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(Original Signature of Member)

111TH CONGRESS
1ST SESSION

H. R.

To amend the Federal Food, Drug, and Cosmetic Act with respect to the distribution of the drug dextromethorphan, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. UPTON (for himself, Mr. LARSEN of Washington, and Mr. EHLERS) introduced the following bill; which was referred to the Committee on

A BILL

To amend the Federal Food, Drug, and Cosmetic Act with respect to the distribution of the drug dextromethorphan, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Dextromethorphan
5 Distribution Act of 2009”.

1 **SEC. 2. RESTRICTIONS ON DISTRIBUTION OF BULK**
2 **DEXTROMETHORPHAN.**

3 The Federal Food, Drug, and Cosmetic Act (21
4 U.S.C. 321 et seq.) is amended—

5 (1) in section 501, by inserting at the end the
6 following:

7 “(j) If it is unfinished dextromethorphan and is pos-
8 sessed, received, or distributed in violation of section
9 506D.”; and

10 (2) by inserting after section 506C the fol-
11 lowing:

12 **“SEC. 506D. RESTRICTIONS ON DISTRIBUTION OF BULK**
13 **DEXTROMETHORPHAN.**

14 “(a) RESTRICTIONS.—No person shall—

15 “(1) possess or receive unfinished
16 dextromethorphan, unless the person is registered
17 under section 510 or otherwise registered, licensed,
18 or approved pursuant to Federal or State law to en-
19 gage in the practice of pharmacy, pharmaceutical
20 production, or manufacture or distribution of phar-
21 maceutical ingredients; or

22 “(2) distribute unfinished dextromethorphan to
23 any person other than a person registered under sec-
24 tion 510 or otherwise registered, licensed, or ap-
25 proved pursuant to Federal or State law to engage
26 in the practice of pharmacy, pharmaceutical produc-

1 tion, or manufacture or distribution of pharma-
2 ceutical ingredients.

3 “(b) EXCEPTION FOR COMMON CARRIERS.—This
4 section does not apply to a common carrier that possesses,
5 receives, or distributes unfinished dextromethorphan for
6 purposes of distributing such unfinished
7 dextromethorphan between persons described in sub-
8 section (a) as registered, licensed, or approved.

9 “(c) DEFINITIONS.—In this section:

10 “(1) The term ‘common carrier’ means any per-
11 son that holds itself out to the general public as a
12 provider for hire of the transportation by water,
13 land, or air of merchandise, whether or not the per-
14 son actually operates the vessel, vehicle, or aircraft
15 by which the transportation is provided, between a
16 port or place and a port or place in the United
17 States.

18 “(2) The term ‘unfinished dextromethorphan’
19 means dextromethorphan that is not contained in a
20 drug that is in finished dosage form.”.