

933--B

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. JAFFEE, GRAF, ROBERTS, ZEBROWSKI, BOYLAND, WEPRIN, GUNTHER, AUBRY, SCHIMEL -- Multi-Sponsored by -- M. of A. ABINANTI, ARROYO, BRAUNSTEIN, CERETTO, CLARK, COOK, FINCH, GABRYSZAK, GIBSON, MARKEY, PERRY, ROBINSON, TITONE, WEISENBERG -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reference changed to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to restricting access to dextromethorphan, commonly known as "dxm"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The general business law is amended by adding a new section
2 391-s to read as follows:
3 S 391-S. RESTRICTED ACCESS TO RETAIL SALE OF DEXTROMETHORPHAN,
4 COMMONLY KNOWN AS "DXM". 1. NO RETAIL ESTABLISHMENT OFFERING FOR SALE
5 ANY PRODUCT OR PRODUCTS CONTAINING AS AN ACTIVE INGREDIENT DEXTROMETHOR-
6 PHAN, SHALL PERMIT THE SALE OF SUCH PRODUCTS TO PERSONS UNDER THE AGE OF
7 EIGHTEEN WITHOUT A VALID PRESCRIPTION. RETAIL ESTABLISHMENTS SHALL
8 REQUIRE PROOF OF LEGAL AGE FOR PURCHASE OF SUCH PRODUCTS. SUCH IDEN-
9 TIFICATION NEED NOT BE REQUIRED OF ANY INDIVIDUAL WHO REASONABLY APPEARS
10 TO BE AT LEAST TWENTY-FIVE YEARS OF AGE, PROVIDED, HOWEVER, THAT SUCH
11 APPEARANCE SHALL NOT CONSTITUTE A DEFENSE IN ANY PROCEEDING ALLEGING THE
12 SALE OF ANY PRODUCT OR PRODUCTS CONTAINING AS AN ACTIVE INGREDIENT
13 DEXTROMETHORPHAN TO AN INDIVIDUAL UNDER EIGHTEEN YEARS OF AGE. ANY
14 RETAIL ESTABLISHMENT WHICH VIOLATES THE PROVISIONS OF THIS SECTION SHALL
15 BE SUBJECT TO A FINE OF TWO HUNDRED FIFTY DOLLARS FOR EACH SUCH
16 VIOLATION.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 2. AS USED IN THIS SECTION "RETAIL ESTABLISHMENT" MEANS EVERY VENDOR
2 THAT IN THE REGULAR COURSE OF BUSINESS SELLS PRODUCTS CONTAINING DEXTRO-
3 METHORPHAN AT RETAIL DIRECTLY TO THE PUBLIC INCLUDING, BUT NOT LIMITED
4 TO, PHARMACIES, GROCERY STORES, AND OTHER RETAIL STORES.
5 3. THIS SECTION SHALL SUPERSEDE ANY LOCAL LAWS OR ORDINANCES REGULAT-
6 ING THE SALES OF PRODUCTS CONTAINING DEXTROMETHORPHAN.
7 S 2. This act shall take effect on the one hundred eightieth day after
8 it shall have become a law.