

Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

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.

1 Sec. 2. Section 32-1996, Arizona Revised Statutes, is amended to read:
2 32-1996. Violations; classification

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

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

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

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

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

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

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

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

28 G. A PERSON WHO VIOLATES SECTION 32-1978 SHALL BE ISSUED A CIVIL
29 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.

Passed the House March 5, 20 14

Passed the Senate April 22, 20 14

by the following vote: 43 Ayes,

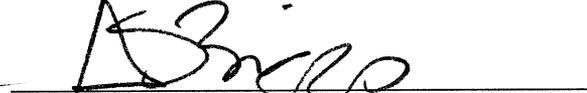
by the following vote: 26 Ayes,

15 Nays, 2 Not Voting

2 Nays, 2 Not Voting



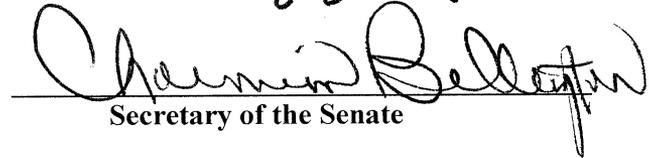
Speaker of the House



President of the Senate



Chief Clerk of the House



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20 _____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20 _____

at _____ o'clock _____ M.

Secretary of State

H.B. 2086

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 22, 2014,

by the following vote: 39 Ayes,

20 Nays, 1 Not Voting

[Signature]

Speaker of the House

[Signature]
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

23rd day of April, 2014,

at 11:50 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 23rd day of

April, 2014,

at 2:57 o'clock P M.

[Signature]
Governor of Arizona

H.B. 2086

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 24th day of April, 2014,

at 8:57 o'clock a M.

[Signature]
Secretary of State