

The Senate Health and Human Services Committee offered the following substitute to HB 457:

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 13 of Title 16 and Title 26 of the Official Code of Georgia Annotated, relating to controlled substances and pharmacists and food, drugs, and cosmetics, respectively, so as to adopt and incorporate all drug-free commercial zones which have been adopted by municipal or county ordinance and entered in the register of the Department of Community Affairs through a certain date; to authorize the use of remote automated medication systems; to provide for a definition; to provide for the establishment of regulations and minimum standards by the State Board of Pharmacy; to authorize pharmacists to dispense prescriptions through a remote automated medication system; to provide that a remote automated medication system shall not be considered a vending machine for certain purposes; to change the definition of "food service establishment"; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled substances, is amended by revising subsection (f) of Code Section 16-13-32.6, relating to manufacturing, distributing, dispensing, or possessing with intent to distribute controlled substance or marijuana in, on, or within drug-free commercial zone, as follows:

"(f) The General Assembly hereby adopts and incorporates into this Code section all drug-free commercial zones which have been adopted by municipal or county ordinance and entered in the register of the Department of Community Affairs as provided for in subsection (d) of this Code section on or before ~~March 10, 2004~~ March 28, 2011."

**SECTION 2.**

Said chapter is further amended by revising Code Section 16-13-41, relating to prescriptions, by adding a new subsection to read as follows:

26 "(i)(1) Pharmacists may dispense prescriptions from a remote location for the benefit of  
27 an institution that uses a remote automated medication system in accordance with the  
28 requirements set forth in the rules and regulations adopted by the State Board of  
29 Pharmacy pursuant to paragraph (12.1) of subsection (a) of Code Section 26-4-28.  
30 (2) As used in this subsection, the term 'institution' means a skilled nursing facility or a  
31 hospice licensed as such under Chapter 7 of Title 31."

### 32 **SECTION 3.**

33 Said chapter is further amended by revising Code Section 16-13-75, relating to drugs to be  
34 kept in the original container, as follows:

35 "16-13-75.

36 (a) Possession and control of controlled substances or dangerous drugs by anyone other  
37 than the individuals specified in Code Section 16-13-35 or 16-13-72 shall be legal only if  
38 such drugs are in the original container in which they were dispensed by the pharmacist or  
39 the practitioner of the healing arts and are labeled according to Code Section 26-3-8.

40 (b) The possession, filling, and use of canisters for remote automated medication systems  
41 pursuant to subsection (i) of Code Section 16-13-41 shall not be considered a violation of  
42 this Code section."

### 43 **SECTION 4.**

44 Title 26 of the Official Code of Georgia Annotated, relating to food, drugs, and cosmetics,  
45 is amended by revising Code Section 26-2-370, relating to definitions, as follows:

46 "26-2-370.

47 As used in this article, the term:

48 (1) 'Food nutrition information' means the content of food including, but not limited to,  
49 the caloric, fat, carbohydrate, cholesterol, fiber, sugar, potassium, protein, vitamin,  
50 mineral, and sodium content.

51 (2) 'Food service establishment' means establishments for the preparation and serving of  
52 meals, lunches, short orders, sandwiches, frozen desserts, or other edible products either  
53 for carry out or service within the establishment. The term includes restaurants; coffee  
54 shops; cafeterias; short order cafes; luncheonettes; taverns; lunchrooms; places which  
55 retail sandwiches or salads; soda fountains; institutions, both public and private; food  
56 carts; itinerant restaurants; industrial cafeterias; catering establishments; and similar  
57 facilities by whatever name called. Within a food service establishment, there may be a  
58 food sales component, not separately operated. This food sales component shall be  
59 considered as part of the food service establishment. This term shall not include a 'food  
60 sales establishment,' as defined in Code Section 26-2-21, except as stated in this

definition. The food service component of any food sales establishment defined in Code Section 26-2-21 shall not be included in this definition. This term shall not include any outdoor recreation activity sponsored by the state, a county, a municipality, or any department or entity thereof, any outdoor or indoor (other than school cafeteria food service) public school function, or any outdoor private school function. This term also shall not mean establishments for the preparation and serving of meals, lunches, short orders, sandwiches, frozen desserts, or other edible products if such preparation or serving is an authorized part of and occurs upon the site of a fair or festival which:

(A) Is sponsored by a political subdivision of this state or by an organization exempt from taxes under paragraph (1) of subsection (a) of Code Section 48-7-25 or under Section 501(d) or paragraphs (1) through (8) or paragraph (10) of Section 501(c) of the Internal Revenue Code, as that code is defined in Code Section 48-1-2;

(B) Lasts 120 hours or less; and

(C) When sponsored by such an organization, is authorized to be conducted pursuant to a permit issued by the municipality or county in which it is conducted.

(3) 'Person' or 'persons' means any individual, firm, partnership, corporation, trustee, or association, or combination thereof."

## SECTION 5.

Said title is further amended by revising Code Section 26-4-5, relating to definitions, by adding a new paragraph to read as follows:

"(37.1) 'Remote automated medication system' means an automated mechanical system that is located in a skilled nursing facility or hospice licensed as such pursuant to Chapter 7 of Title 31 that does not have an on-site pharmacy and in which medication may be dispensed in a manner that may be specific to a patient."

## SECTION 6.

Said title is further amended by revising Code Section 26-4-28, relating to the powers, duties, and authority of the State Board of Pharmacy, by adding a new paragraph to subsection (a) to read as follows:

"(12.1) The licensure for the use of remote automated medication systems and the regulation and establishment of minimum standards for the use and operation of remote automated medication systems to ensure safe and efficient dispensing, including, but not limited to, appropriate security measures, requirements for skilled nursing facilities and hospices that utilize such systems, training requirements, accuracy and quality assurance measures, recordkeeping requirements, and such other appropriate requirements as

95 determined by the board. The board shall establish rules and regulations to implement  
96 the requirements of this paragraph no later than December 31, 2011;”

97 **SECTION 7.**

98 Said chapter is further amended by revising Code Section 26-4-80, relating to dispensing  
99 prescription drugs, by adding a new subsection to read as follows:

100 “(p) Pharmacists dispensing prescriptions pursuant to a remote automated medication  
101 system in accordance with the rules and regulations adopted by the State Board of  
102 Pharmacy pursuant to paragraph (12.1) of subsection (a) of Code Section 26-4-28 shall be  
103 considered in compliance with this Code section.”

104 **SECTION 8.**

105 Said chapter is further amended by revising Code Section 26-4-89, relating to the prohibition  
106 on selling drugs in vending machines, as follows:

107 “26-4-89.

108 (a) Any person who shall sell or dispense drugs by the use of vending machines shall be  
109 guilty of a misdemeanor.

110 (b) A remote automated medication system shall not be considered a vending machine for  
111 purposes of this Code section.”

112 **SECTION 9.**

113 This Act shall become effective upon its approval by the Governor or upon its becoming law  
114 without such approval.

115 **SECTION 10.**

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