

# NAMSDL



**National Alliance for Model State Drug Laws**

## **State Control of Dextromethorphan (a.k.a. DXM) Statutory Text**

*Please note: This document does not contain provisions related to state definitions or scheduling of the substance dextromethorphan*

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11110 is added to the Health and Safety Code, to read:

11110.

(a) It shall be an infraction, punishable by a fine not exceeding two hundred fifty dollars (\$250), for any person, corporation, or retail distributor to willfully and knowingly supply, deliver, or give possession of a drug, material, compound, mixture, preparation, or substance containing any quantity of dextromethorphan (the dextrorotatory isomer of 3-methoxy-N-methylmorphinan, including its salts, but not including its racemic or levorotatory forms) to a person under 18 years of age in an over-the-counter sale without a prescription.

(b) It shall be prima facie evidence of a violation of this section if the person, corporation, or retail distributor making the sale does not require and obtain bona fide evidence of majority and identity from the purchaser, 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.

(c) Proof that a person, corporation, or retail distributor, or his or her agent or employee, demanded, was shown, and acted in reasonable reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this section.

As used in this section, "bona fide evidence of majority and identity" means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, California state identification card, identification card issued to a member of the Armed Forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

(d) (1) Notwithstanding any other provision of this section, a retail clerk who fails to require and obtain proof of age from the purchaser shall not be guilty of an infraction pursuant to subdivision (a) or subject to any civil penalties.

(2) This subdivision shall not apply to a retail clerk who is a willful participant in an ongoing criminal conspiracy to violate this section.

SEC. 2. Section 11111 is added to the Health and Safety Code, to read:

11111. A person, corporation, or retail distributor that sells or makes available products containing dextromethorphan, as defined in subdivision (a) of Section 11110, in an over-the-counter sale without a prescription shall, if feasible, use a cash register that is equipped with an age-verification feature to monitor age-restricted items. The cash register shall be programmed to direct the retail clerk making the sale to request bona fide evidence of majority and identity, as described in subdivision (c) of Section 11110, before a product containing dextromethorphan may be purchased.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Illinois Compiled Statutes Annotated  
Chapter 720. Criminal Offenses  
Offenses Against The Public  
Illinois Controlled Substances Act  
Schedules of Controlled Substances  
570/218. Dextromethorphan

§ 218. Dextromethorphan.

(a) (Blank).

(b) Possession of a drug product containing dextromethorphan in violation of this Act is a Class 4 felony. The sale, delivery, distribution, or possession with intent to sell, deliver, or distribute a drug product containing dextromethorphan in violation of this Act is a Class 2 felony.

(c) (Blank).

General Laws of Rhode Island Annotated  
Title 21. Food and Drugs  
Chapter 28.7. Possession and Trafficking in Dextromethorphan

§ 21-28.7-1. Possession of dextromethorphan

(a) No person may possess one gram or more of pure dextromethorphan or dextromethorphan as defined in accordance with U.S. pharmacopeia reference standards extracted from solid or liquid dose forms, other than a medical facility, medical practitioner, pharmacist or pharmacy licensed pursuant to title 5 of the general laws, and registrants under § 510 of the Federal Food, Drug, and Cosmetic Act pursuant to 21 USC 321 et seq.

(b) A violation of this section shall carry a civil penalty of one thousand dollars (\$1,000) for the first offense, and two thousand five hundred dollars (\$2,500) for the second and subsequent offenses.