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SENATE BILL NO. 213

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 20, 2014)

(Patron Prior to Substitute—Senator Carrico)

A BILL to amend the Code of Virginia by adding in Chapter 7 of Title 18.2 an article numbered 1.3, consisting of sections numbered 18.2-265.19, 18.2-265.20, and 18.2-265.21, relating to the Dextromethorphan Distribution Act; penalty.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 7 of Title 18.2 an article numbered 1.3, consisting of sections numbered 18.2-265.19, 18.2-265.20, and 18.2-265.21, as follows:

Article 1.3.

Dextromethorphan Distribution Act.

§ 18.2-265.19. Definitions.

As used in this article, unless the context requires a different meaning:

"Dextromethorphan" means the dextrorotatory isomer of 3-methoxy-N-methylmorphinan and its salts.

"Pharmacy" means any establishment or institution from which drugs, medicines, or medicinal chemicals are dispensed or offered for sale or on which a sign is displayed bearing the words "apothecary," "druggist," "drugs," "drug store," "drug sundries," "medicine store," "pharmacist," "pharmacy," "prescriptions filled," or any similar words intended to indicate that the practice of pharmacy is being conducted pursuant to a license issued under Chapter 33 (§ 54.1-3300 et seq.) of Title 54.1.

"Retail distributor" means an entity licensed to conduct business in the Commonwealth that offers for sale to the public at a retail outlet any nonprescription compound, mixture, or preparation containing dextromethorphan.

"Unfinished dextromethorphan" means dextromethorphan in the form of a "bulk drug substance" as defined in § 54.1-3401.

§ 18.2-265.20. Sale or distribution of dextromethorphan to minors; purchase by minors; penalties.

A. It is unlawful for any pharmacy or retail distributor knowingly or intentionally to sell or distribute any product containing dextromethorphan to a minor.

B. A pharmacy or retail distributor, or its employee or agent, shall not sell or distribute a product containing dextromethorphan unless the purchaser presents a federal, state, or local government-issued document that contains a photograph and the birth date of the purchaser that shows that the purchaser is at least 18 years of age or unless from the purchaser's outward appearance the pharmacy or retail distributor would reasonably presume the purchaser to be 25 years of age or older.

C. It is unlawful for any minor knowingly or intentionally to purchase any product containing dextromethorphan.

D. Any pharmacy or retail distributor, or its employee or agent, that violates subsection A or any minor who violates subsection C is subject to a civil penalty of \$25. Any pharmacy or retail distributor, or its employee or agent, that violates subsection B shall receive a notice of noncompliance and, upon any subsequent violation of subsection B, shall be subject to a civil penalty of \$25. Such penalty shall be collected by the attorney for the Commonwealth for the locality where the violation occurred, and the proceeds shall be deposited into the Literary Fund.

E. The provisions of this section shall not apply if the product was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.).

§ 18.2-265.21. Possession or distribution of unfinished dextromethorphan; penalty.

Any person who distributes or possesses with the intent to distribute unfinished dextromethorphan who is not registered under § 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 321 et seq.) or otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.) to distribute or possess unfinished dextromethorphan is guilty of a Class 1 misdemeanor. This section does not apply to a common carrier that receives or possesses unfinished dextromethorphan for the purpose of distributing such unfinished dextromethorphan between persons registered under § 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 321 et seq.) or is otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.) to distribute or possess unfinished dextromethorphan.

2. That the provisions of this act shall become effective on January 1, 2015.

SENATE SUBSTITUTE

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