

The House Committee on Regulated Industries offers the following substitute to HB 775:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 12 of Title 31 of the Official Code of Georgia Annotated, relating to the control of hazardous conditions, preventable diseases, and metabolic disorders, so as to provide for restrictions on the sale and dispensing of spectacles; to provide for definitions; to provide for violations; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 12 of Title 31 of the Official Code of Georgia Annotated, relating to the control of hazardous conditions, preventable diseases, and metabolic disorders, is amended by revising Code Section 31-12-12, relating to restrictions on the sale or dispensing of contact lenses, as follows:

"31-12-12.

(a) As used in this Code section, the term:

(1) 'Contact lens' means any lens placed directly on the surface of the eye, regardless of whether or not it is intended to correct a visual defect. Contact lens includes, but is not limited to, any cosmetic, therapeutic, or corrective lens.

(2) 'Dispense' means the act of furnishing spectacles or contact lenses to an individual.

(3) 'Eye examination' means an in-person assessment, which includes telemedicine at a physician's office or optometrist's office or in a hospital setting or hospital health system setting in accordance with the applicable standard of care, of the ocular health and visual status of an individual that does not consist of solely objective refractive data or information generated by an automated testing device, including an autorefractor or kiosk, in order to establish a medical diagnosis or for the establishment of refractive error.

(4) 'Kiosk' means automatic equipment or application designed to be used on a telephone, a computer, or an Internet based device that can be used either in person or remotely to conduct an eye examination.

(5) 'Over-the-counter spectacles' means eyeglasses or lenses in a frame for the correction of vision that may be sold by any person, firm, or corporation at retail without a prescription; these spectacles shall not exceed +3.25 diopters.

(6) 'Prescription' means an optometrist's or ophthalmologist's handwritten or electronic order based on an eye examination that corrects refractive error.

(7) 'Spectacles' means an optical instrument or device worn or used by an individual that has one or more lenses designed to correct or enhance vision addressing the visual needs of the individual wearer, commonly known as glasses or eyeglasses, including spectacles that may be adjusted by the wearer to achieve different types of visual correction or enhancement. Spectacles does not include an optical instrument or device that is not intended to correct or enhance vision or that is sold without consideration of the visual status of the individual who will use the optical instrument or device. Spectacles does not include over-the-counter spectacles.

~~(a)~~(b)(1)(A) No person in this state shall sell, dispense, or serve as a conduit for the sale or dispensing of contact lenses or spectacles to the ultimate user of such contact lenses or spectacles except persons licensed and regulated by Chapter 29, 30, or 34 of Title 43.

(B) No person in this state shall write a prescription for contact lenses or spectacles except persons licensed and regulated by Chapter 30 or 34 of Title 43.

(C) No person in this state shall write a prescription for contact lenses or spectacles unless an eye examination is performed. The prescription shall take into consideration any medical findings and any refractive error discovered during the eye examination.

(2) Any person who violates a subparagraph of paragraph (1) of this subsection one or two times shall upon conviction be guilty of a misdemeanor and punished by imprisonment for up to one year or by a fine not to exceed \$1,000.00 or by both such fine and imprisonment. Any person who violates a subparagraph of paragraph (1) of this subsection three or more times shall upon conviction be guilty of a felony and punished by imprisonment for one to five years or by a fine not to exceed \$10,000.00 or by both such fine and imprisonment.

~~(b)~~(c) All contact lenses used in the determination of a contact lens prescription are considered to be diagnostic lenses. After the diagnostic period and the contact lenses have been adequately fitted and the patient released from immediate follow-up care by persons licensed and regulated by Chapter 29, 30, or 34 of Title 43, the prescribing optometrist or ophthalmologist shall, upon the request of the patient, at no cost, provide a prescription in writing for replacement contact lenses. A person shall not dispense or adapt contact lenses or spectacles without first receiving authorization to do so by a written prescription, except

when authorized orally to do so by a person licensed and regulated by Chapter 30 or 34 of Title 43.

~~(c)~~(d) Patients who comply with such fitting and follow-up requirements as may be established by the prescribing optometrist or ophthalmologist may obtain replacement contact lenses until the expiration date listed on the prescription from a person who may lawfully dispense contact lenses under subsection ~~(a)~~(b) of this Code section.

~~(d)~~(e) A prescriber may refuse to give the patient a copy of the patient's prescription until the patient has paid for all services rendered in connection with the prescription.

~~(e)~~(f) No replacement contact lenses may be sold or dispensed except pursuant to a prescription which:

(1) Conforms to state and federal regulations governing such forms and includes the name, address, and state licensure number of a prescribing practitioner;

(2) Explicitly states an expiration date of not more than 12 months from the date of the last prescribing contact lens examination, unless a medical or refractive problem affecting vision requires an earlier expiration date;

(3) Explicitly states the number of refills;

(4) Explicitly states that it is for contact lenses and indicates the lens brand name and type, including all specifications necessary for the ordering or fabrication of lenses; and

(5) Is kept on file by the person selling or dispensing the replacement contact lenses for at least 24 months after the prescription is filled.

~~(f)~~(g) Anyone who fills a prescription bears the full responsibility of the accuracy of the contact lenses or spectacles provided under the prescription. At no time, without the direction of a prescriber, shall any changes or substitutions be made in the brand or type of lenses the prescription calls for with the exceptions of tint change if requested by the patient. However, if a prescription specifies 'only' a specific color or tinted lens, those instructions shall be observed.

~~(g)~~(h) All sales of and prescriptions for contact lenses in this state shall conform to the federal Fairness to Contact Lens Consumers Act, P.L. 108-164, 15 U.S.C.A. Section 7601, et seq. The provisions of this Code section shall be construed in aid of and in conformity with said federal act.

~~(h)~~(i) Civil proceedings to enforce the provisions of this Code section may be brought by any board created under Chapter 29, 30, or 34 of Title 43 or by any other interested person through injunction or other appropriate remedy."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.