

House Bill 895

By: Representatives Cooper of the 43rd, Hatchett of the 150th, Jasperse of the 11th, Newton of the 123rd, Hawkins of the 27th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia
2 Annotated, relating to schedules, offenses, and penalties regarding the regulation of
3 controlled substances, so as to prohibit the sale to and by minors of drug products containing
4 dextromethorphan; to provide for definitions; to provide for proper identification; to provide
5 for penalties; to provide for statutory construction; to provide for related matters; to provide
6 an effective date and applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 1 of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated,
10 relating to schedules, offenses, and penalties regarding the regulation of controlled
11 substances, is amended by adding a new Code section to read as follows:

12 "16-13-30.7.

13 (a) As used in this Code section, the term:

14 (1) 'Finished drug product' means a drug legally marketed under the Federal Food, Drug,
15 and Cosmetic Act that is in finished dosage form.

16 (2) 'Minor' means any individual under the age of 18 years.

17 (3) 'Person' means any natural person or any firm, partnership, company, corporation, or
18 other entity.

19 (4) 'Proper identification' means any document issued by a governmental agency
20 containing a description of the person, such person's photograph, or both, and giving such
21 person's date of birth and includes, without being limited to, a passport, military
22 identification card, driver's license, or an identification card authorized under Code
23 Sections 40-5-100 through 40-5-104. Proper identification shall not include a birth
24 certificate.

25 (b)(1) It shall be unlawful for any person knowingly or wilfully to sell or trade a finished
26 drug product containing any quantity of dextromethorphan to a minor.

27 (2) It shall be unlawful for any minor to purchase a finished drug product containing any
 28 quantity of dextromethorphan.

29 (c) A person making a retail sale of a finished drug product containing any quantity of
 30 dextromethorphan shall require and obtain proper identification from the purchaser before
 31 completing the sale, unless from the purchaser's outward appearance the person making the
 32 sale would reasonably presume the purchaser to be 25 years of age or older.

33 (d)(1) Any person who violates paragraph (1) of subsection (b) of this Code section shall
 34 receive a warning letter from the Department of Public Health for the first violation and
 35 shall thereafter be subject to a civil penalty issued by the Department of Public Health in
 36 the amount of:

37 (A) Not more than \$150.00 for a second violation; and

38 (B) Not more than \$250.00 for a third or subsequent violation.

39 (2) Any person who violates paragraph (2) of subsection (b) of this Code section shall
 40 be subject to a fine in the amount of:

41 (A) Not more than \$25.00 for a first violation;

42 (B) Not more than \$100.00 for a second violation; and

43 (C) Not more than \$200.00 for a third or subsequent violation.

44 (3) The penalties contained in this subsection shall be the exclusive penalties in
 45 connection with a violation of this Code section and a violation or violations shall not
 46 result in a licensing action against a person by any state, county, or municipal licensing
 47 board, department, or agency.

48 (e) This Code section shall not be construed to:

49 (1) Impose any restriction on the placement of products in a specific place within a retail
 50 store or on consumers' direct access to finished drug products;

51 (2) Impose any requirement on the maintenance of transaction or verification records by
 52 any person in connection with the sale of dextromethorphan; or

53 (3) Apply to a medication containing dextromethorphan that is sold pursuant to a valid
 54 prescription."

55 **SECTION 2.**

56 This Act shall become effective on July 1, 2019, and shall apply to offenses committed on
 57 or after that date.

58 **SECTION 3.**

59 All laws and parts of laws in conflict with this Act are repealed.