

**Enrolled**  
**Senate Bill 743**

Sponsored by COMMITTEE ON HEALTH CARE

CHAPTER .....

AN ACT

Relating to dextromethorphan.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** (1) For purposes of this section and sections 2 and 3 of this 2017 Act, “finished drug product” means a drug marketed in accordance with federal Food and Drug Administration requirements that is in a finished dosage form.

(2)(a) A business that makes retail sales of a finished drug product containing dextromethorphan, or an employee of the business, may not sell or deliver the finished drug product to an individual who is 17 years of age or younger.

(b) An individual who is 17 years of age or younger may not purchase or receive a finished drug product containing dextromethorphan from a business that makes retail sales of the finished drug product.

(3)(a) Violation of subsection (2)(a) of this section:

(A) Is punishable by a warning from a law enforcement agency for the first violation.

(B) Is punishable by a specific fine violation in an amount not to exceed:

(i) \$150 for the second violation; and

(ii) \$250 for the third or subsequent violation.

(b) Violation of subsection (2)(b) of this section:

(A) Is punishable by a warning from a law enforcement agency for the first violation.

(B) Is punishable by a specific fine violation in an amount not to exceed \$50 for the second or subsequent violation.

(4) Subsection (2)(a) of this section does not apply to a business or an employee who sells or delivers a finished drug product containing dextromethorphan if:

(a) Based on the outward appearance of the individual to whom the finished drug product is sold or delivered, a person would reasonably presume that the individual is 25 years of age or older; or

(b) Before selling or delivering the finished drug product to an individual:

(A) The business or employee requires the individual to present one of the following pieces of identification:

(i) A passport;

(ii) A driver license, whether issued in this state or by another state;

(iii) An identification card issued under ORS 807.400;

(iv) An identification card issued by the United States military; or

(v) Any other identification card issued by a state that bears a picture of the individual, the name of the individual, the date of birth of the individual and a physical description of the individual;

(B) The piece of identification presented establishes that the individual is 18 years of age or older;

(C) The piece of identification presented accurately describes the individual; and

(D) If the piece of identification presented was falsified, a reasonable person would determine, upon inspecting the piece of identification under the same or similar circumstances, that the piece of identification was not altered and accurately describes the individual.

(5) This section does not apply to the sale, delivery, purchase or receipt of a finished drug product containing dextromethorphan if the finished drug product is sold or delivered pursuant to a valid prescription.

**SECTION 2.** Section 1 of this 2017 Act may not be construed to impose on a business that makes retail sales of a finished drug product containing dextromethorphan any compliance requirement other than manually obtaining and verifying proof of age as a condition of sale. For purposes of this section, compliance requirements include any requirement to place a finished drug product in a specific location within the business, any restriction on an individual's direct access to the finished drug product and any requirement to keep and maintain records of transactions involving the finished drug product.

**SECTION 3.** Any trade association representing manufacturers of over-the-counter finished drug products containing dextromethorphan must provide to any requesting business that makes retail sales a list of the finished drug products containing dextromethorphan marketed by the trade association's members. A business may make a request pursuant to this section only once per year.

**SECTION 4.** Except as expressly authorized by law, the authority to regulate the sale, delivery, purchase, receipt or possession of a product containing dextromethorphan in this state is vested solely in the Legislative Assembly.

Passed by Senate March 22, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 1, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

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Dennis Richardson, Secretary of State