

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 4309**

BY DELEGATES KESSINGER, WESTFALL, WHITE, COWLES

AND BATES

[Reported February 22, 2018.]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §60A-4-417, relating to restricting the sale and trade of dextromethorphan;  
3 defining terms, setting age limits; requiring proof of age from a purchaser unless from the  
4 purchaser's outward appearance the person making the sale would reasonably presume  
5 the purchaser to be at least 25 years of age, establishing a crime for violating the  
6 provisions of this section; and establishing a criminal fine.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 4. OFFENSES AND PENALTIES.**

**§60A-4-417. Sale of dextromethorphan.**

1 (a) As used in the section the following terms are defined:

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

4 (b) A person may not knowingly or willfully sell or trade a finished drug product containing  
5 any quantity of dextromethorphan to a person less than 18 years of age.

6 (c) A person who is less than 18 years of age, unless an emancipated minor, may not  
7 purchase a finished drug product containing any quantity of dextromethorphan.

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

12 (e) This section does not apply to a medication containing dextromethorphan that is sold  
13 pursuant to a valid prescription.

14 (f) A person that violates the provisions of this section is guilty of a misdemeanor shall be  
15 fined \$100.

NOTE: The purpose of this bill is to restrict the sale and trade of dextromethorphan. The bill sets age limits. The bill defines terms. The bill establishes penalties. The bill preempts local ordinances and requires rulemaking.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.