

**HB**

**167**

<TARGET><BILL>HB 167</BILL><SUBJECT>HB  
167</SUBJECT><COMM>HJUD27</COMM></TARGET>

# Alaska State Legislature

*Interim:*


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*Session:*

State Capitol, Room 114  
Juneau, AK 99801-1182  
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Fax: (907) 465-3793

Representative Kyle Johansen  
House District 1

DATE: February 25, 2011  
TO: Rep Carl Gatto, Chair, House Judiciary Committee  
FROM: Rep. Kyle Johansen   
RE: Hearing request for HB 167, "An Act relating to the sale of products containing dextromethorphan."



I kindly request a hearing for HB 167 in the House Judiciary Committee. Additionally, I request that the Ketchikan LIO be teleconferenced for the hearing.

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## Representative Kyle Johansen House District 1

HB 167 - "An Act relating to the sale of products containing dextromethorphan."

HB 167 makes the sale of products containing **dextromethorphan (DXM or DM)** to persons under the age of 18 or without a prescription illegal. It also requires retailers to mark the product as for sale to persons 18 or older or by prescription or limit the access of the public to the product by its placement behind the counter or similar means.

Dextropethorphan is an antitussive (cough suppressant) medication; it is one of the active ingredients in many over-the-counter cold and cough medicines. DXM is safe when taken in recommended doses. However, when taken at doses higher than medically recommended, DXM acts as a dissociative psychedelic drug. Effects of a high dose of DXM include distortions of the visual field and bodily perception, feelings of dissociation, euphoria or excitement, as well as a loss of comprehension of time.

Over-the-counter products that contain DXM often also contain other ingredients such as acetaminophen and chlorpheniramine. Large doses of acetaminophen can cause liver damage and large doses of chlorpheniramine can cause increased heart rate and seizures.

Adolescents are the primary abusers of DXM, likely because it is inexpensive and relatively easy to obtain. Compounding the problem is that few parents know about the potential for abuse of the drug.



# LEGISLATIVE RESEARCH SERVICES

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November 6, 2009

## Memorandum

TO: Representative Kyle Johansen  
FROM: Daniel Lesh, Legislative Analyst *DOL*  
RE: Regulation of Over-The-Counter Medications Containing Dextromethorphan  
*LRS Report 10.073*

You asked about state regulations limiting the sale of commonly-abused over-the-counter medications containing the chemical dextromethorphan. Specifically, you wanted to know if any such limitations have been proposed in Alaska, or in other states. You also wanted to know of any over-the-counter medical products that the state of Alaska does not allow to be sold to minors or does not allow to be sold in large quantities.

As you may know, dextromethorphan is a drug included in many common cough medications, including cough syrups and cough pills. Individuals sometime abuse these medications by consuming many times the recommended dose, with dissociative, psychedelic effects. Dextromethorphan abuse has numerous negative side effects, but is not generally considered addictive or lethal. The most serious side effects, which can include death, are caused by consuming medications with other active ingredients besides dextromethorphan, such as acetaminophen, according to information we reviewed.

### **Alaska**

It appears that no limitations on the sale of products containing dextromethorphan have been proposed in Alaska. No bills or resolutions introduced between 1983 and 2009—years for which electronic records are available—mention the word dextromethorphan. In addition, J. Kate Burkhart, executive director, Advisory Board on Alcoholism and Drug Abuse, Department of Health and Social Services, is not familiar with any such proposals, nor is she aware of any chronic misuse of these types of products in Alaska.<sup>1</sup>

According to Ms. Burkhart, the only over-the-counter medications with limitations on their sale in Alaska are those containing pseudoephedrine, ephedrine, and phenylpropanolamine—three drugs that are commonly used in the manufacture of methamphetamine.<sup>2</sup> These limitations are the result of federal and state law. The relevant federal law, the Combat Methamphetamine Epidemic Act of 2005, requires that retail establishments limit access to products containing these drugs; verify purchaser identity; keep a log of all purchases of products containing these drugs; and enforce daily and 30-day limits on the sale of these products to any one individual, among other requirements. A state law (AS 17.30.090) passed shortly after the Combat Methamphetamine Epidemic Act of 2005 mirrors and references that federal law. No other over-the-counter medical products in Alaska are limited in their sale by volume or by age of purchaser, according to Ms. Burkhart.

<sup>1</sup> Ms. Burkhart can be reached at (907) 465-8920. Rather than dextromethorphan, Ms. Burkhart highlighted oxycontin abuse as one of the major concerns facing the Alaska drug abuse prevention community.

