

## **2A:170-51.7 & 2A:170-51.8 LEGISLATIVE HISTORY CHECKLIST**

Compiled by the NJ State Law Library

**LAWS OF:** 2015                      **CHAPTER:** 114

**NJSA:** 2A:170-51.7 & 2A:170-51.8 (Prohibits sale of certain products containing dextromethorphan to minors under 18 years of age.)

**BILL NO:** A622                      (Substituted for S2436 (1R))

**SPONSOR(S)** Moriarty, Paul D., and others

**DATE INTRODUCED:** January 16, 2014

**COMMITTEE:**                      **ASSEMBLY:** Health and Senior Services

**SENATE:** Health, Human Services and Senior Citizens

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**                      **ASSEMBLY:** 3/9/2015

**SENATE:** 6/29/2015

**DATE OF APPROVAL:** October 13, 2015

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Assembly Committee Substitute enacted)                      Yes

**A622**

**INTRODUCED BILL:** (Includes sponsor(s) statement)                      No

**COMMITTEE STATEMENT:**                      **ASSEMBLY:** Yes

**SENATE:** Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:**                      No

**LEGISLATIVE FISCAL ESTIMATE:**                      No

**A1469**

**INTRODUCED BILL:** (Includes sponsor(s) statement)                      Yes

**COMMITTEE STATEMENT:**                      **ASSEMBLY:** No

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:**                      No

**LEGISLATIVE FISCAL ESTIMATE:** No

**S2436 (1R)**

**INTRODUCED BILL:** (Includes sponsor(s) statement) Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

**SENATE:** Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**S1726**

**INTRODUCED BILL:** (Includes sponsor(s) statement) Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

end

P.L.2015, CHAPTER 114, *approved October 13, 2015*  
Assembly Committee Substitute for  
Assembly, Nos. 622 and 1469

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

3

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

6

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

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

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

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

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

29 c. A person who violates the provisions of subsection a. of this  
30 section, including an employee of a retail establishment who  
31 actually sells a product containing dextromethorphan as an active  
32 ingredient to a person under 18 years of age, shall be liable to a  
33 civil penalty of not more than \$750. In the case of a retail  
34 establishment that is part of a chain with two or more locations in  
35 the State, the violation shall be assessed against the particular retail  
36 establishment and not the chain. The civil penalty shall be collected  
37 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,  
38 c.274 (C.2A:58-10 et seq.), in a summary proceeding before the  
39 municipal court having jurisdiction. An official authorized by  
40 statute or ordinance to enforce the State or local health codes or a

1 law enforcement officer having enforcement authority in that  
2 municipality may issue a summons for a violation of the provisions  
3 of subsection a. of this section, and may serve and execute all  
4 process with respect to the enforcement of this section consistent  
5 with the Rules of Court. A penalty recovered under the provisions  
6 of this subsection shall be recovered by and in the name of the State  
7 by the local health agency. The penalty shall be paid into the  
8 treasury of the municipality in which the violation occurred for the  
9 general uses of the municipality.

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

13  
14 2. The Department of Health shall include on its Internet  
15 website a comprehensive list of products that contain  
16 dextromethorphan as an active ingredient. This requirement may be  
17 satisfied by including on the Department of Health website a link to  
18 the list of products containing dextromethorphan as an active  
19 ingredient that is published by the National Institutes of Health,  
20 provided that such list is current and accurate.

21  
22 3. This act shall take effect on the first day of the fourth month  
23 after enactment.

24  
25  
26  
27

28 Prohibits sale of certain products containing dextromethorphan  
29 to minors under 18 years of age.

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, Nos. 622 and 1469**

**STATE OF NEW JERSEY**

DATED: JUNE 15, 2015

The Senate Health, Human Services and Senior Citizens Committee reports favorably Assembly Bill Nos. 622 and 1469 (ACS).

This Assembly Committee Substitute prohibits selling or offering to sell, 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.

A person who violates this prohibition, 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, would be fined not more than \$750. If a retail establishment that commits a violation is part of a chain with two or more locations in the State, the violation is to be assessed against the particular retail establishment where the violation occurred and not against the chain.

Any civil penalty imposed would be collected pursuant to the "Penalty Enforcement Law of 1999," 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 would be authorized to issue a summons for a violation, and to serve and execute all process with respect to the enforcement of the substitute's provisions, consistent with the Rules of Court. Any penalties would be recovered by and in the name of the State by the local health agency, and would be paid into the treasury of the municipality in which the violation occurred, for the general uses of the municipality.

