# HB4300

LRB094 12962 RLC 47811 b

## 94TH GENERAL ASSEMBLY

## State of Illinois

## 2005 and 2006

### HB4300

Introduced 12/21/05, by Rep. Chapin Rose

## SYNOPSIS AS INTRODUCED:

| | |
|---|---|
| 720 ILCS 570/201 | from Ch. 56 1/2, par. 1201 |
| 720 ILCS 570/206 | from Ch. 56 1/2, par. 1206 |
| 720 ILCS 570/218 new | |

Amends the Illinois Controlled Substances Act. Provides that a drug product containing dextromethorphan may not be sold, delivered, distributed, or possessed except in accordance with the prescription requirements of the Act. Provides that a violation is a Class 4 felony. Exempts from this requirement a drug product containing dextromethorphan that is sold in tablet, liquid, capsule, or gel form and which is formulated, packaged, and sold in dosages and concentrations for use as an over-the-counter cough and cold medicine.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois, represented in the General Assembly:**

Section 5. The Illinois Controlled Substances Act is amended by changing Sections 201 and 206 and by adding Section 218 as follows:

(720 ILCS 570/201) (from Ch. 56 1/2, par. 1201)

Sec. 201. (a) The Department shall carry out the provisions of this Article. The Department or its successor agency may add substances to or delete or reschedule all controlled substances in the Schedules of Sections 204, 206, 208, 210 and 212 of this Act. In making a determination regarding the addition, deletion, or rescheduling of a substance, the Department shall consider the following:

(1) the actual or relative potential for abuse;

(2) the scientific evidence of its pharmacological effect, if known;

(3) the state of current scientific knowledge regarding the substance;

(4) the history and current pattern of abuse;

(5) the scope, duration, and significance of abuse;

(6) the risk to the public health;

(7) the potential of the substance to produce psychological or physiological dependence;

(8) whether the substance is an immediate precursor of a substance already controlled under this Article;

(9) the immediate harmful effect in terms of potentially fatal dosage; and

(10) the long-range effects in terms of permanent health impairment.

(b) (Blank).

(c) (Blank).

(d) If any substance is scheduled, rescheduled, or deleted as a controlled substance under Federal law and notice thereof is given to the Department, the Department shall similarly control the substance under this Act after the expiration of 30 days from publication in the Federal Register of a final order scheduling a substance as a controlled substance or rescheduling or deleting a substance, unless within that 30 day period the Department objects, or a party adversely affected files with the Department substantial written objections objecting to inclusion, rescheduling, or deletion. In that case, the Department shall publish the reasons for objection or the substantial written objections and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the Department shall publish its decision, by means of a rule, which shall be final unless altered by statute. Upon publication of objections by the Department, similar control under this Act whether by inclusion, rescheduling or deletion is stayed until the Department publishes its ruling.

(e) The Department shall by rule exclude any non-narcotic substances from a schedule if such substance may, under the Federal Food, Drug, and Cosmetic Act, be lawfully sold over the counter without a prescription.

(f) The sale, delivery, distribution, and possession of a drug product containing dextromethorphan shall be in accordance with Section 218 of this Act. ~~Dextromethorphan shall not be deemed to be included in any schedule by reason of enactment of this title unless controlled after the date of such enactment pursuant to the foregoing provisions of this section~~.

(g) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in the Liquor Control Act and the Tobacco Products Tax Act.

(Source: P.A. 91-714, eff. 6-2-00.)

(720 ILCS 570/206) (from Ch. 56 1/2, par. 1206)

Sec. 206. (a) The controlled substances listed in this Section are included in Schedule II.

(b) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiates, and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, dextrorphan, levopropoxyphene, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

(i) Raw Opium;

(ii) Opium extracts;

(iii) Opium fluid extracts;

(iv) Powdered opium;

(v) Granulated opium;

(vi) Tincture of opium;

(vii) Codeine;

(viii) Ethylmorphine;

(ix) Etorphine Hydrochloride;

(x) Hydrocodone;

(xi) Hydromorphone;

(xii) Metopon;

(xiii) Morphine;

(xiv) Oxycodone;

(xv) Oxymorphone;

(xvi) Thebaine;

(xvii) Thebaine-derived butorphanol.

(xviii) Dextromethorphan subject to Section 218 of this Act.

(2) Any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subparagraph (1), but not including the isoquinoline

alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, isomer, salt of an isomer, derivative, or preparation of coca leaves including cocaine or ecgonine, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine (for the purpose of this paragraph, the term "isomer" includes optical, positional and geometric isomers);

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy).

(c) Unless specifically excepted or unless listed in another schedule any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrorphan excepted:

(1) Alfentanil;

(1.1) Carfentanil;

(2) Alphaprodine;

(3) Anileridine;

(4) Bezitramide;

(5) Bulk Dextropropoxyphene (non-dosage forms);

(6) Dihydrocodeine;

(7) Diphenoxylate;

(8) Fentanyl;

(9) Sufentanil;

(9.5) Remifentanil;

(10) Isomethadone;

(11) Levomethorphan;

(12) Levorphanol (Levorphan);

(13) Metazocine;

(14) Methadone;

(15) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl-1-butane;

(16) Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;

(17) Pethidine (meperidine);

(18) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

(19) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;

(20) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

(21) Phenazocine;

(22) Piminodine;

(23) Racemethorphan;

(24) Racemorphan;

(25) Levo-alphacetylmethadol (some other names: levo-alpha-acetylmethadol, levomethadyl acetate, LAAM).

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) Methamphetamine, its salts, isomers, and salts of its isomers;

(3) Phenmetrazine and its salts;

(4) Methylphenidate.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of

isomers is possible within the specific chemical designation:

(1) Amobarbital;

(2) Secobarbital;

(3) Pentobarbital;

(4) Pentazocine;

(5) Phencyclidine;

(6) Gluthethimide;

(7) (Blank).

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(i) Phenylacetone

Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

(2) Immediate precursors to phencyclidine:

(i) l-phenylcyclohexylamine;

(ii) l-piperidinocyclohexanecarbonitrile (PCC).

(3) Nabilone.

(Source: P.A. 91-714, eff. 6-2-00.)

(720 ILCS 570/218 new)

Sec. 218. Dextromethorphan.

(a) A drug product containing dextromethorphan may not be sold, delivered, distributed, or possessed except in accordance with the prescription requirements of Sections 309, 312, and 313 of this Act.

(b) A violation of this Section is a Class 4 felony.

(c) This Section does not apply to a drug product containing dextromethorphan that is sold in tablet, liquid, capsule, or gel form and which is formulated, packaged, and sold in dosages and concentrations for use as an over-the-counter cough and cold medicine.