S T A T E O F N E W Y O R K

9052

I N A S S E M B L Y

January 20, 2016

Introduced by M. of A. JAFFEE, GUNTHER -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to the retail sale of dextromethorphan

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

Section 1. Section 391-s of the general business law, as added by chapter 357 of the laws of 2013, is amended to read as follows:

S 391-s. Restricted access to retail sale of dextromethorphan, commonly known as "dxm". 1. [No retail establishment offering for sale any product or products containing as an active ingredient dextromethorphan, shall permit the sale of such products to persons under the age of eighteen without a valid prescription. Retail establishments shall require proof of legal age for purchase of such products. Such identification need not be required of any individual who reasonably appears to be at least twenty-five years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of any product or products containing as an active ingredient dextromethorphan to an individual under eighteen years of age. Any retail establishment which violates the provisions of this section shall be subject to a fine of two hundred fifty dollars for each such violation.

2.] As used in this section "retail establishment" means every vendor that in the regular course of business sells products containing dextromethorphan at retail directly to the public including, but not limited to, pharmacies, grocery stores, and other retail stores.

2. NO RETAIL ESTABLISHMENT OFFERING FOR SALE ANY PRODUCT OR PRODUCTS CONTAINING AS AN ACTIVE INGREDIENT DEXTROMETHORPHAN, SHALL:

(A) PERMIT THE SALE OF SUCH PRODUCTS TO PERSONS UNDER THE AGE OF EIGHTEEN WITHOUT A VALID PRESCRIPTION; AND

(B) PLACE SUCH PRODUCT IN A LOCATION SUCH THAT CUSTOMERS HAVE DIRECT ACCESS TO THE PRODUCT BEFORE THE SALE IS MADE.

3. RETAIL ESTABLISHMENTS SHALL REQUIRE PROOF OF LEGAL AGE FOR PURCHASE OF SUCH PRODUCTS. SUCH IDENTIFICATION NEED NOT BE REQUIRED OF ANY INDIVIDUAL WHO REASONABLY APPEARS TO BE AT LEAST TWENTY-FIVE YEARS OF AGE,

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

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PROVIDED, HOWEVER, THAT SUCH APPEARANCE SHALL NOT CONSTITUTE A DEFENSE IN ANY PROCEEDING ALLEGING THE SALE OF ANY PRODUCT OR PRODUCTS CONTAINING AS AN ACTIVE INGREDIENT DEXTROMETHORPHAN TO AN INDIVIDUAL UNDER EIGHTEEN YEARS OF AGE.

[3]4. ANY RETAIL ESTABLISHMENT WHICH VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE SUBJECT TO A FINE OF TWO HUNDRED FIFTY DOLLARS FOR EACH VIOLATION.

5. This section shall supersede any local laws or ordinances regulating the sales of products containing dextromethorphan.

S 2. This act shall take effect immediately.