A defense to a prosecution would be established if:

(1) 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 or a similar card issued pursuant to the laws of another state or the federal government or Canada, or a photographic identification issued by a county clerk, that the purchaser was of legal age to make the purchase;

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

(3) the sale of the product was made in good faith, relying upon the production of identification as described in the substitute, the appearance of the purchaser, and the reasonable belief that the purchaser was of legal age to make the purchase.

The provisions of the substitute would not apply to any prescription medication containing dextromethorphan that is dispensed by a pharmacist pursuant to a valid prescription.

The substitute additionally requires the Department of Health to include on its Internet website a comprehensive list of products that contain dextromethorphan as an active ingredient. The department would be able to satisfy this requirement by including on its 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.

Dextromethorphan is a cough suppressant that is commonly used as an ingredient in over-the-counter cough and cold medications. Products containing dextromethorphan are safe when taken as recommended; however, high doses can produce intoxicating and hallucinatory symptoms, and there is potential for these products to be abused.

As reported, this substitute is identical to S-2436 (SCA) (Barnes), which the committee also reported favorably on this date.

# ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 622 and 1469

# STATE OF NEW JERSEY

DATED: DECEMBER 4, 2014

The Assembly Health and Senior Services Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 622 and 1469.

This committee substitute prohibits selling or offering to sell, 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.

A person who violates the provisions of this committee substitute, 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, will be fined not more than \$750. If a retail establishment that commits a violation is part of a chain with two or more locations in the State, the violation is to be assessed against the particular retail establishment where the violation occurred and not against the chain.

The civil penalty imposed under the committee substitute is to be collected pursuant to the "Penalty Enforcement Law of 1999," 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, and may serve and execute all process with respect to the enforcement of this committee substitute consistent with the Rules of Court. A penalty recovered under the provisions of this committee substitute would be recovered by and in the name of the State by the local health agency. The committee substitute requires that the penalty be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

A defense to a prosecution under the committee substitute is established if:

(1) 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 or a similar card issued pursuant to the laws of another state or the federal government or Canada, or a photographic identification issued by a county clerk, that

the purchaser was of legal age to make the purchase;

(2) 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) the sale of the product was made in good faith, relying upon the production of identification as described in the committee substitute, the appearance of the purchaser, and the reasonable belief that the purchaser was of legal age to make the purchase.

The provisions of the committee substitute do not apply to any prescription medication containing dextromethorphan that is dispensed by a pharmacist pursuant to a valid prescription.

The committee substitute additionally requires the Department of Health to include on its Internet website a comprehensive list of products that contain dextromethorphan as an active ingredient. The department may satisfy this requirement by including on its 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.

Dextromethorphan is a cough suppressant that is commonly used as an ingredient in over-the-counter cough and cold medications. Products containing dextromethorphan are safe when taken as recommended; however, high doses can produce intoxicating and hallucinatory symptoms, and there is potential for these products to be abused.



# ASSEMBLY, No. 1469

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblywoman SHAVONDA E. SUMTER**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblywoman Pinkin**

**SYNOPSIS**

Imposes certain restrictions on sale of products containing dextromethorphan.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 8/6/2014)**

1 AN ACT concerning the sale of products containing  
2 dextromethorphan and supplementing Title 24 of the Revised  
3 Statutes and Title 2C of the New Jersey Statutes.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. As used in this act:

9 “Drug” means a drug as defined in R.S.24:1-1.

10 “Mobile retail vendor” means a person or entity that makes sales  
11 at retail from a stand that is intended to be temporary, or is capable  
12 of being moved from one location to another, whether the stand is  
13 located within or on the premises of a fixed facility, such as a kiosk  
14 at a shopping center or an airport, or whether the stand is located on  
15 unimproved real estate, such as a lot or field leased for retail  
16 purposes.

17 “Product” means an over-the-counter drug product that contains  
18 dextromethorphan as one of its active ingredients.

19 “Regulated seller” means a retail distributor but does not include  
20 an employee or agent of that distributor.

21 “Retail distributor” means a grocery store, general merchandise  
22 store, pharmacy, or other entity or person whose activities as a  
23 distributor relating to products are generally limited to sales for  
24 personal use, both in the number and volume of sales, either  
25 directly to walk-in customers or in face-to-face transactions by  
26 direct sales.  
27

28 2. a. A regulated seller or mobile retail vendor shall maintain  
29 an electronic logbook to record each sale of a product in accordance  
30 with the provisions of this section.

