
20 *provisions of paragraph (a) of subsection 1 if:*

21 (a) *The person reasonably assumes, based on the appearance*
22 *of a person to whom a material, compound, mixture or*
23 *preparation containing dextromethorphan is sold, distributed,*
24 *bartered, dispensed or offered for sale, that the person is 25 years*
25 *of age or older.*

26 (b) *Before the person sells, distributes, barter, dispenses or*
27 *offers to sell any material, compound, mixture or preparation*
28 *containing dextromethorphan to another person, the person:*

29 (1) *Demands that the other person present a valid driver's*
30 *license or other written or documentary evidence which indicates*
31 *that the other person is 18 years of age or older;*

32 (2) *Is presented a valid driver's license or other written or*
33 *documentary evidence which indicates that the other person is 18*
34 *years of age or older; and*

35 (3) *Reasonably relies upon the driver's license or other*
36 *written or documentary evidence presented by the other person.*

37 4. *With respect to any sale made by an employee of a retail*
38 *establishment, the owner of the retail establishment shall be*



1 *deemed to be in compliance with the provisions of paragraph (a)*
2 *of subsection 1 if the owner:*

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

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

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

8 *(a) For the first violation, receive a warning in writing; and*

9 *(b) For each subsequent violation, be assessed a civil penalty*
10 *of \$50. This penalty must be recovered in a civil action, brought in*
11 *the name of the State of Nevada by the Attorney General or by any*
12 *district attorney in a court of competent jurisdiction.*

13 *6. As used in this section, "minor" means a person under the*
14 *age of 18 years.*

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

16 639.270 Any drug, medicine, remedy, poison or chemical, the
17 sale of which is not otherwise restricted as provided by this chapter
18 **H** *or section 1 of this act*, and any patent or proprietary medicine,
19 may be sold by grocers and dealers generally without restriction
20 when prepared and sold in original and unbroken packages and, if
21 poisonous, labeled with the official poison labels and sold in
22 accordance with the requirements of the Federal Food, Drug and
23 Cosmetic Act.

