



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Audra Tidball

### H.B. 73

132nd General Assembly  
(As Introduced)

**Reps.** Rezabek and Koehler

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#### **BILL SUMMARY**

- Prohibits a retailer from selling or otherwise providing a drug containing dextromethorphan to a person under 18 without a prescription.
  - Makes violation of that prohibition a minor misdemeanor.
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#### **CONTENT AND OPERATION**

##### **Prohibition against the sale of dextromethorphan to persons under 18**

Dextromethorphan is a drug that is used to temporarily relieve coughs caused by the common cold, flu, or other conditions. It does not treat the cause of the cough or speed recovery; instead, it decreases activity in the part of the brain that causes coughing. Dextromethorphan is available without a prescription and may be obtained alone or in combination with antihistamines, cough suppressants, and decongestants.<sup>1</sup>

The bill prohibits a retailer that offers consumer products for sale to the general public, including a licensed terminal distributor of dangerous drugs, or an employee of a retailer, from knowingly supplying, delivering, giving, or otherwise providing a drug containing any quantity of dextromethorphan to a person under 18, unless the person has a prescription for the product being purchased.<sup>2</sup>

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<sup>1</sup> National Institutes of Health, U.S. National Library of Medicine, MedlinePlus, *Dextromethorphan*, available at <http://www.nlm.nih.gov/medlineplus/druginfo/meds/a682492.html>.

<sup>2</sup> R.C. 2925.62(B).

## Determining age and identity

The bill does not specifically require the person selling dextromethorphan to request proof of the purchaser's age; however, it provides that unless the purchaser's outward appearance is such that the person making the sale can reasonably presume the purchaser is 25 or older, it is prima facie evidence of a violation of the bill's prohibition if the person making the sale does not require and obtain evidence of majority and identity.<sup>3</sup> Proof that a person demanded, was shown, and reasonably relied on evidence of majority and identity is a defense to criminal prosecution for violation of the bill's prohibition.<sup>4</sup>

"Evidence of majority and identity" is defined to mean a government document, including a driver's license, commercial driver's license, Ohio identification card, military identification card, or other form of identification that bears the name, birthdate, description, and picture of the person identified.<sup>5</sup>

## Use of age-verification technology at the point of sale

The bill requires that, to the extent feasible, retailers that sell dextromethorphan or dextromethorphan-containing products without a prescription must use a cash register equipped with an age-verification feature to monitor age-restricted items. The cash register must be programmed to direct the retail clerk to request evidence of majority and identity before a product containing dextromethorphan may be purchased.<sup>6</sup>

## Penalty

The bill makes it a minor misdemeanor to violate its prohibition against supplying dextromethorphan to a person under 18.<sup>7</sup> However, a retail clerk who fails to require and obtain proof of age from a purchaser is not guilty of a violation of the bill's provisions, or subject to any penalties, unless the clerk is a willful participant in an ongoing conspiracy to violate the prohibition.<sup>8</sup>

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<sup>3</sup> R.C. 2925.62(C).

<sup>4</sup> R.C. 2925.62(D).

<sup>5</sup> R.C. 2925.62(A)(2).

<sup>6</sup> R.C. 2925.62(F).

<sup>7</sup> R.C. 2925.62(G).

<sup>8</sup> R.C. 2925.62(E).



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## HISTORY

ACTION

DATE

Introduced

02-21-17

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