

**A-Engrossed**  
**Senate Bill 743**

Ordered by the Senate March 20  
Including Senate Amendments dated March 20

Sponsored by COMMITTEE ON HEALTH CARE

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Creates violation prohibiting business that makes retail sales of product containing dextromethorphan, or employee of business, from selling or delivering product to individual 17 years of age or younger unless individual has valid prescription.

Creates violation prohibiting individual who is 17 years of age or younger from purchasing or receiving product containing dextromethorphan unless individual has valid prescription.

**Requires trade association representing manufacturers of over-the-counter finished drug products containing dextromethorphan to provide any requesting business that makes retail sales with list of finished drug products containing dextromethorphan marketed by trade association's members.**

Preempts local governments from further regulating sale, delivery, purchase, receipt or possession of product containing dextromethorphan[, *except as is necessary to enforce Act*].

**A BILL FOR AN ACT**

1  
2 Relating to dextromethorphan.

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

4 **SECTION 1. (1) For purposes of this section and sections 2 and 3 of this 2017 Act, "fin-**  
5 **ished drug product" means a drug marketed in accordance with federal Food and Drug Ad-**  
6 **ministration requirements that is in a finished dosage form.**

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

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

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

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

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

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

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

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

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

20 **(B) Is punishable by a specific fine violation in an amount not to exceed \$50 for the sec-**  
21 **ond or subsequent violation.**

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

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

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

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

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

7 (i) A passport;

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

9 (iii) An identification card issued under ORS 807.400;

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

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

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

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

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

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

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

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

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

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