<sup>2</sup> An example of an over-the-counter product containing pseudoephedrine is Sudafed.

### ***Other States***

It appears that no state regulates the sale of over-the-counter medications containing dextromethorphan, though proposals to do so have been introduced in a number of states. Similarly, proposals have been introduced in Congress, but never passed. However, one state (Illinois; 720 ILCS 570/218) does regulate the sale of pure, unfinished dextromethorphan.<sup>3</sup> Please see Table 1 for a list of relevant state and federal legislation located via *lexis.com* and *thomas.gov* searches.

It is important to note that many major pharmacies have voluntarily installed restrictions of the type you asked about. We were unable to locate a comprehensive list of which stores in which locations have imposed which restrictions. However, a list posted on a website that appears targeted at drug users provides a description of how easy it is to buy dextromethorphan-containing medications in 23 states.<sup>4</sup> The list suggests that in 19 of those states, “some stores” or “large chain stores” do not allow sales of dextromethorphan-containing medications to those less than 18 years of age.<sup>5</sup> The list also names three states (Arkansas, Colorado, and Iowa) where no stores are allowed to sell dextromethorphan to those under 18; however, a search of those states’ statutes and regulations did not reveal any such laws.

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<sup>3</sup> Unfinished dextromethorphan is already illegal to distribute under general FDA laws regarding packaging and labeling requirements, but state and federal laws have been introduced—and passed in Illinois—to clarify that distribution of unfinished dextromethorphan is illegal.

<sup>4</sup> This list was found on a website called Vaults of Erowid, located at [http://www.erowid.org/chemicals/dxm/dxm\\_law.shtml](http://www.erowid.org/chemicals/dxm/dxm_law.shtml).

<sup>5</sup> Names of stores listed as requiring purchasers to be at least 18 years of age include Wal-Mart, Dillons, Target, Walgreens, Meijers, and Rite-Aid.

Table 1: State and Federal Legislation to Regulate the Sale of Products Containing Dextromethorphan, 2005-2009

State	2005-2006	2007-2008	2009
California	S.B. 307: Requires a prescription for sale to a person under 18 years of age		
Maryland	S.B. 450: Requires a prescription for sale to a person under 18 years of age. Requires vendors to verify identity of purchasers and keep a log of all sales of products containing dextromethorphan		
Massachusetts		H.B. 3742: Prohibits sale to those under 18 years of age; Requires inventories to be kept by pharmacies and retail providers; allows retail providers to limit consumers to certain quantities	
Michigan		S.B. 1538: Prohibits sale of products containing dextromethorphan to individuals under 18 years of age	
New Jersey	A.B. 4279 and S.B. 2709: Prohibits sale of products containing dextromethorphan to minors under 18 years of age	A.B. 2695 and S.B. 2251: Prohibits sale of products containing dextromethorphan to minors under 18 years of age	A.B. 3676: Prohibits sale of products containing dextromethorphan to minors under 18 years of age; A.B. 3837: Regulates the sale of dextromethorphan <i>see Attachment A for bill text</i>
New York	A.B. 4743 and S.B. 499: Makes it unlawful to give, sell or cause to be given or sold 2 or more containers of medicine containing dextromethorphan to any person under the age of 18	A.B. 7509 and S.B. 3444: Makes it unlawful to give, sell or cause to be given or sold 2 or more containers of medicine containing dextromethorphan to any person under the age of 18	A.B. 8276 and S.B. 5606: Requires placement behind the pharmacy or only accessible through the manager of a retail establishment <i>see Attachment B for bill text</i>
Oklahoma		S.B. 1794: Requires a valid ID; prohibits minors from purchasing such products; prohibits the sale and distribution of any product containing unfinished dextromethorphan without a license; revises legislative intent to include drug abuse education	

