

## SENATE AMENDMENTS TO SENATE BILL 743

By COMMITTEE ON HEALTH CARE

March 20

1 On page 1 of the printed bill, delete lines 4 through 28 and delete page 2 and insert:

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

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

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

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

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

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

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

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

16 **“(b) Violation of subsection (2)(b) of this section:**

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

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

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

22 **“(a) Based on the outward appearance of the individual to whom the finished drug prod-**  
23 **uct is sold or delivered, a person would reasonably presume that the individual is 25 years**  
24 **of age or older; or**

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

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

28 **“(i) A passport;**

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

30 **“(iii) An identification card issued under ORS 807.400;**

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

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

35 **“(B) The piece of identification presented establishes that the individual is 18 years of age**

1 or older;

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

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

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

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

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

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

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