



Ohio Legislative Service Commission

Bill Analysis

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H.B. 197

131st General Assembly
(As Reported by H. Health and Aging)

Reps. Rezabek, T. Johnson, Sprague, M. O'Brien, Manning, Boose, Koehler, LaTourette, R. Smith, Huffman, Brown

BILL SUMMARY

- Prohibits a retailer or terminal distributor of dangerous drugs 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.

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.¹

The bill prohibits a retailer or terminal distributor of dangerous drugs, or an employee of a retailer or terminal distributor, from knowingly supplying, delivering, giving, or otherwise providing a drug, material, compound, mixture, preparation, or substance containing any quantity of dextromethorphan to a person under 18 in an over-the-counter sale without a prescription.²

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(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 bona fide evidence of majority and identity.³ Proof that a person demanded, was shown, and reasonably relied on bona fide evidence of majority and identity is a defense to criminal prosecution for violation of the bill's prohibition.⁴

"Bona fide 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

Use of age-verification technology at the point of sale

The bill requires that, to the extent feasible, persons that sell dextromethorphan or dextromethorphan-containing products in over-the-counter sales 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 bona fide evidence of majority and identity before a product containing dextromethorphan may be purchased.⁶

Penalty

The bill makes it a minor misdemeanor to violate its prohibition against supplying dextromethorphan to a person under 18.⁷ 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.⁸

³ R.C. 2925.62(C).

⁴ R.C. 2925.62(D).

⁵ R.C. 2925.62(A)(1).

⁶ R.C. 2925.62(F).

⁷ R.C. 2925.62(G).

⁸ R.C. 2925.62(E).

HISTORY

ACTION

DATE

Introduced
Reported, H. Health & Aging

05-11-15
10-07-15

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