

## CHAPTER 114

**AN ACT** concerning the sale of dextromethorphan to minors and supplementing Title 2A of the New Jersey Statutes.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.2A:170-51.7 Sale of dextromethorphan to persons under 18 prohibited; violations, penalties.

1. a. No person shall sell or offer for sale, either directly or indirectly by an agent or employee, any product containing dextromethorphan as an active ingredient to a person under 18 years of age.

b. The establishment of all of the following shall constitute a defense to any prosecution brought pursuant to subsection a. of this section:

(1) that the purchaser of the product falsely represented, by producing either a driver's license or non-driver identification card issued by the New Jersey Motor Vehicle Commission, a similar card issued pursuant to the laws of another state or the federal government or Canada, or a photographic identification card issued by a county clerk, that the purchaser was of legal age to make the purchase;

(2) that the appearance of the purchaser of the product was such that an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and

(3) that the sale of the product was made in good faith, relying upon the production of the identification set forth in paragraph (1) of this subsection, the appearance of the purchaser, and the reasonable belief that the purchaser was of legal age to make the purchase.

c. A person who violates the provisions of subsection a. of this section, including an employee of a retail establishment who actually sells a product containing dextromethorphan as an active ingredient to a person under 18 years of age, shall be liable to a civil penalty of not more than \$750. In the case of a retail establishment that is part of a chain with two or more locations in the State, the violation shall be assessed against the particular retail establishment and not the chain. The civil penalty shall be collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the municipal court having jurisdiction. An official authorized by statute or ordinance to enforce the State or local health codes or a law enforcement officer having enforcement authority in that municipality may issue a summons for a violation of the provisions of subsection a. of this section, and may serve and execute all process with respect to the enforcement of this section consistent with the Rules of Court. A penalty recovered under the provisions of this subsection shall be recovered by and in the name of the State by the local health agency. The penalty shall be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

d. The provisions of this act shall not apply to any prescription medication containing dextromethorphan as an active ingredient that is dispensed by a pharmacist pursuant to a valid prescription.

C.2A:170-51.8 Listing of products containing dextromethorphan on Internet website.

2. The Department of Health shall include on its Internet website a comprehensive list of products that contain dextromethorphan as an active ingredient. This requirement may be satisfied by including on the Department of Health website a link to the list of products containing dextromethorphan as an active ingredient that is published by the National Institutes of Health, provided that such list is current and accurate.

3. This act shall take effect on the first day of the fourth month after enactment.

Approved October 13, 2015.