Table 1: State and Federal Legislation to Regulate the Sale of Products Containing Dextromethorphan, 2005-2009, continued			
State	2005-2006	2007-2008	2009
Pennsylvania	H.B. 1289: Provides for the registration and reporting of certain noncontrolled substances including Dextromethorphan		H.B. 1616: Provides that the chemical dextromethorphan be subject to registration <i>see Attachment C for bill text</i>
Rhode Island	S.B. 561: Prohibit the sale, without a prescription, of any solid oral product which contains more than twenty (20) milligrams of dextromethorphan either alone or in combination with other drugs	S.B. 635: Defines prohibited acts, and penalties for trafficking in dextromethorphan	S.B. 128 and S.B. 1071: Makes possession of one gram or more of pure dextromethorphan by a person other than a medical facility, medical practice, pharmacist or licensed pharmacy illegal <i>see Attachment D for bill text</i>
Virginia	H.B. 875: Restricts access to over-the-counter medications containing the drug Dextromethorphan		S.B. 952: Makes the sale of over-the-counter medicines containing dextromethorphan on school property a Class 1 misdemeanor <i>see Attachment E for bill text</i>
U.S. Congress	109th Congress: H.R. 5280: Prohibits the distribution of unfinished dextromethorphan, except to certain registered entities	110th Congress: S. 2274: Requires a prescription for sale to a person under 18 years of age. H.R. 970: Prohibits the distribution of unfinished dextromethorphan, except to certain registered entities	111th Congress: S. 1383: Requires a prescription for sale to a person under 18 years of age. <i>see Attachment F for bill text</i> H.R. 1259: Prohibits the distribution of unfinished dextromethorphan, except to certain registered entities <i>see Attachment G for bill text</i>
<p><b>Notes:</b> Descriptions of bills are based on summary language provided by <i>lexis.com</i>. None of these bills were adopted as law. <b>Source:</b> State bills located via a 50-state search of <i>Lexis.com</i> for the term "dextromethorphan" in State Net Bill Tracking, All States, 2005-2009. Federal bills located via a <i>Thomas.gov</i> search for "dextromethorphan."</p>			

I hope this information is useful. Please contact our office if you have additional questions.

# New The DAWN Report

Issue 32, 2006R

DRUG ABUSE WARNING NETWORK

## Emergency Department Visits Involving Dextromethorphan

### In Brief

According to the Drug Abuse Warning Network (DAWN) for 2004:

- An estimated 16,858 emergency department (ED) visits involved pharmaceuticals containing dextromethorphan (DXM). This was just under 1 percent of all drug-related ED visits.
- The rate of ED visits resulting from nonmedical use of DXM for those aged 12 to 20 was 8.0 visits per 100,000 population, compared with 2.5 visits or fewer per 100,000 for other age groups.
- ED patients aged 12 to 20 accounted for about half (51%) of the ED visits resulting from nonmedical use of DXM, compared with 33 percent of DXM-related ED visits overall.
- The rate of ED visits resulting from any type of use of DXM among those aged 12 to 20 was 14.7 per 100,000 population, compared with 5.7 visits per 100,000 for the population overall.
- Alcohol was implicated in 41 percent of ED visits involving nonmedical use of DXM for those aged 18 to 20 and in 13 percent of visits for those aged 12 to 17.

Dextromethorphan (DXM) is a cough suppressant approved by the Food and Drug Administration (FDA) that is found in many over-the-counter cough and cold remedies.<sup>1</sup> It is generally safe when taken at recommended doses. When taken in large amounts, though, DXM can produce hallucinations and a “high” similar to psychotropic drugs, such as phencyclidine (PCP). Dangerous side effects may include blurred vision, loss of physical coordination, abdominal pain, and rapid heartbeat. Side effects may be worsened if the ingested product also contains other pharmaceutical ingredients—such as acetaminophen, pseudoephedrine, antihistamines, or expectorants, which are commonly found in cough and cold medicines—or alcohol.<sup>2</sup>

In recent years DXM has become available, primarily over the Internet, in bulk powdered form, and concern has grown over the nonmedical use of DXM by teenagers. In May 2005, the FDA issued a warning about the dangers of DXM abuse involving over-the-counter products and DXM obtained from illicit sources.<sup>3</sup>

The Drug Abuse Warning Network (DAWN) collects data from a national sample of short-term, general, non-Federal hospitals<sup>4</sup> and publishes estimates of emergency department (ED) visits involving illicit drugs and nonmedical use of pharmaceuticals. This issue of *The DAWN Report* examines the characteristics of ED visits that involve DXM and products containing DXM.

Included are findings on the age of ED patients who used DXM and the reason for their visit to the ED. Also provided are the rates of DXM-related ED visits per 100,000 population for different age groups and the frequency with which DXM products are found in combination with alcohol. The ED visits considered here exclude the small number of patients who go to the ED to obtain admission to the hospital's detoxification or substance abuse treatment unit.

