By Senator Benacquisto

	30-00935-16 2016938
1	A bill to be entitled
2	An act relating to the retail sale of
3	dextromethorphan; providing definitions; prohibiting a
4	retail entity from knowingly or willfully selling a
5	finished drug product containing dextromethorphan to a
6	person younger than 18 years of age; prohibiting a
7	person younger than 18 years of age from purchasing a
8	finished drug product containing dextromethorphan;
9	requiring a person making a retail sale of a finished
10	drug product containing any quantity of
11	dextromethorphan to obtain certain proof of age from
12	the purchaser; providing an exception; providing
13	penalties; providing applicability; preempting local
14	government regulation of dextromethorphan; providing
15	an effective date.
16	
17	Be It Enacted by the Legislature of the State of Florida:
18	
19	Section 1. <u>Restrictions on sale of dextromethorphan</u>
20	(1) As used in this section, the term:
21	(a) "Finished drug product" means a drug legally marketed
22	under the Federal Food, Drug, and Cosmetic Act that is in
23	finished dosage form.
24	(b) "Proof of age" means any document issued by a
25	governmental agency that contains the date of birth and a
26	description or photograph of the person purchasing the finished
27	drug product. The term includes, but is not limited to, a
28	passport, military identification card, or driver license.
29	(2)(a) A retail entity may not knowingly or willfully sell

Page 1 of 3

CODING: Words stricken are deletions; words underlined are additions.

30a finished drug product containing any quantity of dextromethorphan to a person younger than 18 years of age.31(b) A person younger than 18 years of age may not purchase a finished drug product containing any quantity of dextromethorphan.33(3) A person making a retail sale of a finished drug product containing any quantity of dextromethorphan must require and obtain proof of age from the purchaser before completing the sale, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be 25 years of age or older.41(4) (a) A manufacturer, distributor, or retailer whose employee or representative, during the course of the employee's or representative's employment or association with the manufacturer, distributor, or retailer who demonstrates a good faith effort to comply with this section is not subject to such penalty.49(b) An employee or representative's employment or association with the manufacturer, distributor, or retailer, sells dextromethorphan in violation of this section is not subject to such penalty.50(c) A person who purchases dextromethorphan in violation of this section is subject to a \$25 fine.51(c) A person who purchases dextromethorphan in violation of this section is subject to a \$25 fine.53(c) A person who purchases dextromethorphan in violation of this section is subject to a \$25 fine.54(d) A person who possesses or receives dextromethorphan in violation of this section, with the intent to distribute, is		30-00935-16 2016938
32(b) A person younger than 18 years of age may not purchase33a finished drug product containing any quantity of34dextromethorphan.35(3) A person making a retail sale of a finished drug36product containing any quantity of dextromethorphan must require37and obtain proof of age from the purchaser before completing the38sale, unless from the purchaser's outward appearance the person39making the sale would reasonably presume the purchaser to be 2540years of age or older.41(4) (a) A manufacturer, distributor, or retailer whose42employee or representative, during the course of the employee's43or representative's employment or association with the44manufacturer, distributor, or retailer, sells dextromethorphan45in violation of this section is subject to a \$100 fine, except46that a manufacturer, distributor, or retailer who demonstrates a47good faith effort to comply with this section is not subject to48such penalty.49(b) An employee or representative of a manufacturer,50distributor, or retailer who, during the course of the51employee's or representative's employment or association with52the manufacturer, distributor, or retailer, sells53dextromethorphan in violation of this section is subject to a54§25 fine.55(c) A person who purchases dextromethorphan in violation of56this section is subject to a \$25 fine.57(d) A person who posses	30	a finished drug product containing any quantity of
33a finished drug product containing any quantity of34dextromethorphan.35(3) A person making a retail sale of a finished drug36product containing any quantity of dextromethorphan must require37and obtain proof of age from the purchaser before completing the38sale, unless from the purchaser's outward appearance the person39making the sale would reasonably presume the purchaser to be 2540years of age or older.41(4) (a) A manufacturer, distributor, or retailer whose42employee or representative, during the course of the employee's43or representative's employment or association with the44manufacturer, distributor, or retailer, sells dextromethorphan45in violation of this section is subject to a \$100 fine, except46that a manufacturer, distributor, or retailer who demonstrates a47good faith effort to comply with this section is not subject to48such penalty.49(b) An employee or representative of a manufacturer,50distributor, or retailer who, during the course of the51employee's or representative's employment or association with52the manufacturer, distributor, or retailer, sells53dextromethorphan in violation of this section is subject to a54\$25 fine.55(c) A person who purchases dextromethorphan in violation of56this section is subject to a \$25 fine.57(d) A person who possesses or receives dextromethorphan in	31	dextromethorphan to a person younger than 18 years of age.
