

The House Committee on Health and Human Services offers the following substitute to HB 895:

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 a list of finished drug products; to provide for penalties; to provide for statutory
6 construction; to provide for state regulation; to provide for limited liability; to provide for
7 related matters; to provide an effective date and applicability; to repeal conflicting laws; and
8 for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

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

14 "16-13-30.7.

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

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

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

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

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

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

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

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

35 (d) Any trade association representing manufacturers of over-the-counter finished drug
36 products containing dextromethorphan shall provide to any requesting retail business a list
37 of the finished drug products containing dextromethorphan marketed by the trade
38 association's members. A retail business may make a request pursuant to this subsection
39 only once per year.

40 (e)(1) Any person who violates paragraph (1) of subsection (b) of this Code section shall
41 receive a warning letter from local law enforcement for the first violation and shall
42 thereafter be subject to a civil penalty by local law enforcement in an amount not to
43 exceed \$50.00 for a second violation or subsequent violation.

44 (2) Any person who violates paragraph (2) of subsection (b) of this Code section shall
45 receive a warning letter from local law enforcement for the first violation and shall
46 thereafter be subject to a civil penalty by local law enforcement in an amount not to
47 exceed \$50.00 for a second violation or subsequent violation.

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

52 (f) With respect to any sale made by an employee of a retail business, the owner of the
53 retail business shall be deemed to be in compliance with the provisions of paragraph (1)
54 of subsection (b) of this Code section if the owner:

55 (1) Had no actual knowledge of the sale; and

56 (2) Establishes and carries out a continuing program of training for employees which is
57 reasonably designed to prevent violations of paragraph (1) of subsection (b) of this Code
58 section.

59 (g) This Code section shall not be construed to:

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

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

64 (3) Apply to a medication containing dextromethorphan that is sold pursuant to a valid
65 prescription.

66 (h) The authority to regulate dextromethorphan is reserved to the state, and, except as
67 specifically provided by statute, a municipality may not enact or enforce an ordinance
68 regulating the possession or sale of dextromethorphan.

69 (i) No person shall have a cause of action for any loss or damage caused by an act or
70 omission by a person pursuant to subsection (c) of this Code section."

71 **SECTION 2.**

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

74 **SECTION 3.**

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