31 (1) The logbook shall identify the product sold by name, the  
32 quantity sold, the name and address of each purchaser, and the date  
33 and time of the sale.

34 (2) The purchaser shall sign the logbook and enter the  
35 purchaser’s name, address, and the date and time of sale.

36 (3) The regulated seller or mobile retail vendor shall determine  
37 that the name entered in the logbook corresponds to the name  
38 provided on the identification provided by the purchaser pursuant to  
39 subsection b. of this section and that the date and time entered are  
40 correct.

41 (4) The regulated seller or mobile retail vendor shall enter into  
42 the logbook the name of the product and the quantity sold.

43 (5) The logbook shall include a notice to the purchaser that  
44 entering a false statement or misrepresentation in the logbook may  
45 subject the purchaser to a criminal penalty pursuant to section 5 of  
46 P.L. , c. (C. ) (pending before the Legislature as this bill), and  
47 the notice shall specify the maximum fine and term of  
48 imprisonment.

1 (6) The regulated seller or mobile retail vendor shall maintain  
2 each entry in the logbook for not fewer than two years after the date  
3 on which the entry is made.

4 b. A regulated seller or mobile retail vendor shall not sell a  
5 product unless the prospective purchaser presents a photographic  
6 identification card issued by a state government or the federal  
7 government, or a document considered acceptable for the purposes  
8 of 8 CFR s.274a.2(b)(1)(v)(A) or (B).

9 c. (1) The information contained in the logbook shall be  
10 considered confidential and shall be disclosed only to federal, State,  
11 or local law enforcement authorities for the purpose of carrying out  
12 their duties pursuant to State or federal law.

13 (2) A regulated seller or mobile retail vendor who in good faith  
14 discloses information from the logbook to a federal, State, or local  
15 law enforcement authority shall be immune from civil liability for  
16 that action unless the disclosure constitutes gross negligence or  
17 intentional, wanton, or willful misconduct.

18

19 3. A regulated seller or mobile retail vendor shall not sell more  
20 than 7.5 grams of a product to the same customer during a 30-day  
21 period.

22

23 4. a. A regulated seller or mobile retail vendor shall only  
24 display products in an area that is under the control of the regulated  
25 seller or mobile retail vendor, as follows:

26 (1) A regulated seller shall place the product so that customers  
27 do not have direct access to it before the sale is made or in a locked  
28 cabinet that is located in an area of the facility to which customers  
29 do have direct access.

30 (2) A mobile retail vendor shall place the product in a locked  
31 cabinet.

32 b. A regulated seller or mobile retail vendor shall deliver the  
33 product directly into the custody of the purchaser.

34

35 5. A person who enters a false statement or misrepresentation  
36 in the electronic logbook required pursuant to section 2 of P.L. ,  
37 c. (C. ) (pending before the Legislature as this bill), when  
38 purchasing an over-the-counter drug product that contains  
39 dextromethorphan as one of its active ingredients, is guilty of a  
40 crime of the third degree.

41

42 6. The Director of the Division of Consumer Affairs in the  
43 Department of Law and Public Safety, pursuant to the  
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
45 seq.), shall adopt such rules and regulations as the director  
46 determines necessary to effectuate the purposes of this act.



**A1469 DIEGNAN, VAINIERI HUTTLE**

1 product directly into the custody of the purchaser.

2 The bill further provides that a person who enters a false  
3 statement or misrepresentation in the electronic logbook required  
4 pursuant to the bill when purchasing a product is guilty of a crime  
5 of the third degree (punishable by imprisonment for a term of three  
6 to five years or a fine of up to \$15,000, or both).

7 The bill takes effect on the first day of the seventh month  
8 following enactment, but authorizes the Director of the Division of  
9 Consumer Affairs in the Department of Law and Public Safety to  
10 take prior administrative action as necessary for its implementation.

**SENATE, No. 2436**

**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

INTRODUCED OCTOBER 9, 2014

**Sponsored by:**

**Senator PETER J. BARNES, III**

**District 18 (Middlesex)**

**SYNOPSIS**

Prohibits sale of products containing dextromethorphan to minors under 18 years of age.

**CURRENT VERSION OF TEXT**

As introduced.



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

3

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

6

7 1. a. No person, either directly or indirectly by an agent or  
8 employee, shall sell or offer to sell to a person under 18 years of  
9 age any product containing dextromethorphan.