## Overview

During 2004, there were about 106 million ED visits to short-term, general, non-Federal hospitals in the United States.<sup>5</sup> Of those, DAWN estimates that just over 2.5 million were drug related, with just under a half million involving nonmedical use of pharmaceuticals. Nearly 17,000, or just under 1 percent, of all drug-related ED visits in 2004 involved DXM or products containing DXM.

## Reasons for ED visits

Nonmedical use of DXM products accounted for 5,962 (35%) of the estimated 16,858 DXM-related ED visits in 2004, and about half (51%) of these nonmedical visits involved patients aged 12 to 20 (Table 1).<sup>6</sup> The rate of ED visits resulting from nonmedical use of DXM products was 8.0 visits per 100,000 population for those aged 12 to 20, while the rate for other age groups was 2.5 or less (Table 1 and Figure 1).

Medical use of DXM included ED visits attributed to adverse reactions that occurred when DXM products were used as prescribed (or according to directions for over-the-counter products). About 31 percent of all DXM-related ED visits in 2004 were a result of adverse reactions. Children aged 0 to 11 are the most likely to experience adverse reactions to DXM. Their rate of ED visits was higher than that for any other age group (3.9 per 100,000 population), and they constitute 36 percent of all ED visits involving adverse reactions to DXM.

About 16 percent of DXM-related ED visits involve accidental ingestion. As with adverse reactions, children aged 0 to 11 are also the most likely to accidentally ingest DXM or DXM-containing products. The rate of ED visits for accidental ingestion of DXM is 5.2 visits per 100,000 population, and over 95 percent of ED visits for accidental ingestion of DXM involve children in this age range.

Suicide attempts involving DXM products accounted for 17 percent of DXM-related ED visits. Patients

**Table 1. ED visits involving DXM, by age and reason for visit**

Age category	Estimated ED visits	Percent of visits <sup>a</sup>	ED visits per 100,000 population
<b>Nonmedical use (35% of total)</b>			
0-11	42	1%	0.1
12-20	3,016	51%	8.0
12-17	1,938	33%	7.6
18-20	1,078	18%	8.7
21-34	1,451	24%	2.5
35+	1,448	24%	1.0
<b>Medical use (adverse reaction) (31% of total)</b>			
0-11	1,879	36%	3.9
12-20	744	14%	2.0
12-17	701	13%	2.8
18-20	43	1%	0.4
21-34	682	13%	1.2
35+	1,890	36%	1.3
<b>Accidental ingestion (15% of total)</b>			
0-11	2,478	96%	5.2
12-20	—	0%	0.0
12-17	—	0%	0.0
18-20	—	0%	0.0
21-34	—	0%	0.0
35+	109	4%	0.1
<b>Suicide attempt (17% of total)</b>			
0-11	—	0%	0.0
12-20	1,610	55%	4.3
12-17	1,154	40%	4.5
18-20	456	16%	3.7
21-34	527	18%	0.9
35+	778	27%	0.5
<b>Total<sup>b</sup></b>			
All ages	16,858	100%	5.7
0-11	4,399	26%	9.2
12-20	5,556	33%	14.7
12-17	3,970	24%	15.6
18-20	1,586	9%	12.8
21-34	2,662	16%	4.7
35+	4,236	25%	2.8

<sup>a</sup> Percentages may not sum to 100 percent due to rounding.

<sup>b</sup> This total includes only the four types of ED visits shown. This excludes patients who go to the ED to obtain admission to a hospital's detoxification or substance abuse treatment unit.

Note: — Estimates less than 30 are suppressed.

Source: Office of Applied Studies, SAMHSA, Drug Abuse Warning Network, 2004 (03/2008 update).

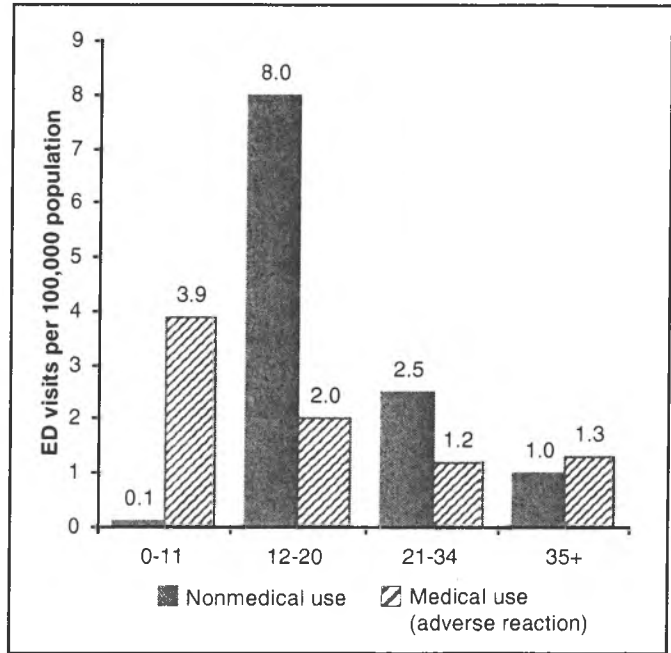
aged 12 to 20 are more likely than patients in other age groups to use DXM products in a suicide attempt. This group has a rate of 4.3 DXM-related ED visits per 100,000 population, compared with rates of 0.0 for those aged 0 to 11 and less than 1.0 for those aged 21 or older.

