

Requested by SENATE COMMITTEE ON HEALTH CARE

**PROPOSED AMENDMENTS TO
SENATE BILL 743**

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

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

7 **“(2)(a) A business that makes retail sales of a finished drug product**
8 **containing dextromethorphan, or an employee of the business, may**
9 **not sell or deliver the finished drug product to an individual who is**
10 **17 years of age or younger.**

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

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

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

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

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

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

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

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

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

5 “(4) Subsection (2)(a) of this section does not apply to a business
6 or an employee who sells or delivers a finished drug product contain-
7 ing dextromethorphan if:

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

11 “(b) Before selling or delivering the finished drug product to an in-
12 dividual:

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

15 “(i) A passport;

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

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

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

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

24 “(B) The piece of identification presented establishes that the indi-
25 vidual is 18 years of age or older;

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

28 “(D) If the piece of identification presented was falsified, a reason-
29 able person would determine, upon inspecting the piece of identifica-
30 tion under the same or similar circumstances, that the piece of

1 identification was not altered and accurately describes the individual.

2 “(5) This section does not apply to the sale, delivery, purchase or
3 receipt of a finished drug product containing dextromethorphan if the
4 finished drug product is sold or delivered pursuant to a valid pre-
5 scription.

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

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

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

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