34dextromethorphan.35(3) A person making a retail sale of a finished drug36product containing any quantity of dextromethorphan must require37and obtain proof of age from the purchaser before completing the38sale, unless from the purchaser's outward appearance the person39making the sale would reasonably presume the purchaser to be 2540years of age or older.41(4) (a) A manufacturer, distributor, or retailer whose42employee or representative, during the course of the employee's43or representative's employment or association with the44manufacturer, distributor, or retailer, sells dextromethorphan45in violation of this section is subject to a \$100 fine, except46that a manufacturer, distributor, or retailer who demonstrates a47good faith effort to comply with this section is not subject to48such penalty.49(b) An employee or representative of a manufacturer,50distributor, or retailer who, during the course of the51employee's or representative's employment or association with52the manufacturer, distributor, or retailer, sells53dextromethorphan in violation of this section is subject to a54§25 fine.55(c) A person who purchases dextromethorphan in violation of56this section is subject to a \$25 fine.57(d) A person who possesses or receives dextromethorphan in	32	(b) A person younger than 18 years of age may not purchase
 (3) A person making a retail sale of a finished drug product containing any quantity of dextromethorphan must require and obtain proof of age from the purchaser before completing the sale, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be 25 years of age or older. (4) (a) A manufacturer, distributor, or retailer whose employee or representative, during the course of the employee's or representative's employment or association with the manufacturer, distributor, or retailer, sells dextromethorphan in violation of this section is subject to a \$100 fine, except that a manufacturer, distributor, or retailer who demonstrates a good faith effort to comply with this section is not subject to such penalty. (b) An employee or representative's employment or association with the manufacturer, distributor, or retailer, sells dextromethorphan in violation of this section is subject to a \$25 fine. (c) A person who purchases dextromethorphan in violation of this section is subject to a \$25 fine. (d) A person who possesses or receives dextromethorphan in 	33	a finished drug product containing any quantity of
and obtain proof of age from the purchaser before completing the and obtain proof of age from the purchaser before completing the sale, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be 25 years of age or older. (4) (a) A manufacturer, distributor, or retailer whose employee or representative, during the course of the employee's or representative's employment or association with the manufacturer, distributor, or retailer, sells dextromethorphan in violation of this section is subject to a \$100 fine, except that a manufacturer, distributor, or retailer who demonstrates a good faith effort to comply with this section is not subject to such penalty. (b) An employee or representative's employment or association with the manufacturer, distributor, or retailer, sells distributor, or retailer who, during the course of the employee's or representative's employment or association with the manufacturer, distributor, or retailer, sells distributor, or retailer who, during the course of the fine. (b) An employee or representative, sells dextromethorphan in violation of this section is subject to a \$25 fine. (c) A person who purchases dextromethorphan in violation of this section is subject to a \$25 fine. (d) A person who possesses or receives dextromethorphan in	34	dextromethorphan.
and obtain proof of age from the purchaser before completing the sale, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be 25 years of age or older. (4) (a) A manufacturer, distributor, or retailer whose employee or representative, during the course of the employee's or representative's employment or association with the manufacturer, distributor, or retailer, sells dextromethorphan in violation of this section is subject to a \$100 fine, except that a manufacturer, distributor, or retailer who demonstrates a good faith effort to comply with this section is not subject to such penalty. (b) An employee or representative's employment or association with the manufacturer, distributor, or retailer, sells dextromethorphan in violation of this section is subject to a \$20 faith effort to comply with this section is not subject to a such penalty. (c) A person who purchases dextromethorphan in violation of this section is subject to a \$25 fine. (c) A person who purchases dextromethorphan in violation of this section is subject to a \$25 fine. (d) A person who possesses or receives dextromethorphan in such penalty.	35	(3) A person making a retail sale of a finished drug
