

CHAPTER 23

(HB 24)

AN ACT relating to dextromethorphan abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *A person, other than a medical facility, medical practitioner, pharmacist, pharmacy intern, pharmacy technician, pharmacy licensed or registered under KRS Chapter 315, or registrant under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. secs. 301 et seq., shall not possess one (1) gram or more of:*
 - (a) *Pure dextromethorphan; or*
 - (b) *Dextromethorphan extracted from solid or liquid dose forms, as defined by United States Pharmacopeia reference standards.*
- (2) *A person shall not sell any products containing dextromethorphan to individuals under eighteen (18) years of age, except that in any prosecution for selling a product containing dextromethorphan to an individual under eighteen (18) years of age it shall be an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase products containing dextromethorphan. This evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.*
- (3) *Any person who sells any product containing dextromethorphan shall limit access to these products by requiring proof of age from a prospective buyer by showing a government-issued photo identification card that displays his or her date of birth if the person has reason to believe that the prospective buyer is under the age of eighteen (18) years.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *No person shall aid or assist any person under eighteen (18) years of age in purchasing any product containing dextromethorphan.*
- (2) *A person under eighteen (18) years of age shall not misrepresent his or her age for the purpose of inducing a retail establishment or the retail establishment's agent, servant, or employee to sell or serve a product containing dextromethorphan to the underage person.*
- (3) *A person under eighteen (18) years of age shall not use or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain a product containing dextromethorphan.*
- (4) *Any person under the age of eighteen (18) years of age shall not purchase or attempt to purchase or have another person purchase for him or her a product containing dextromethorphan.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *Any person who violates subsection (1) of Section 1 of this Act shall be subject to a fine of one thousand dollars (\$1,000) for the first violation and two thousand five hundred dollars (\$2,500) for each subsequent violation.*
- (2) *Any person who knowingly violates subsection (2) of Section 1 of this Act shall be subject to a fine of twenty-five dollars (\$25) for the first violation and two hundred dollars (\$200) for each subsequent violation.*
- (3) *Any person who knowingly violates subsection (3) of Section 1 of this Act shall be subject to a fine of twenty-five dollars (\$25) for the first violation and two hundred fifty dollars (\$250) for each subsequent violation.*
- (4) *Any person who knowingly violates subsection (1) of Section 2 of this Act shall be subject to a fine of one hundred dollars (\$100) for the first violation and two hundred dollars (\$200) for each subsequent violation.*
- (5) *Any person who violates subsection (2), (3), or (4) of Section 2 of this Act shall be subject to a fine of*

twenty-five dollars (\$25) for the first violation, a fine of one hundred dollars (\$100) for the second violation, and a fine of two hundred dollars (\$200) for each subsequent violation.

Signed by Governor March 19, 2015.