



MERCHANTS GROCERY COMPANY, INC.

"A Company You Can Count On"

Wednesday February 18, 2015

Dear Valued Customer,

It has come to our attention that many retailers may not be aware of a law passed by the Virginia Assembly that went into effect January 1, 2015. This law pertains to certain cold medicines that contain Dextromethorphan. This ingredient may be in both liquid or tablet cough suppressant type medicines. Not all cough medicines contain this ingredient. We are sending you a copy of the law which requires that anyone appearing to be under the age 25 be carded if purchasing a product with Dextromethorphan. It is unlawful to sell a product with Dextromethorphan to a minor less than 18 years of age. Please review the law carefully for full details. We are also including a list of those items that contain Dextromethorphan and are distributed by Merchants Grocery Company.

Please contact one of our Customer Service Representatives at Merchants should you have any inquiries.

Sincerely,

Robin Fadely

Buyer/Category Manager

VIRGINIA ACTS OF ASSEMBLY -- 2014 SESSION

CHAPTER 101

An Act to amend the Code of Virginia by adding in Chapter 7 of Title 18.2 an article numbered 1.3, consisting of sections numbered 18.2-265.19, 18.2-265.20, and 18.2-265.21, relating to the Dextromethorphan Distribution Act; penalty.

[H 505]

Approved March 3, 2014

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 7 of Title 18.2 an article numbered 1.3, consisting of sections numbered 18.2-265.19, 18.2-265.20, and 18.2-265.21, as follows:

Article 1.3.

Dextromethorphan Distribution Act.

§ 18.2-265.19. Definitions.

As used in this article, unless the context requires a different meaning:

"Dextromethorphan" means the dextrorotatory isomer of 3-methoxy-N-methylmorphinan and its salts.

"Pharmacy" means any establishment or institution from which drugs, medicines, or medicinal chemicals are dispensed or offered for sale or on which a sign is displayed bearing the words "apothecary," "druggist," "drugs," "drug store," "drug sundries," "medicine store," "pharmacist," "pharmacy," "prescriptions filled," or any similar words intended to indicate that the practice of pharmacy is being conducted pursuant to a license issued under Chapter 33 (§ 54.1-3300 et seq.) of Title 54.1.

"Retail distributor" means an entity licensed to conduct business in the Commonwealth that offers for sale to the public at a retail outlet any nonprescription compound, mixture, or preparation containing dextromethorphan.

"Unfinished dextromethorphan" means dextromethorphan in the form of a "bulk drug substance" as defined in § 54.1-3401.

§ 18.2-265.20. Sale or distribution of dextromethorphan to minors; purchase by minors; civil penalty.

A. It is unlawful for any pharmacy or retail distributor knowingly or intentionally to sell or distribute any product containing dextromethorphan to a minor.

B. A pharmacy or retail distributor, or its employee or agent, shall not sell or distribute a product containing dextromethorphan unless the purchaser presents a federal, state, or local government-issued document that contains a photograph and the birth date of the purchaser that shows that the purchaser is at least 18 years of age or unless from the purchaser's outward appearance the pharmacy or retail distributor would reasonably presume the purchaser to be 25 years of age or older.

C. It is unlawful for any minor knowingly or intentionally to purchase any product containing dextromethorphan.

D. Any pharmacy or retail distributor, or its employee or agent, that violates subsection A or any minor who violates subsection C is subject to a civil penalty of \$25. Any pharmacy or retail distributor, or its employee or agent, that violates subsection B shall receive a notice of noncompliance and, upon any subsequent violation of subsection B, shall be subject to a civil penalty of \$25. Such penalty shall be collected by the attorney for the Commonwealth for the locality where the violation occurred, and the proceeds shall be deposited into the Literary Fund.

E. The provisions of this section shall not apply if the product was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.).

§ 18.2-265.21. Possession or distribution of unfinished dextromethorphan; penalty.

Any person who distributes or possesses with the intent to distribute unfinished dextromethorphan who is not registered under § 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 321 et seq.) or otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.) to distribute or possess unfinished dextromethorphan is guilty of a Class 1 misdemeanor. This section does not apply to a common carrier that receives or possesses unfinished dextromethorphan for the purpose of distributing such unfinished dextromethorphan between persons registered under § 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 321 et seq.) or otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.) to distribute or possess unfinished dextromethorphan.

