

## **BILL ANALYSIS**

H.B. 1939  
By: Coleman  
Public Health  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties note that medicines containing the cough suppressant dextromethorphan are sometimes abused for recreational purposes, which can cause significant harmful effects, especially to minors. H.B. 1939 seeks to prevent the abuse of dextromethorphan by minors.

### **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**

H.B. 1939 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's provisions expressly 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.

H.B. 1939 requires a county or district attorney to issue a warning to a business establishment for a first violation of the bill's provisions and, after receiving the warning, makes the business establishment liable to the state for a civil penalty of \$150 for the second violation and \$250 for each subsequent violation. The bill establishes as 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**

September 1, 2017.