### Alcohol involvement

Alcohol was involved in about 13 percent of ED visits resulting from nonmedical use of DXM products for those aged 12 to 17 and in 41 percent of such visits for those aged 18 to 20 (Figure 2). Patients aged 35 to 54 had the highest involvement of alcohol (61%). For the youngest (aged 0 to 11) and oldest (aged 55 or older) patients, alcohol involvement was lower (0% and 2%, respectively).

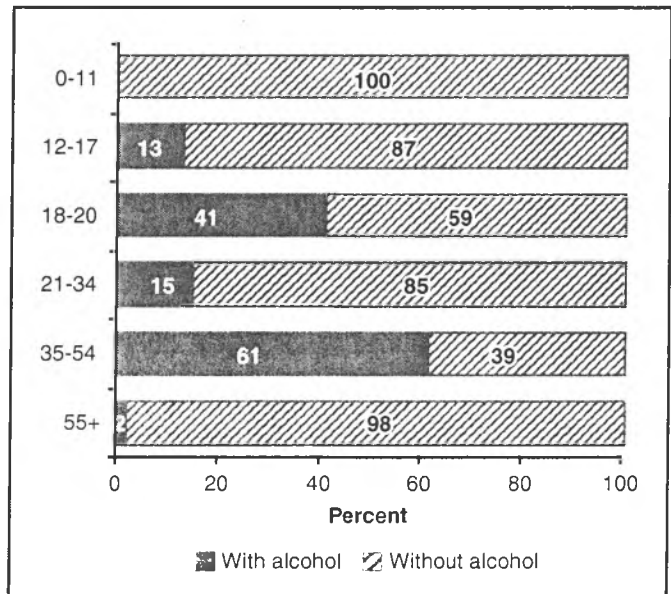
Alcohol is also an ingredient in some cough medications. Some common products (e.g., NyQuil®) contain a mixture of DXM and up to 10 percent alcohol. In these cases, alcohol may play a role in the ED visit without being specifically documented in the ED medical record. Therefore, these findings may understate the involvement of alcohol and its contribution to the side effects leading to ED visits.

**Figure 1. Rates of ED visits for nonmedical and medical use of DXM, by age**



Source: Office of Applied Studies, SAMHSA, Drug Abuse Warning Network, 2004 (03/2008 update).

**Figure 2. ED visits involving nonmedical use of DXM and alcohol, by age**



Source: Office of Applied Studies, SAMHSA, Drug Abuse Warning Network, 2004 (03/2008 update).

### Notes

1. U.S. National Library of Medicine, National Institutes of Health. (2003, April 1). *Dextromethorphan*. Retrieved September 26, 2006, from <http://www.nlm.nih.gov/medlineplus/druginfo/medmaster/a682492.html>
2. National Institute on Drug Abuse. (2001, March). *Hallucinogens and dissociative drugs* (NIH Publication No. 01-4209). Retrieved September 29, 2006, from <http://www.drugabuse.gov/ResearchReports/Hallucinogens/halluc4.html>
3. Food and Drug Administration. (2005, May 20). *FDA warns against abuse of dextromethorphan (DXM)* (Talk Paper T05-23). Rockville, MD: National Press Office. Retrieved September 29, 2006, from <http://www.fda.gov/bbs/topics/ANSWERS/2005/ANS01360.html>
4. Specialty hospitals, including children's hospitals, are excluded from the DAWN sample.
5. American Hospital Association (AHA) Annual Survey Database, Fiscal Year 2003. Health Forum LLC, Copyright 2003, One North Franklin Street, Chicago, IL 60606.
6. Nonmedical use of DXM includes taking more than a prescribed or recommended dose and other forms of drug misuse or abuse.

