

## **BILL ANALYSIS**

C.S.H.B. 1518  
By: Coleman  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Concerns have been raised about minors abusing the cough suppressant dextromethorphan, which is contained in several over-the-counter medications, is much easier for a minor to obtain than alcohol or other substances, and can lead to serious side effects if used in high doses. C.S.H.B. 1518 seeks to prevent such abuse by establishing a minimum age for the purchase of medicines that contain dextromethorphan and establishing certain enforcement measures.

### **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. 1518 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 and 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 requires a county or district attorney to issue a warning to a business establishment for a first violation of the bill's provisions and makes an 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 establishes as a defense in an action brought for such a violation that the person to whom the dextromethorphan was dispensed, distributed, or sold presented to the establishment apparently valid proof of identification or that the establishment made a good faith effort to comply with the bill's provisions relating to the violation.

C.S.H.B. 1518 establishes that a proof of identification satisfies the bill's requirements if it contains a physical description and photograph consistent with the person's appearance, purports to establish that the person is 18 years of age or older, and was issued by a governmental agency and that authorized proof of identification may include a driver's license issued by Texas or another state, a passport, or an identification card issued by a state or the federal government. The bill's provisions expressly 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 within the scope of the practitioner's practice as authorized by the practitioner's license and expressly does not require an establishment to keep specific records of transactions of dextromethorphan or to store dextromethorphan in a specific location in an establishment or

otherwise restrict the availability of dextromethorphan to customers. The bill prohibits a political subdivision of the state from adopting or enforcing an ordinance, order, rule, regulation, or policy that governs the sale, distribution, or possession of dextromethorphan and makes such an ordinance, order, rule, regulation, or policy void and unenforceable. This prohibition applies to an ordinance, order, rule, regulation, or policy adopted before, on, or after the bill's effective date.

**EFFECTIVE DATE**

September 1, 2019.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1518 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes the following:

- a provision that establishes as a defense in an action brought for a violation that the establishment made a good faith effort to comply with the bill's provisions relating to the violation;
- a prohibition against a political subdivision of Texas adopting or enforcing an ordinance, order, rule, regulation, or policy that governs the sale, distribution, or possession of dextromethorphan; and
- a prohibition making such an ordinance, order, rule, regulation, or policy void and unenforceable.