38 sale, unless from the purchaser's outward appearance the person 39 making the sale would reasonably presume the purchaser to be 25 40 years of age or older. 41 (4) (a) A manufacturer, distributor, or retailer whose 42 employee or representative, during the course of the employee's 43 or representative's employment or association with the 44 manufacturer, distributor, or retailer, sells dextromethorphan 45 in violation of this section is subject to a \$100 fine, except 46 that a manufacturer, distributor, or retailer who demonstrates a 47 good faith effort to comply with this section is not subject to 48 such penalty. 49 (b) An employee or representative of a manufacturer, 50 distributor, or retailer who, during the course of the 51 employee's or representative's employment or association with 52 the manufacturer, distributor, or retailer, sells 53 dextromethorphan in violation of this section is subject to a 54 <u>\$25 fine.</u> 55 (c) A person who purchases dextromethorphan in violation of 56 this section is subject to a \$25 fine. 57 (d) A person who possesses or receives dextromethorphan in 56 dextromethorphan in violation of the section is subject to a \$25 fine. 57 (d) A person who possesses or receives dextromethorphan in 56 dextromethorphan in violation of the section is subject to a \$25 fine. 57 (d) A person who possesses or receives dextromethorphan in 56 dextromethorphan in violation of the section is subject to a \$25 fine. 57 (d) A person who possesses or receives dextromethorphan in 56 dextromethorphan in violation of the section is subject to a \$25 fine. 57 (d) A person who possesses or receives dextromethorphan in 58 dextromethorphan in violation of the section is subject to a \$25 fine. 59 (d) A person who possesses or receives dextromethorphan in 50 (d) A person who possesses or receives dextromethorphan in 50 (d) A person who possesses or receives dextromethorphan in 50 (d) A person who possesses or receives dextromethorphan in 50 (d) A person who posseses or receives dextromethorphan in 50 (d) (d)	36	product containing any quantity of dextromethorphan must require
making the sale would reasonably presume the purchaser to be 25 years of age or older. (4) (a) A manufacturer, distributor, or retailer whose employee or representative, during the course of the employee's or representative's employment or association with the manufacturer, distributor, or retailer, sells dextromethorphan in violation of this section is subject to a \$100 fine, except that a manufacturer, distributor, or retailer who demonstrates a good faith effort to comply with this section is not subject to such penalty. (b) An employee or representative of a manufacturer, distributor, or retailer who, during the course of the employee's or representative's employment or association with the manufacturer, distributor, or retailer, sells dextromethorphan in violation of this section is subject to a \$25 fine. (c) A person who purchases dextromethorphan in violation of this section is subject to a \$25 fine. (d) A person who possesses or receives dextromethorphan in	37	and obtain proof of age from the purchaser before completing the
40 years of age or older. 41 (4) (a) A manufacturer, distributor, or retailer whose 42 employee or representative, during the course of the employee's 43 or representative's employment or association with the 44 manufacturer, distributor, or retailer, sells dextromethorphan 45 in violation of this section is subject to a \$100 fine, except 46 that a manufacturer, distributor, or retailer who demonstrates a 47 good faith effort to comply with this section is not subject to 48 such penalty. 49 (b) An employee or representative of a manufacturer, 50 distributor, or retailer who, during the course of the 51 employee's or representative's employment or association with 52 the manufacturer, distributor, or retailer, sells 53 dextromethorphan in violation of this section is subject to a 53 <u>\$25 fine.</u> 54 (c) A person who purchases dextromethorphan in violation of 54 this section is subject to a \$25 fine. 55 (d) A person who possesses or receives dextromethorphan in	38	sale, unless from the purchaser's outward appearance the person
(4) (a) A manufacturer, distributor, or retailer whose employee or representative, during the course of the employee's or representative's employment or association with the manufacturer, distributor, or retailer, sells dextromethorphan in violation of this section is subject to a \$100 fine, except that a manufacturer, distributor, or retailer who demonstrates a good faith effort to comply with this section is not subject to such penalty. (b) An employee or representative of a manufacturer, distributor, or retailer who, during the course of the employee's or representative's employment or association with the manufacturer, distributor, or retailer, sells dextromethorphan in violation of this section is subject to a \$25 fine. (c) A person who purchases dextromethorphan in violation of this section is subject to a \$25 fine. (d) A person who possesses or receives dextromethorphan in	39	making the sale would reasonably presume the purchaser to be 25
employee or representative, during the course of the employee's or representative's employment or association with the manufacturer, distributor, or retailer, sells dextromethorphan in violation of this section is subject to a \$100 fine, except that a manufacturer, distributor, or retailer who demonstrates a good faith effort to comply with this section is not subject to such penalty. (b) An employee or representative of a manufacturer, distributor, or retailer who, during the course of the employee's or representative's employment or association with the manufacturer, distributor, or retailer, sells dextromethorphan in violation of this section is subject to a \$25 fine. (c) A person who purchases dextromethorphan in violation of this section is subject to a \$25 fine. (d) A person who possesses or receives dextromethorphan in	40	years of age or older.