For change of address, corrections, or to be removed from this list, please e-mail: [shortreports@samhsa.hhs.gov](mailto:shortreports@samhsa.hhs.gov).

## The DAWN Report — Emergency Department Visits Involving Dextromethorphan

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The **Drug Abuse Warning Network (DAWN)** is a public health surveillance system that monitors drug-related morbidity and mortality. DAWN uses a probability sample of hospitals to produce estimates of drug-related emergency department (ED) visits for the United States and selected metropolitan areas annually. DAWN also produces annual profiles of drug-related deaths reviewed by medical examiners or coroners in selected metropolitan areas and States.

Any ED visit or death related to recent drug use is included in DAWN. All types of drugs—licit and illicit—are covered. Alcohol is included for adults when it occurs with another drug. Alcohol is always included for minors. DAWN's method of classifying drugs was derived from the Multum *Lexicon*, Copyright © 2008, Multum Information Services, Inc. The Multum Licensing Agreement can be found in DAWN annual publications and at <http://www.multum.com/license.htm>.

DAWN is one of three major surveys conducted by the Substance Abuse and Mental Health Services Administration's Office of Applied Studies (SAMHSA/OAS). For information on other OAS surveys, go to <http://www.oas.samhsa.gov>. SAMHSA has contracts with Westat (Rockville, MD) and RTI International (Research Triangle Park, NC) to operate the DAWN system and produce publications.

For publications and additional information about DAWN, go to <http://DAWNinfo.samhsa.gov>.



# FDA looks to curb abuse of cough medicine

Misuse of Robitussin, NyQuil and others sends 8,000 to the ER each year

By **MATTHEW PERRONE**

**AP** Associated Press

updated

WASHINGTON— Federal health regulators are weighing restrictions on Robitussin, NyQuil and other cough suppressants to curb cases of abuse that send thousands of people to the hospital each year.

The Food and Drug Administration on Tuesday posted its review of dextromethorphan, an ingredient found in more than 100 over-the-counter medications that is sometimes abused for its euphoric effects. The practice, dubbed "robotripping," involves taking more than 25 times the recommended dose of a cold medicine and is mainly associated with teenagers.

At high doses the drug causes increased blood pressure, heart rate and fever. Abusers can also suffer side effects from other ingredients mixed in cough medicines, such as

acetaminophen, which can cause liver damage.

"Because of the drug's perceived safety, ease of availability, and desired psychoactive effects, it is sought after by those seeking to alter their mental state," states the FDA review.

### Misuse tied to 8,000 ER visits a year

According to the FDA, inappropriate use of the ingredient was linked to nearly 8,000 emergency room visits in 2008. That was up

more than 70 percent from reports in 2004.

An FDA analysis concluded that dextromethorphan is abused less often than the popular painkiller codeine but more often than pseudophedrine, a cold medicine ingredient that can be processed into methamphetamine.

The FDA has agreed to reconsider how it regulates the drug at the behest of the Drug Enforcement Agency, which has raised concerns about increasing abuse among adolescents.


Later this month the FDA will ask a panel of outside experts whether dextromethorphan should be available only as a prescription. The agency is not required to follow the group's advice, though it often does.

Mandating a prescription for the drug would deal a major blow to over-the-counter drug makers, which use the drug in dozens of

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combination cold medicines. Popular brands containing dextromethorphan include Wyeth's Dimetapp, Bayer's Alka Seltzer Flu Plus and Procter & Gamble's Vicks cough medicines. The drug is available in pills, gel caps, liquids and other forms.

Most industry observers don't expect the FDA to mandate a prescription on those products due to the enormous workload it would create for doctors and pharmacists.

**Drugs could be placed behind counter**

One alternative could involve placing the drugs behind the counter, though the FDA's review did not discuss specific proposals.

The over-the-counter medicine industry supports prohibiting sales of the medicines to people under age 18. Such age restrictions require legal changes, and the industry's trade association has lobbied on the issue at the state and federal levels.

A spokeswoman for the Consumer Healthcare Products Association said the group has been working since 2003 to reduce abuse through educational campaigns targeting parents, teenagers and school nurses.

"It's really about trying to take this multifaceted approach to inform parents that while these medicines are safe and effective, they are also vulnerable to abuse," said spokeswoman Elizabeth Funderburk. The group represents Pfizer, Johnson & Johnson and most other over-the-counter drug companies.

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