

House Bill 981

By: Representatives Burmeister of the 96th, Gardner of the 42nd, Post 3, Drenner of the 57th,
Reece of the 21st, Massey of the 24th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 31 of the Official Code of Georgia Annotated, relating to
2 control of hazardous conditions, preventable diseases, and metabolic disorders, so as to
3 provide for the comprehensive revision of provisions regarding the sale or dispensing of
4 contact lenses; to provide that contact lenses may be sold or dispensed in this state only by
5 licensed providers; to provide that contact lenses may be sold or dispensed into this state
6 from outside the state only by providers who are licensed where they are located; to provide
7 for violations and for civil and criminal enforcement; to change provisions relating to the
8 duties and obligations of contact lens prescribers and provide for certain immunity for such
9 providers; to change certain provisions relating to prescriptions; to provide for related
10 matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Chapter 12 of Title 31 of the Official Code of Georgia Annotated, relating to control of
14 hazardous conditions, preventable diseases, and metabolic disorders, is amended by striking
15 Code Section 31-12-12, relating to restrictions on sale or dispensing of contact lenses, and
16 inserting in its place a new Code Section 31-12-12 to read as follows:

17 "31-12-12.

18 (a)(1) No person in this state shall sell, dispense, or serve as a conduit for the sale or
19 dispensing of ~~the first set of~~ contact lenses ~~issued pursuant to a prescription~~ to the
20 ultimate user of such contact lenses ~~in this state~~, except persons licensed and regulated
21 by Chapter 29, 30, or 34 of Title 43. ~~Such lenses are deemed sold or dispensed within the~~
22 ~~state at the time the person for whom prescribed takes delivery.~~

23 (2) No person outside this state shall sell or dispense contact lenses by mail or other
24 shipment or delivery to the ultimate user of contact lenses in this state unless such person
25 is licensed to dispense contact lenses under the laws of the state or jurisdiction where
26 such person is located.

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

4 (b) All contact lenses used in the determination of a contact lens prescription are
 5 considered to be diagnostic lenses. After the diagnostic period and the contact lenses have
 6 been adequately fitted and the patient released from immediate follow-up care by persons
 7 licensed and regulated by Chapter 29, 30, or 34 of Title 43, the prescribing optometrist or
 8 ophthalmologist shall, upon the request of the patient, at no cost, provide a prescription in
 9 writing for replacement contact lenses. A person shall not dispense or adapt contact lenses
 10 without first receiving authorization to do so by a written prescription, except when
 11 authorized orally to do so by a person licensed and regulated by Chapter 30 or 34 of Title
 12 43.

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

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

19 (e) A prescriber shall have no liability whatsoever for the improper filling of a proper
 20 prescription filled by a person other than the prescriber.

21 (f) A prescriber who is requested to validate a prescription by a person authorized under
 22 subsection (a) of this Code section to fill the prescription shall do so within seven business
 23 days on which the prescribing doctor's office is open after the request. No verification
 24 shall be provided unless the patient has designated the person requesting the prescription
 25 to act on the patient's behalf. Under no circumstance, however, shall a nonresponse to a
 26 request for validation be deemed to constitute a validation.

27 (g) No (e) Except for replacement contact lenses sold or dispensed by persons licensed
 28 and regulated by and operating pursuant to Chapter 29, 30, or 34 of Title 43, no
 29 replacement contact lenses may be sold or dispensed except pursuant to a prescription
 30 which:

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

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

36 (3) Explicitly states the number of refills;

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

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

5 ~~(f) Except for persons licensed and regulated by Chapter 29, 30, or 34 of Title 43, any~~
6 ~~person, firm, or corporation that dispenses or sells contact lenses on the prescription of a~~
7 ~~practitioner licensed in this state shall, at the time of delivery of the lenses, inform the~~
8 ~~recipient in writing that he or she should return to a prescriber to ascertain the accuracy and~~
9 ~~suitability of the prescribed lenses. The prescriber shall not be responsible for any damages~~
10 ~~or injury resulting from negligence in packaging or manufacturing of the prescribed lenses.~~

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

17 ~~(h) No person, other than persons licensed and regulated by Chapter 29, 30, or 34 of Title~~
18 ~~43, shall sell, dispense, or serve as a conduit for the sale or dispensing of contact lenses to~~
19 ~~the ultimate user of such contact lenses in this state through the mail or any other means~~
20 ~~other than direct, in-person delivery to such ultimate user by such person after having~~
21 ~~personally ascertained by reliable means the identity of the deliverer.~~

22 ~~(i) Any person who violates the provisions of subsection (a) or (e) of this Code section~~
23 ~~shall be guilty of a misdemeanor of a high and aggravated nature.~~

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

27 SECTION 2.

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