

By: Seliger

S.B. No. 349

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the sale of dextromethorphan to minors; providing civil penalties.

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

SECTION 1. Subtitle C, Title 6, Health and Safety Code, is amended by adding Chapter 488 to read as follows:

CHAPTER 488. OVER-THE-COUNTER SALES OF DEXTROMETHORPHAN

Sec. 488.001. DEFINITIONS. (a) In this chapter:

(1) "Dextromethorphan" means any compound, mixture, or preparation containing any detectable amount of that substance, including its salts, optical isomers, and salts of optical isomers.

(2) "Sale" includes a conveyance, exchange, barter, or trade.

(b) A term that is used in this chapter but is not defined by Subsection (a) has the meaning assigned by Section 481.002 if the term is defined in that section.

Sec. 488.002. NONAPPLICABILITY. (a) This chapter does not apply to the sale of any product dispensed or delivered by a pharmacist according to a prescription issued by a practitioner for a valid medical purpose and in the course of professional practice.

(b) This chapter does not require a business establishment to:

(1) keep specific records of transactions covered by this chapter; or

1 (2) store dextromethorphan in a specific location in a
2 business establishment or otherwise restrict the availability of
3 dextromethorphan to customers.

4 Sec. 488.003. DISTRIBUTION TO MINORS PROHIBITED;
5 PREREQUISITE TO SALE. (a) A business establishment may not
6 dispense, distribute, or sell dextromethorphan to a customer under
7 18 years of age.

8 (b) Before dispensing, distributing, or selling
9 dextromethorphan over the counter, a business establishment must
10 require the customer obtaining the drug to display a driver's
11 license or other form of identification containing the customer's
12 photograph and indicating that the customer is 18 years of age or
13 older, unless from the customer's outward appearance the person
14 making the sale may reasonably presume the customer to be 27 years
15 of age or older.

16 Sec. 488.004. VIOLATION; CIVIL PENALTY. (a) A county or
17 district attorney shall issue a warning to a business establishment
18 for a first violation of this chapter.

19 (b) After receiving a warning for the first violation under
20 Subsection (a), a business establishment is liable to the state for
21 a civil penalty of:

22 (1) \$150 for the second violation; and

23 (2) \$250 for each subsequent violation.

24 (c) It is a defense in an action brought under this section
25 that the person to whom the dextromethorphan was dispensed,
26 distributed, or sold presented to the business establishment
27 apparently valid proof of identification.

1 (d) A proof of identification satisfies the requirements of
2 Subsection (c) if it contains a physical description and photograph
3 consistent with the person's appearance, purports to establish that
4 the person is 18 years of age or older, and was issued by a
5 governmental agency. The proof of identification may include a
6 driver's license issued by this state or another state, a passport,
7 or an identification card issued by a state or the federal
8 government.

9 SECTION 2. The change in law made by this Act applies only
10 to a transaction at a business establishment that occurs on or after
11 the effective date of this Act.

12 SECTION 3. This Act takes effect September 1, 2019.