

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 162
HOUSE BILL 2086

AN ACT

AMENDING TITLE 32, CHAPTER 18, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1978; AMENDING SECTION 32-1996, ARIZONA REVISED STATUTES; RELATING TO PHARMACIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 32, chapter 18, article 3, Arizona Revised Statutes,
3 is amended by adding section 32-1978, to read:

4 32-1978. Sale of dextromethorphan; age requirement; exception;
5 violation; civil penalty; definitions

6 A. IT IS PROHIBITED FOR:

7 1. ANY COMMERCIAL ENTITY TO KNOWINGLY OR WILFULLY SELL OR TRADE A
8 FINISHED DRUG PRODUCT CONTAINING ANY QUANTITY OF DEXTROMETHORPHAN TO A PERSON
9 WHO IS UNDER EIGHTEEN YEARS OF AGE.

10 2. ANY PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE TO PURCHASE A
11 FINISHED DRUG PRODUCT CONTAINING ANY QUANTITY OF DEXTROMETHORPHAN.

12 3. ANY PERSON TO POSSESS, RECEIVE OR DISTRIBUTE UNFINISHED
13 DEXTROMETHORPHAN, UNLESS THE PERSON IS REGISTERED PURSUANT TO THE FEDERAL
14 FOOD, DRUG, AND COSMETIC ACT OR IS APPROPRIATELY LICENSED WITH THE BOARD.

15 B. A PERSON MAKING A RETAIL SALE OF A FINISHED DRUG PRODUCT CONTAINING
16 ANY QUANTITY OF DEXTROMETHORPHAN MUST REQUIRE AND OBTAIN PROOF OF AGE FROM
17 THE PURCHASER BEFORE COMPLETING THE SALE, UNLESS THE PERSON MAKING THE SALE
18 REASONABLY PRESUMES THE PURCHASER TO BE AT LEAST TWENTY-FIVE YEARS OF AGE
19 BASED ON THE PURCHASER'S OUTWARD APPEARANCE.

20 C. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO COMMON CARRIERS THAT
21 POSSESS, RECEIVE OR DISTRIBUTE UNFINISHED DEXTROMETHORPHAN FOR PURPOSES OF
22 DISTRIBUTING SUCH UNFINISHED DEXTROMETHORPHAN BETWEEN PERSONS THAT ARE
23 REGISTERED UNDER SECTION 510 OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT OR
24 THAT ARE APPROPRIATELY LICENSED WITH THE BOARD.

25 D. THIS SECTION DOES NOT IMPOSE ANY COMPLIANCE REQUIREMENT ON A RETAIL
26 ENTITY OTHER THAN MANUALLY OBTAINING AND VERIFYING PROOF OF AGE AS A
27 CONDITION OF SALE, INCLUDING PLACEMENT OF PRODUCTS IN A SPECIFIC PLACE WITHIN
28 A STORE, OTHER RESTRICTIONS ON A CONSUMER'S DIRECT ACCESS TO FINISHED DRUG
29 PRODUCTS OR THE MAINTENANCE OF TRANSACTION RECORDS.

30 E. A PERSON WHO SELLS OR TRADES A FINISHED DRUG PRODUCT CONTAINING ANY
31 QUANTITY OF DEXTROMETHORPHAN TO A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE
32 SHALL RECEIVE A WARNING FOR A FIRST OFFENSE AND SHALL PAY A CIVIL PENALTY OF
33 FIFTY DOLLARS FOR A SECOND OFFENSE, UNLESS THE PERSON PROVIDES DOCUMENTATION
34 THAT THERE IS AN EMPLOYEE TRAINING PROGRAM IN PLACE.

35 F. THIS SECTION DOES NOT APPLY TO A MEDICATION CONTAINING
36 DEXTROMETHORPHAN THAT IS SOLD PURSUANT TO A VALID PRESCRIPTION.

37 G. FOR THE PURPOSES OF THIS SECTION:

38 1. "COMMON CARRIER" MEANS ANY PERSON THAT HOLDS ITSELF OUT TO THE
39 GENERAL PUBLIC AS A PROVIDER FOR HIRE OF THE TRANSPORTATION OF MERCHANDISE,
40 WHETHER OR NOT THE PERSON ACTUALLY OPERATES THE VEHICLE BY WHICH THE
41 TRANSPORTATION IS PROVIDED WITHIN, TO OR FROM THE UNITED STATES.

42 2. "FINISHED DRUG PRODUCT" MEANS A DRUG THAT IS LEGALLY MARKETED UNDER
43 THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THAT IS IN FINISHED DOSAGE FORM.

44 3. "UNFINISHED DEXTROMETHORPHAN" MEANS DEXTROMETHORPHAN IN ANY FORM,
45 COMPOUND, MIXTURE OR PREPARATION THAT IS NOT A FINISHED DRUG PRODUCT.

46 Sec. 2. Section 32-1996, Arizona Revised Statutes, is amended to read:

1 32-1996. Violations: classification

2 A. Except as provided in this section, a person who violates this
3 chapter:

4 1. Without the intent to defraud or mislead is guilty of a class 2
5 misdemeanor.

6 2. With the intent to defraud or mislead is guilty of a class 5
7 felony.

8 B. A person who violates section 32-1965, paragraph 4 or article 3.1
9 of this chapter, ~~is~~ is guilty of a class 2 felony.

10 C. Any person who secures a license or permit for that person or for
11 another person by knowingly making a false representation, who fraudulently
12 claims to be licensed as a pharmacist or pharmacy intern within the meaning
13 of this chapter or who knowingly engages in the practice of pharmacy without
14 a license is guilty of a class 2 misdemeanor.

15 D. A person who secures a license as a pharmacy technician or a
16 pharmacy technician trainee for that person or for another person by
17 knowingly making a false representation, who fraudulently claims to be
18 licensed as a pharmacy technician or a pharmacy technician trainee or who
19 knowingly performs the duties of a pharmacy technician or a pharmacy
20 technician trainee without a license is guilty of a class 2 misdemeanor.

21 E. A person who dispenses a human growth hormone in violation of this
22 chapter is guilty of a class 6 felony.

23 F. A court convicting any person for a violation of this chapter
24 shall, immediately after the date of conviction, send a complete copy of the
25 record of the conviction, including the person's name and offense committed,
26 to the executive director of the board.

27 G. A PERSON WHO VIOLATES SECTION 32-1978 SHALL BE ISSUED A CIVIL
28 PENALTY ONLY AS SET FORTH IN THAT SECTION.

APPROVED BY THE GOVERNOR APRIL 23, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2014.