

BILL ANALYSIS

C.S.H.B. 3066
By: Coleman
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that while over-the-counter drugs containing dextromethorphan are used to treat coughs and colds and are generally safe, many of those drugs taken in high dosages can be harmful. It is further noted that a significant number of individuals take those drugs in high dosages to get high. C.S.H.B. 3066 seeks to prevent the harmful uses of such drugs.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3066 amends the Health and Safety Code to prohibit a business establishment from dispensing, distributing, or selling dextromethorphan to a customer under 18 years of age. The bill requires a business establishment, before dispensing, distributing, or selling dextromethorphan over the counter, to require the customer obtaining the drug to display a driver's license or other form of identification containing the customer's photograph and indicating that the customer is 18 years of age or older, unless from the customer's outward appearance the person making the sale may reasonably presume the customer to be 27 years of age or older. The bill establishes that its provisions do not apply to the sale of any product dispensed or delivered by a pharmacist according to a prescription issued by a practitioner for a valid medical purpose and in the course of professional practice. The bill establishes that its provisions do not require a business establishment to keep specific records of transactions involving over-the-counter sales of dextromethorphan or to store dextromethorphan in a specific location in the business establishment or otherwise restrict the availability of dextromethorphan to customers.

C.S.H.B. 3066 requires a county or district attorney to issue a warning to a business establishment for a first violation of the bill's provisions. The bill makes the business establishment, after receiving the warning, liable to the state for a civil penalty of \$150 for the second violation and \$250 for each subsequent violation. The bill makes it a defense in an action brought under the bill's provisions that the person to whom the dextromethorphan was dispensed, distributed, or sold presented to the business establishment apparently valid proof of identification. The bill sets out the conditions under which a proof of identification is apparently valid and includes a driver's license issued by this state or another state, a passport, or an identification card issued by a state or the federal government as authorized forms of proof of identification.

EFFECTIVE DATE

84R 27741

15.124.850

Substitute Document Number: 84R 15387

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3066 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subtitle C, Title 6, Health and Safety Code, is amended by adding Chapter 487 to read as follows:

CHAPTER 487. OVER-THE-COUNTER SALES OF DEXTROMETHORPHAN

Sec. 487.001. DEFINITIONS.

Sec. 487.002. NONAPPLICABILITY.

Sec. 487.003. DISTRIBUTION TO MINORS PROHIBITED; PREREQUISITE TO SALE. (a) A business establishment may not dispense, distribute, or sell dextromethorphan to a customer under 18 years of age.

(b) Before dispensing, distributing, or selling dextromethorphan over the counter, a business establishment must require the customer obtaining the drug to display a driver's license or other form of identification containing the customer's photograph and indicating that the customer is 18 years of age or older, unless from the customer's outward appearance the person making the sale may reasonably presume the customer to be 25 years of age or older.

Sec. 487.004. VIOLATION; CIVIL PENALTY.

SECTION 2. The change in law made by this Act applies only to a transaction at a business establishment that occurs on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2015.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle C, Title 6, Health and Safety Code, is amended by adding Chapter 487 to read as follows:

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(b) Before dispensing, distributing, or selling dextromethorphan over the counter, a business establishment must require the customer obtaining the drug to display a driver's license or other form of identification containing the customer's photograph and indicating that the customer is 18 years of age or older, unless from the customer's outward appearance the person making the sale may reasonably presume the customer to be 27 years of age or older.

Sec. 487.004. VIOLATION; CIVIL PENALTY.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.