CHAPTER 264
FORMERLY
HOUSE BILL NO. 329

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO DEXTROMETHORPHAN.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4701, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 4701 Definitions.

As used in this chapter:

(18) "Finished drug product" means a drug legally marketed under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) that is in finished dosage form.

(41) "Proof of age" means a document issued by a governmental agency that gives the person's date of birth including a passport, military identification card, or driver's license.

Section 2. Amend Chapter 47, Subchapter III, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4740A Sale of dextromethorphan.

(a) *Age limit on sale of dextromethorphan. —*

(1) No commercial entity shall knowingly or willfully sell or trade a finished drug product containing any quantity of dextromethorphan to a person less than 18 years of age.

(2) No person who is less than 18 years of age shall purchase a finished drug product containing any quantity of dextromethorphan.

(3) Any person making a retail sale of a finished drug product containing any quantity of dextromethorphan shall require and obtain proof of age from the purchaser before completing the sale, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be at least 25 years of age.

(b) *Limitations*. -

(1) Nothing in this section shall be construed to impose any compliance requirement on a retail entity other than manually obtaining and verifying proof of age as a condition of sale, including placement of products in a specific place within a store, restrictions on a consumer's direct access to finished drug products, and maintenance of transaction records.

(2) This section shall not apply to a medication containing dextromethorphan that is sold pursuant to a valid prescription.

(c) *Penalties*.-

Any manufacturer, distributor, retailer, or wholesaler that sells or trades dextromethorphan in violation of this section shall receive a warning letter from the Office of Controlled Substances for the first violation and thereafter be subject to a civil penalty issued by the Office of Controlled Substances in the amount of:

(1) Not more than $150 for a second violation; or

(2) Not more than $250 for a third or any subsequent violations.

Section 3. This Act shall take effect 1 year after the date of its enactment.

Approved June 16, 2016