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

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

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

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

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

1 d. The provisions of this act shall not apply to any prescription  
2 medication containing dextromethorphan that is dispensed by a  
3 pharmacist pursuant to a valid prescription.

4

5 2. This act shall take effect on the first day of the fourth month  
6 after enactment.

7

8

9

STATEMENT

10

11 This bill would prohibit the sale of, or offer to sell, any product  
12 containing dextromethorphan to a person under 18 years of age.

13 Specifically, the bill prohibits the sale of any product containing  
14 dextromethorphan, either directly or indirectly by an agent or  
15 employee, to a person under 18 years of age.

16 A defense to a prosecution under the bill is established if: the  
17 purchaser of the product falsely represented, by producing either a  
18 driver's license or non-driver identification card issued by the New  
19 Jersey Motor Vehicle Commission or a similar card issued pursuant  
20 to the laws of another state or the federal government or Canada, or  
21 a photographic identification issued by a county clerk, that the  
22 purchaser was of legal age to make the purchase; the appearance of  
23 the purchaser of the product was such that an ordinary prudent  
24 person would believe the purchaser to be of legal age to make the  
25 purchase; and the sale of the product was made in good faith,  
26 relying upon the production of identification as described in the bill,  
27 the appearance of the purchaser, and in the reasonable belief that  
28 the purchaser was of legal age to make the purchase.

29 A person who violates the provisions of this bill, including an  
30 employee of a retail establishment who actually sells a product  
31 containing dextromethorphan to a person under 18 years of age, will  
32 be fined not more than \$750. If the retail establishment is part of a  
33 chain with two or more locations in the State, the violation is to be  
34 assessed against the particular retail establishment and not the  
35 chain.

36 The civil penalty imposed under the bill is to be collected  
37 pursuant to the "Penalty Enforcement Law of 1999," in a summary  
38 proceeding before the municipal court having jurisdiction. An  
39 official authorized by statute or ordinance to enforce the State or  
40 local health codes or a law enforcement officer having enforcement  
41 authority in that municipality may issue a summons for a violation,  
42 and may serve and execute all process with respect to the  
43 enforcement of this bill consistent with the Rules of Court. A  
44 penalty recovered under the provisions of this bill shall be  
45 recovered by and in the name of the State by the local health  
46 agency. The bill requires that the penalty be paid into the treasury  
47 of the municipality in which the violation occurred for the general  
48 uses of the municipality.



**S2436 P.BARNES, III**

4

1       The provisions of the bill do not apply to any prescription  
2 medication containing dextromethorphan that is dispensed by a  
3 pharmacist pursuant to a valid prescription.

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO

**SENATE, No. 2436**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 15, 2015

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 2436.

As amended by the committee, this bill prohibits selling or offering to sell, 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.

A person who violates this prohibition, 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, would be fined not more than \$750. If a retail establishment that commits a violation is part of a chain with two or more locations in the State, the violation is to be assessed against the particular retail establishment where the violation occurred and not against the chain.

Any civil penalty imposed would be collected pursuant to the "Penalty Enforcement Law of 1999," 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 would be authorized to issue a summons for a violation, and to serve and execute all process with respect to the enforcement of the bill's provisions, consistent with the Rules of Court. Any penalties would be recovered by and in the name of the State by the local health agency, and would be paid into the treasury of the municipality in which the violation occurred, for the general uses of the municipality.

A defense to a prosecution would be established if:

(1) 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 or a similar card issued pursuant to the laws of another state or the federal government or Canada, or a photographic identification issued by a county clerk, that the purchaser was of legal age to make the purchase;

(2) the appearance of the purchaser was such that an ordinary

prudent person would believe the purchaser to be of legal age to make the purchase; and

(3) the sale of the product was made in good faith, relying upon the production of identification as described in the bill, the appearance of the purchaser, and the reasonable belief that the purchaser was of legal age to make the purchase.

The provisions of the bill would not apply to any prescription medication containing dextromethorphan that is dispensed by a pharmacist pursuant to a valid prescription.

The bill additionally requires the Department of Health to include on its Internet website a comprehensive list of products that contain dextromethorphan as an active ingredient. The department would be able to satisfy this requirement by including on its 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.

Dextromethorphan is a cough suppressant that is commonly used as an ingredient in over-the-counter cough and cold medications. Products containing dextromethorphan are safe when taken as recommended; however, high doses can produce intoxicating and hallucinatory symptoms, and there is potential for these products to be abused.

