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H.B. 9
134th General Assembly

Final Analysis

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Version: As Passed by the General Assembly

Primary Sponsor: Rep. Koehler

Effective date: September 30, 2021

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UPDATED VERSION*

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.¹

The act prohibits a retailer that offers consumer products for sale to the general public, including a pharmacy,² 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.³

* This version updates the effective date.

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

² R.C. 2925.62(A)(3).

³ R.C. 2925.62(B).

Determining age and identity

The act 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 seller 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 act's prohibition.⁴

"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.⁵

Qualified civil immunity

The act 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.⁶

Penalty

The act makes it a minor misdemeanor to violate its prohibition against supplying dextromethorphan to a person under 18.⁷

HISTORY

Action	Date
Introduced	02-03-21
Reported, H. Health	02-23-21
Passed House (87-7)	02-25-21
Reported, S. Health	05-05-21
Passed Senate (33-0)	06-23-21

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⁴ R.C. 2925.62(C).

⁵ R.C. 2925.62(A)(2).

⁶ R.C. 2925.62(D).

⁷ R.C. 2925.62(E).