43or representative's employment or association with the44manufacturer, distributor, or retailer, sells dextromethorphan45in violation of this section is subject to a \$100 fine, except46that a manufacturer, distributor, or retailer who demonstrates a47good faith effort to comply with this section is not subject to48such penalty.49(b) An employee or representative of a manufacturer,50distributor, or retailer who, during the course of the51employee's or representative's employment or association with52the manufacturer, distributor, or retailer, sells53dextromethorphan in violation of this section is subject to a54\$25 fine.55(c) A person who purchases dextromethorphan in violation of56this section is subject to a \$25 fine.57(d) A person who possesses or receives dextromethorphan in	41	(4)(a) A manufacturer, distributor, or retailer whose
44 manufacturer, distributor, or retailer, sells dextromethorphan 45 in violation of this section is subject to a \$100 fine, except 46 that a manufacturer, distributor, or retailer who demonstrates a 47 good faith effort to comply with this section is not subject to 48 such penalty. 49 (b) An employee or representative of a manufacturer, 50 distributor, or retailer who, during the course of the 51 employee's or representative's employment or association with 52 the manufacturer, distributor, or retailer, sells 53 dextromethorphan in violation of this section is subject to a 54 <u>\$25 fine.</u> 55 (c) A person who purchases dextromethorphan in violation of 56 this section is subject to a \$25 fine. 57 (d) A person who possesses or receives dextromethorphan in	42	employee or representative, during the course of the employee's
45 <u>in violation of this section is subject to a \$100 fine, except</u> 46 <u>that a manufacturer, distributor, or retailer who demonstrates a</u> 47 <u>good faith effort to comply with this section is not subject to</u> 48 <u>such penalty.</u> 49 <u>(b) An employee or representative of a manufacturer,</u> 50 <u>distributor, or retailer who, during the course of the</u> 51 <u>employee's or representative's employment or association with</u> 52 <u>the manufacturer, distributor, or retailer, sells</u> 53 <u>dextromethorphan in violation of this section is subject to a</u> 54 <u>\$25 fine.</u> 55 <u>(c) A person who purchases dextromethorphan in violation of</u> 56 <u>this section is subject to a \$25 fine.</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 56 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 56 <u>(c) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 56 <u>(c) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(c) A person who possesses or receives dextromethorphan in</u> 57 <u>(c) A person who possesses or receives dextromethorphan in</u> 57 <u>(c) A person who possesses or receives dextromethorphan in</u> 57 <u>(c) A person who possesses or receives dextromethorphan in</u> 57 <u>(c) A person who possesses or receives dextromethorphan in</u> 57 <u>(c) A person who posses</u> 57 <u>(c) A person who posses</u> 58 <u>(c) A person who posses</u> 59 <u>(c) A person who posses</u> 50 <u>(c) A person who posses</u> 50 (c) <u>(c) A person who posses</u> 50 (c) (c) (c) (c) (c)	43	or representative's employment or association with the
46 that a manufacturer, distributor, or retailer who demonstrates a 47 good faith effort to comply with this section is not subject to 48 such penalty. 49 (b) An employee or representative of a manufacturer, 50 distributor, or retailer who, during the course of the 51 employee's or representative's employment or association with 52 the manufacturer, distributor, or retailer, sells 53 dextromethorphan in violation of this section is subject to a 54 \$25 fine. 55 (c) A person who purchases dextromethorphan in violation of 56 this section is subject to a \$25 fine. 57 (d) A person who possesses or receives dextromethorphan in	44	manufacturer, distributor, or retailer, sells dextromethorphan
47 good faith effort to comply with this section is not subject to 48 <u>such penalty.</u> 49 (b) An employee or representative of a manufacturer, 50 distributor, or retailer who, during the course of the 51 employee's or representative's employment or association with 52 the manufacturer, distributor, or retailer, sells 53 dextromethorphan in violation of this section is subject to a 54 <u>\$25 fine.</u> 55 (c) A person who purchases dextromethorphan in violation of 56 this section is subject to a \$25 fine. 57 (d) A person who possesses or receives dextromethorphan in	45	in violation of this section is subject to a \$100 fine, except