The committee amended the bill to:

- clarify that the bill’s prohibition applies to any product containing dextromethorphan as an active ingredient;
- insert a new section requiring the Department of Health to include on its Internet website a comprehensive list of products containing dextromethorphan as an active ingredient, or a link to the list of such products that is published by the National Institutes of Health; and
- make technical corrections to the bill text and bill synopsis to ensure that the language is identical to the language contained in Assembly Bill Nos. 622/1469 (ACS).

As reported, this bill is identical to A-622/A-1469 (ACS) (Moriarty/Diegnan/Wimberly/Vainieri Huttie/Gusciora/Sumter/Angelini/Munoz), which the committee also reported favorably on this date.

**SENATE, No. 1726**

**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

INTRODUCED MARCH 17, 2014

**Sponsored by:**

**Senator PETER J. BARNES, III**

**District 18 (Middlesex)**

**SYNOPSIS**

Imposes certain restrictions on sale of products containing dextromethorphan.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the sale of products containing  
2 dextromethorphan and supplementing Title 24 of the Revised  
3 Statutes and Title 2C of the New Jersey Statutes.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. As used in this act:

9 “Drug” means a drug as defined in R.S.24:1-1.

10 “Mobile retail vendor” means a person or entity that makes sales  
11 at retail from a stand that is intended to be temporary, or is capable  
12 of being moved from one location to another, whether the stand is  
13 located within or on the premises of a fixed facility, such as a kiosk  
14 at a shopping center or an airport, or whether the stand is located on  
15 unimproved real estate, such as a lot or field leased for retail  
16 purposes.

17 “Product” means an over-the-counter drug product that contains  
18 dextromethorphan as one of its active ingredients.

19 “Regulated seller” means a retail distributor but does not include  
20 an employee or agent of that distributor.

21 “Retail distributor” means a grocery store, general merchandise  
22 store, pharmacy, or other entity or person whose activities as a  
23 distributor relating to products are generally limited to sales for  
24 personal use, both in the number and volume of sales, either  
25 directly to walk-in customers or in face-to-face transactions by  
26 direct sales.

27  
28 2. a. A regulated seller or mobile retail vendor shall maintain  
29 an electronic logbook to record each sale of a product in accordance  
30 with the provisions of this section.

31 (1) The logbook shall identify the product sold by name, the  
32 quantity sold, the name and address of each purchaser, and the date  
33 and time of the sale.

34 (2) The purchaser shall sign the logbook and enter the  
35 purchaser’s name, address, and the date and time of sale.

36 (3) The regulated seller or mobile retail vendor shall determine  
37 that the name entered in the logbook corresponds to the name  
38 provided on the identification provided by the purchaser pursuant to  
39 subsection b. of this section and that the date and time entered are  
40 correct.

41 (4) The regulated seller or mobile retail vendor shall enter into  
42 the logbook the name of the product and the quantity sold.

43 (5) The logbook shall include a notice to the purchaser that  
44 entering a false statement or misrepresentation in the logbook may  
45 subject the purchaser to a criminal penalty pursuant to section 5 of  
46 P.L. , c. (C. ) (pending before the Legislature as this bill), and  
47 the notice shall specify the maximum fine and term of  
48 imprisonment.