2. That the provisions of this act shall become effective on January 1, 2015.

Dextromethorphan Frequently Asked Questions

What is Dextromethorphan (DXM or DEX)?

Dextromethorphan is an active ingredient in many over-the-counter cough and cold medications used to suppress cough.

Is Dextromethorphan safe to use?

Yes! When used according to medically recommended doses, DXM is a safe and effective way to suppress a cough.

Can Dextromethorphan be harmful?

Yes. Some choose to overuse and abuse DXM for recreation. When the recommended dose is exceeded, the result can be serious and in extreme cases can be fatal.

What SKUs carried by Lil' Drug Store Products contain DXM?

- DayQuil Severe™ (Item #'s 97041, 97042, 97043, and 97048)
- Lil' Drug Brand™ Cold Relief (Item #'s 97283, 97285, 97287, and 97288)
- Mucinex DM™ (Item #97241)
- NyQuil™ (Item #'s 97131, 97132, 97133, and 97138)

Are there items in the market that contain DXM that are not carried by LDSP?

Yes, some brands with products containing DXM include, but are not limited to: Contac™, Comtrex™, Coricidin™, Delsym™, Drixoral™, Dimetapp™, Pediacare™, Robitussin™, Sudafed™, Theraflu™, Triaminic™, Tylenol Cough and Cold™, Vicks Formula 44™, DayQuil™, NyQuil™, Zicam™, and most products containing the letters "DM".



Dextromethorphan Frequently Asked Questions (Ctd.)

How does this affect my stores?

- Retailers in Arizona, California, Louisiana, New York, Virginia, and Washington* must follow the state mandated laws that require consumers under 18 years of age to have a prescription in order to purchase DXM products.
- Regardless of age, everyone in Louisiana must show identification to purchase products containing DXM. AZ, CA, NY, VA, and WA require that anyone under the age of 25 must show ID to purchase these products.
- Some retailers, regardless of law, have made the decision to keep products with DXM behind the counter and to limit the number of DXM products that can be purchased at one time.
- At this time, no change is necessary for retailers outside of these five states.

Are there any national restrictions on DXM?

Legislation is pending for the Preventing Abuse of Cough Treatments Act, but there are no DXM-specific national regulations at this time.

Are there any state implemented restrictions on the placement of DXM products within the store?

Not at this time



If you have additional questions about DXM, contact:

Lil' Drug Store Products Customer Service
1-877-507-6516 (M-F 8AM to 4:30PM CST)
or visit www.stopmedicineabuse.org



*Law in Washington goes into effect in July 2015. Source: www.chpa.org/dex.aspx

MGC List of Products Containing Dextromethorphan

45127	NYQUIL LIQUID CAPS 25/ 2 CT	45874	ROBITUSSIN COUGH 4OZ
45128	DAYQUIL LIQUID CAPS 25/2 CT	45877	ROBITUSSIN PEDIATRIC COUGH 4OZ
45925	VICKS CHERRY LIQUID 8 OZ	44705	LIL' DRUG COLD/FLU DAY 12 CT
45926	VICKS NYQUIL LIQUID 8 OZ	44706	LIL' DRUG COLD/FLU NIGHT 12 CT
45927	VICKS DAYQUIL LIQUID 8 OZ	45920	LIL' DRUG COLD/FLU DAY 8 OZ
45928	VICKS CHILDRENS LIQ 8 OZ	45922	LIL' DRUG ADULT TUSSIN DM 4 OZ
50797	CV NYQUIL 2 DOSE 4 CT	45181	SB SEVERE COLD MULTI SYM 24 CT
50826	CV DAYQUIL COLD/FLU 2 DOSE 4 CT	45556	SB NIGHT COLD/FLU MS 12 CT
50882	CV MUCINEX DM 2 CT	45891	SB NIGHT LIQUID COLD/FLU 6 OZ
45893	SB NIGHT LIQUID CHERRYCOLD/FLU 6 OZ	45895	SB DAYTIME LIQUID COLD 6 OZ