48 <u>such penalty.</u> (b) An employee or representative of a manufacturer, 50 <u>distributor, or retailer who, during the course of the</u> 51 <u>employee's or representative's employment or association with</u> 52 <u>the manufacturer, distributor, or retailer, sells</u> 53 <u>dextromethorphan in violation of this section is subject to a</u> 54 <u>\$25 fine.</u> 55 <u>(c) A person who purchases dextromethorphan in violation of</u> 56 <u>this section is subject to a \$25 fine.</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u> 58 <u>(d) A person who possesses or receives dextromethorphan in</u> 59 <u>(d) A person who posses</u> 50 <u>(d) A person who posses</u> 50 <u>(d) A person who posses</u> 50 <u>(d) A person who posses</u> 51 <u>(d) A person who posses</u> 52 <u>(d) A person who posses</u> 53 <u>(d) A person who posses</u> 54 <u>(d) A person who posses</u> 55 <u>(d) A person who posses</u> 55 <u>(d) A person who posses</u> 56 <u>(d) A person who posses</u> 57 <u>(d) A person who pos</u>	46	that a manufacturer, distributor, or retailer who demonstrates a
 49 (b) An employee or representative of a manufacturer, 50 distributor, or retailer who, during the course of the 51 employee's or representative's employment or association with 52 the manufacturer, distributor, or retailer, sells 53 dextromethorphan in violation of this section is subject to a 54 \$25 fine. 55 (c) A person who purchases dextromethorphan in violation of 56 this section is subject to a \$25 fine. 57 (d) A person who possesses or receives dextromethorphan in 	47	good faith effort to comply with this section is not subject to
50distributor, or retailer who, during the course of the51employee's or representative's employment or association with52the manufacturer, distributor, or retailer, sells53dextromethorphan in violation of this section is subject to a54\$25 fine.55(c) A person who purchases dextromethorphan in violation of56this section is subject to a \$25 fine.57(d) A person who possesses or receives dextromethorphan in	48	such penalty.
51 employee's or representative's employment or association with 52 the manufacturer, distributor, or retailer, sells 53 dextromethorphan in violation of this section is subject to a 54 <u>\$25 fine.</u> 55 (c) A person who purchases dextromethorphan in violation of 56 this section is subject to a \$25 fine. 57 (d) A person who possesses or receives dextromethorphan in	49	(b) An employee or representative of a manufacturer,
52 the manufacturer, distributor, or retailer, sells 53 dextromethorphan in violation of this section is subject to a 54 <u>\$25 fine.</u> 55 <u>(c) A person who purchases dextromethorphan in violation of</u> 56 this section is subject to a \$25 fine. 57 <u>(d) A person who possesses or receives dextromethorphan in</u>	50	distributor, or retailer who, during the course of the
53 dextromethorphan in violation of this section is subject to a 54 <u>\$25 fine.</u> 55 <u>(c) A person who purchases dextromethorphan in violation of</u> 56 <u>this section is subject to a \$25 fine.</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u>	51	employee's or representative's employment or association with
54 <u>\$25 fine.</u> 55 <u>(c) A person who purchases dextromethorphan in violation of</u> 56 <u>this section is subject to a \$25 fine.</u> 57 <u>(d) A person who possesses or receives dextromethorphan in</u>	52	the manufacturer, distributor, or retailer, sells
55 (c) A person who purchases dextromethorphan in violation of 56 this section is subject to a \$25 fine. 57 (d) A person who possesses or receives dextromethorphan in	53	dextromethorphan in violation of this section is subject to a
56 <u>this section is subject to a \$25 fine.</u> 57 (d) A person who possesses or receives dextromethorphan in	54	<u>\$25 fine.</u>
57 (d) A person who possesses or receives dextromethorphan in	55	(c) A person who purchases dextromethorphan in violation of
	56	this section is subject to a \$25 fine.
58 violation of this section, with the intent to distribute, is	57	(d) A person who possesses or receives dextromethorphan in
	58	violation of this section, with the intent to distribute, is

Page 2 of 3

CODING: Words stricken are deletions; words underlined are additions.

	30-00935-16 2016938
59	subject to a \$25 fine.
60	(5) This section does not:
61	(a) Impose any restriction on the placement of products in
62	a retail store, direct access of customers to finished drug
63	products, or the maintenance of transaction records.
64	(b) Apply to a medication containing dextromethorphan that
65	is sold by a retail entity pursuant to a valid prescription.
66	(6) This section preempts any ordinance regulating the
67	sale, distribution, receipt, or possession of dextromethorphan
68	enacted by a county, municipality, or other political
69	subdivision of the state, and dextromethorphan is not subject to
70	further regulation by such political subdivisions.
71	Section 2. This act shall take effect January 1, 2017.

CODING: Words stricken are deletions; words underlined are additions.