- 1 (6) The regulated seller or mobile retail vendor shall maintain  
2 each entry in the logbook for not fewer than two years after the date  
3 on which the entry is made.
- 4 b. A regulated seller or mobile retail vendor shall not sell a  
5 product unless the prospective purchaser presents a photographic  
6 identification card issued by a state government or the federal  
7 government, or a document considered acceptable for the purposes  
8 of 8 CFR s.274a.2(b)(1)(v)(A) or (B).
- 9 c. (1) The information contained in the logbook shall be  
10 considered confidential and shall be disclosed only to federal, State,  
11 or local law enforcement authorities for the purpose of carrying out  
12 their duties pursuant to State or federal law.
- 13 (2) A regulated seller or mobile retail vendor who in good faith  
14 discloses information from the logbook to a federal, State, or local  
15 law enforcement authority shall be immune from civil liability for  
16 that action unless the disclosure constitutes gross negligence or  
17 intentional, wanton, or willful misconduct.
- 18
- 19 3. A regulated seller or mobile retail vendor shall not sell more  
20 than 7.5 grams of a product to the same customer during a 30-day  
21 period.
- 22
- 23 4. a. A regulated seller or mobile retail vendor shall only  
24 display products in an area that is under the control of the regulated  
25 seller or mobile retail vendor, as follows:
- 26 (1) A regulated seller shall place the product so that customers  
27 do not have direct access to it before the sale is made or in a locked  
28 cabinet that is located in an area of the facility to which customers  
29 do have direct access.
- 30 (2) A mobile retail vendor shall place the product in a locked  
31 cabinet.
- 32 b. A regulated seller or mobile retail vendor shall deliver the  
33 product directly into the custody of the purchaser.
- 34
- 35 5. A person who enters a false statement or misrepresentation  
36 in the electronic logbook required pursuant to section 2 of P.L. ,  
37 c. (C. ) (pending before the Legislature as this bill), when  
38 purchasing an over-the-counter drug product that contains  
39 dextromethorphan as one of its active ingredients, is guilty of a  
40 crime of the third degree.
- 41
- 42 6. The Director of the Division of Consumer Affairs in the  
43 Department of Law and Public Safety, pursuant to the  
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
45 seq.), shall adopt such rules and regulations as the director  
46 determines necessary to effectuate the purposes of this act.



1 product directly into the custody of the purchaser.

2 The bill further provides that a person who enters a false  
3 statement or misrepresentation in the electronic logbook required  
4 pursuant to the bill when purchasing a product is guilty of a crime  
5 of the third degree (punishable by imprisonment for a term of three  
6 to five years or a fine of up to \$15,000, or both).

7 The bill takes effect on the first day of the seventh month  
8 following enactment, but authorizes the Director of the Division of  
9 Consumer Affairs in the Department of Law and Public Safety to  
10 take prior administrative action as necessary for its implementation.



Search

[Home](#) [Newsroom](#) [Media](#) [Administration](#) [NJ's Priorities](#) [Contact Us](#)

[Press Releases](#) [Public Addresses](#) [Executive Orders](#) [Press Kit](#) [Reports](#)

[Home](#) > [Newsroom](#) > [Press Releases](#) > 2015 > [Governor Christie Takes Action To Help Prevent Over-the-Counter Drug Abuse](#)

## Governor Christie Takes Action To Help Prevent Over-the-Counter Drug Abuse

Tuesday, October 13, 2015    Tags: [Addiction Taskforce](#)



**Stay Connected**  
with Social Media

**Stay Connected**  
with Email Alerts

LIKE THIS PAGE? SHARE IT WITH YOUR FRIENDS.

...

**Trenton, NJ** – Adding to the Administration’s broad-based approach of preventing and treating drug addiction, Governor Christie took action today to prohibit the sale of medications containing dextromethorphan, a substance found in more than 120 over-the-counter cold medications, to any person under the age of 18 unless they have a prescription. The legislation, A-622/1469 (Moriarty, Diegnan, Wimberly, Vainieri Huttle, Gusciora, Sumter, Angelini, Munoz/Barnes), addresses the growing problem of teenagers overusing or abusing dextromethorphan to get high, leading them down a path of addiction in the future.

The bill also requires the Department of Health to post a link on its website containing a list of products in which dextromethorphan is an active ingredient. The new law will take effect on Feb. 1, 2016.

The Governor also took the following action on other pending legislation:

**BILL SIGNING:**

**A-3890/S-2754 (Lampitt, Lagana, Jimenez, Eustace, Mazzeo/Gordon, Allen)** - Requires continuing care retirement communities to provide residents with information on influenza vaccines for older adults

**AJR-67/SJR-51 (Munoz, Lampitt, Benson/Singer, Vitale)** - Designates third Wednesday in May as "ALS Awareness Day" and May as "ALS Awareness Month" in NJ

###

**Press Contact:**  
Brian Murray  
Nicole Sizemore  
609-777-2600



[Contact Us](#) | [Privacy Notice](#) | [Legal Statement & Disclaimers](#) | [Accessibility Statement](#) |

Statewide: [NJ Home](#) | [Services A to Z](#) | [Departments/Agencies](#) | [FAQs](#)  
Office of the Governor: [Home](#) | [Newsroom](#) | [Media](#) | [Administration](#) | [NJ's Priorities](#) | [Contact Us](#)

Copyright © State of New Jersey, 1996-2017  
Office of the Governor  
PO Box 001  
Trenton, NJ 08625  
609-292-6000