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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 29  
133rd General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. Koehler

Jason Hoskins, Attorney

### 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.

### Detailed Analysis

#### 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>

#### Determining age and identity

The bill requires a person selling dextromethorphan to request proof of age and identity from the purchaser unless the purchaser's outward appearance is such that the person making

<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).

the sale can reasonably presume the purchaser is 25 or older. Proof that a person demanded, was shown, and reasonably relied on evidence of age and identity is a defense to criminal prosecution for violation of the bill's prohibition.<sup>3</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>4</sup>

## Qualified immunity

The bill provides that a retailer or an employee of a retailer is not liable for civil damages arising from failing to prevent the sale of dextromethorphan to a person under 18, unless the failure constitutes willful or wanton misconduct.<sup>5</sup>

## Penalty

The bill makes it a minor misdemeanor to violate its prohibition against supplying dextromethorphan to a person under 18.<sup>6</sup>

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## History

Action	Date
Introduced	02-12-19

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H0029-I-133/ks

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

<sup>4</sup> R.C. 2925.62(A)(2).

<sup>5</sup> R.C. 2925.62(D).

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