

As Reported by the House Health Committee

132nd General Assembly

Regular Session

2017-2018

Sub. H. B. No. 73

Representatives Rezabek, Koehler

Cosponsors: Representatives Bishoff, Ginter, Johnson, LaTourette

A BILL

To enact section 2925.62 of the Revised Code to 1
prohibit sales of dextromethorphan without a 2
prescription to persons under age 18. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2925.62 of the Revised Code be 4
enacted to read as follows: 5

Sec. 2925.62. (A) As used in this section: 6

(1) "Dextromethorphan" means the dextrorotatory isomer of 7
3-methoxy-N-methylmorphinan, including its salts, but not 8
including its racemic or levorotatory forms. 9

(2) "Evidence of majority and identity" means a document 10
issued by the federal government or a state, county, or 11
municipal government, or a subdivision or agency of any of the 12
foregoing, including a driver's or commercial driver's license, 13
an identification card issued under sections 4507.50 to 4507.52 14
of the Revised Code, a military identification card, or any 15
other form of identification that bears the name, date of birth, 16
description, and picture of the person identified. 17

(3) "Retailer" means a place of business that offers 18
consumer products for sale to the general public, including such 19
a place of business that is licensed under Chapter 4729. of the 20
Revised Code as a terminal distributor of dangerous drugs. 21

(B) No retailer or employee of a retailer shall knowingly 22
supply, deliver, give, or otherwise provide a drug, material, 23
compound, mixture, preparation, or substance containing any 24
quantity of dextromethorphan through the sale of any product to 25
a person under eighteen years of age, unless the person has a 26
prescription for the product being purchased. 27

(C) It shall be prima facie evidence of a violation of 28
division (B) of this section if the person making the sale does 29
not require and obtain evidence of majority and identity from 30
the purchaser, unless from the purchaser's outward appearance 31
the person making the sale would reasonably presume the 32
purchaser to be twenty-five years of age or older. 33

(D) Proof that a person demanded, was shown, and acted in 34
reasonable reliance on evidence of majority and identity is a 35
defense to any criminal prosecution for a violation of division 36
(B) of this section. 37

(E) A retail clerk who fails to require and obtain proof 38
of age from the purchaser is not guilty of a violation of 39
division (B) of this section and is not subject to any penalties 40
for the failure, unless the retail clerk is a willful 41
participant in an ongoing conspiracy to violate division (B) of 42
this section. 43

(F) To the extent feasible, a retailer that sells products 44
containing dextromethorphan without a prescription shall use a 45
cash register that is equipped with an age-verification feature 46

to monitor age-restricted items. The cash register shall be 47
programmed to direct a retail clerk making a sale to request 48
evidence of majority and identity before a product containing 49
dextromethorphan may be purchased. 50

(G) A retailer or employee of a retailer is not liable for 51
damages in a civil action for injury, death, or loss to person 52
or property that allegedly arises from an act or omission 53
associated with a failure to prevent the sale of 54
dextromethorphan to a person under eighteen years of age, unless 55
the act or omission constitutes willful or wanton misconduct. 56

(H) Whoever violates division (B) of this section is 57
guilty of a minor misdemeanor. 58