

HEALTH AND SAFETY CODE

TITLE 6. FOOD, DRUGS, ALCOHOL, AND HAZARDOUS SUBSTANCES

SUBTITLE C. SUBSTANCE ABUSE REGULATION AND CRIMES

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.

Added by Acts 2019, 86th Leg., R.S., Ch. 46 (H.B. 1518), Sec. 1, eff. September 1, 2019.

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 within the scope of the practitioner's practice as authorized by the practitioner's license issued under Title 3, Occupations Code.

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

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

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

Added by Acts 2019, 86th Leg., R.S., Ch. 46 (H.B. 1518), Sec. 1, eff. September 1, 2019.

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

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

Added by Acts 2019, 86th Leg., R.S., Ch. 46 (H.B. 1518), Sec. 1, eff. September 1, 2019.

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

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

- (1) \$150 for the second violation; and
- (2) \$250 for each subsequent violation.

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

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

(e) It is a defense in an action brought under this section that the business establishment made a good faith effort to comply with this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 46 (H.B. 1518), Sec. 1, eff. September 1, 2019.

Sec. 488.005. PROHIBITED LOCAL REGULATION. (a) A political subdivision of this state may not adopt or enforce an ordinance, order, rule, regulation, or policy that governs the sale, distribution, or possession of dextromethorphan.

(b) An ordinance, order, rule, regulation, or policy described by Subsection (a) is void and unenforceable.

Added by Acts 2019, 86th Leg., R.S., Ch. 46 (H.B. [1518](#)), Sec. 1, eff. September 1, 2019.