

SENATE BILL NO. 159—SENATOR FARLEY

PREFILED FEBRUARY 13, 2017

Referred to Committee on Health and Human Services

SUMMARY—Provides for the regulation of the sale of dextromethorphan. (BDR 40-543)

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

~

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

AN ACT relating to drugs; prohibiting the sale, distribution, 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; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law authorizes grocers and dealers to sell without restriction any drug,
2 medicine, remedy, poison or chemical that is not otherwise restricted, when
3 prepared and sold in original and unbroken packages and, if poisonous, labeled and
4 sold in accordance with federal law. (NRS 639.270) This bill prohibits a person
5 from selling, distributing, bartering, dispensing or offering to sell any material,
6 compound, mixture or preparation containing dextromethorphan, a common
7 ingredient in cough syrup, to a person under the age of 18 years. This bill also
8 prohibits any person under the age of 18 years from purchasing, receiving or
9 otherwise acquiring any material, compound, mixture or preparation containing
10 dextromethorphan. This bill also provides that a person or owner of a retail
11 establishment who takes certain steps to prevent the sale of a material, compound,
12 mixture or preparation containing dextromethorphan to a person under the age of
13 18 years shall be deemed to be in compliance with these provisions. Finally, this
14 bill requires any person who sells, distributes, barter, dispenses or offers to sell a
15 material, compound, mixture or preparation containing dextromethorphan in
16 violation of these provisions to: (1) for a first offense, receive a warning; and (2)
17 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:

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 sell, distribute, barter, dispense or offer to sell any material, compound, mixture or preparation containing dextromethorphan to a minor.

(b) A minor shall not knowingly purchase, receive or otherwise acquire 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, distribute, barter, dispense 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. An employer of a minor may, for the purpose of allowing the minor to handle or transport a material, compound, mixture or preparation containing dextromethorphan in the course of the minor's lawful employment, provide a material, compound, mixture or preparation containing dextromethorphan to the minor, and the minor may receive the material, compound, mixture or preparation containing dextromethorphan.

4. A person shall be deemed to be in compliance with the provisions of subsection 1 if:

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

(b) Before the person sells, distributes, barters, dispenses or offers to sell any material, compound, mixture or preparation containing dextromethorphan to another person, the person:

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

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



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

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

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

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

11 6. *A person who violates paragraph (a) of subsection 1:*

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

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

17 7. *As used in this section, "minor" means a person under the*
18 *age of 18 years.*

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

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

