

Introduced by: Legislators Wink and Denenberg

LOCAL LAW 20- -2007

A LOCAL LAW to prohibit the sale of Dextromethorphan to minors within the County of Nassau.

BE IT ENACTED by the County Legislature of the County of Nassau as follows:

Section 1. Short Title.

This law shall be known and may be cited as the “DXM Law” and shall appear in the miscellaneous laws as Title 67.

§ 2. Legislative Intent.

This Legislature finds that non-prescription cough and cold medicine containing Dextromethorphan, also known as DXM, is increasingly being used by adolescents in a manner inconsistent with its labeling, often as a recreational drug, to induce intoxication when taken in large doses. Such abuse may cause serious medical injuries, including seizures, psychosis, hallucinations, brain damage, irregular heartbeat, respiratory distress, coma, and even death. This law seeks to prevent abuse of DXM by prohibiting the sale to minors of cough and cold medicines that contain that substance.

§3. Definitions. Unless otherwise expressly stated in this local law, the following terms shall have the following meanings:

“Commissioner” shall mean the commissioner of the Nassau County Police Department.

“Dextromethorphan,” or “DXM,” shall mean dextrorotatory isomer of methoxy-n-methylmorphinan and its salts.

“Minor” shall mean any person under the age of eighteen years of age.

“Person” shall mean any individual, company, partnership, corporation, limited partnership, joint venture or other legal entity.

"Retail distributor" means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor relating to dextromethorphan products are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales, except that such term does not include an employee or agent of such distributor.

§ 4. Prohibition. No retail distributor located within the County of Nassau shall knowingly sell or offer to sell any over-the-counter cold medicine or cough suppressant that contains Dextromethorphan to any minor, or knowingly sell or offer for sale any cold medicine or cough suppressant that contains Dextromethorphan to any minor making the purchase from within the County of Nassau.

§ 5. Penalties. Each first offense and subsequent offenses shall be punished as follows:

a. First offense. Any retail distributor who violates section four of this Local Law shall be punished by a fine of not more than two hundred and fifty dollars, where such violation constitutes the person’s first offense in violation of this provision.

b. Second offense. Any retail distributor who violates section four of this Local Law shall be punished by a fine of not more than five hundred dollars, where such violation constitutes the person’s second offense in violation of this provision within thirty-six months.

c. Third and subsequent offenses. Any retail distributor who violates section four of this Local Law shall be punished by a fine of not more than one thousand dollars, where such violation constitutes the person’s third or subsequent offense in violation of this provision within thirty-six months.

§ 6. Rules. The commissioner shall promulgate such rules as are necessary to effectuate the provisions of this title.

§ 7. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent

jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 8. Effective date. This local law shall become effective one hundred twenty days after it becomes law.

MEMORANDUM IN SUPPORT

TITLE: A LOCAL LAW to prohibit the sale of Dextromethorphan to minors within the County of Nassau.

DESCRIPTION: This bill would prohibit the sale to minors of cough and cold medicines that contain DXM

SUMMARY OF PROVISIONS: Section 4 of the bill prohibits any person from knowingly selling or offering to sell any over-the-counter cold medicine or cough suppressant that contains Dextromethorphan to any minor, or to knowingly sell or offer for sale any cold medicine or cough suppressant that contains Dextromethorphan to any minor.

Section 5 provides for penalties, as follows:

a. First offense. Any retail distributor who violates section four of this Local Law shall be punished by a fine of not more than two hundred and fifty dollars, where such violation constitutes the person's first offense in violation of this provision.

b. Second offense. Any retail distributor who violates section four of this Local Law shall be punished by a fine of not more than five hundred dollars, where such violation constitutes the person's second offense in violation of this provision within thirty-six months.

c. Third and subsequent offenses. Any retail distributor who violates section four of this Local Law shall be punished by either a fine of not more than one thousand dollars, where such violation constitutes the person's third or subsequent offense in violation of this provision within thirty-six months.

Section 6 of the bill authorizes the commissioner of Police to promulgate such rules as are necessary to effectuate the provisions of this law.

EFFECTIVE DATE: The bill would take effect one hundred twenty days after it becomes a law.

JUSTIFICATION: Non-prescription cough and cold medicine containing Dextromethorphan, also known as DXM, is increasingly being used by adolescents in a manner inconsistent with its labeling, often as a recreational drug, to induce intoxication when taken in large doses. Such abuse may cause serious medical injuries, including seizures, psychosis, hallucinations, brain damage, irregular heartbeat, respiratory distress, coma, and even death. This law seeks to prevent abuse of DXM by prohibiting the sale to minors of cough and cold medicines that contain that substance.