

LOCAL LAW INTRO. NO. -2008

A LOCAL LAW amending the Laws of Westchester County to regulate the sale of of Dextromethorphan within the County of Westchester

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. A new Article XXVIII is hereby added to Chapter 863 of the Laws of Westchester County to read as follows:

ARTICLE XXVIII

**REGULATING THE SALE OF PRODUCTS CONTAINING DEXTROMETHORPHAN
WITHIN THE COUNTY OF WESTCHESTER**

- § 863.1501. Legislative intent.**
- § 863.1502. Definitions.**
- § 863.1503. Sale to minors prohibited.**
- § 863.1504. Penalties.**
- § 863.1505. Reverse pre-emption.**
- § 863.1506. Severability.**

Sec. 863.1501. Legislative intent.

The Legislature of the County of Westchester finds that “robotripping”, the practice of ingesting large quantities of non-prescription cough and cold medications containing Dextromethorphan or DXM, for use as a recreational drug by minors, is a significant societal problem that has generated widespread concern in Westchester County. “Robotripping” poses an immediate threat to the public health, safety and welfare of the residents of Westchester County, leading to intoxication and serious health risks, including seizures, psychosis, hallucinations, brain damage, irregular heartbeat, respiratory distress, comas and even death. This local law will serve to deter the excessive consumption of Dextromethorphan by minors by

prohibiting the sale of over-the-counter cold medications or cough suppressants containing the substance to minors.

Sec. 863.1502. Definitions.

Wherever used in this chapter, unless the context or subject matter otherwise requires:

- a. “Dextromethorphan” or “DXM” shall mean dextrorotatory isomer of methoxy-n-methylmorphinan and its salts.
- b. “Minor” shall mean any person under eighteen years of age.
- c. “Over-the-counter cold medication or cough suppressant” shall mean cold medication or cough suppressant other than cold medication or cough suppressant which is dispensed upon the prescription of a physician or other person legally authorized to issue such prescription.

Sec. 863.1503. Sale to minors prohibited.

It shall be a violation of this article for any merchant or other person to sell or cause to be sold any over-the-counter cold medication or cough suppressant that contains Dextromethorphan to a minor.

§ 863.1504. Penalties.

For the first violation of the provisions of this article, a notice of violation shall be issued to the offending party. For the second and succeeding violations, a civil penalty not exceeding one hundred and fifty dollars (\$150.00) shall be imposed for each single violation. No civil penalty shall be imposed as provided for herein unless the alleged violator has received notice of the charge against him or her and has had an opportunity to be heard.

§ 863.1505. Reverse pre-emption.

This chapter shall be null and void on the day that federal or statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this chapter, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Westchester. The County Legislature may determine via mere resolution whether or not identical or substantially similar federal or statewide legislation, or pertinent preempting state or federal regulations have been enacted for purposes of triggering the provisions of this section.

§ 863.1506. Severability.

If any clause, sentence, paragraph, or section of this chapter shall be held invalid by any court of competent jurisdiction, or the application of this chapter to any person or set of circumstances shall be held invalid, such invalidity or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or operation of this chapter directly involved in the controversy in which the judgment shall have been rendered. To further this end, the provisions of this chapter are hereby declared to be severable.

Section 2. This local law shall take effect one hundred and twenty days after it becomes law.