

SENATE SUBSTITUTE TO HB 457

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

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

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

14 Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled
 15 substances, is amended by revising subsection (f) of Code Section 16-13-32.6, relating to
 16 manufacturing, distributing, dispensing, or possessing with intent to distribute controlled
 17 substance or marijuana in, on, or within drug-free commercial zone, as follows:
 18

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

SECTION 2.

23 Said chapter is further amended by revising Code Section 16-13-41, relating to prescriptions,
 24 by adding a new subsection to read as follows:
 25

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

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

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

73 (B) Lasts 120 hours or less; and

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

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

78 **SECTION 5.**

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

81 "(37.1) 'Remote automated medication system' means an automated mechanical system
 82 that is located in a skilled nursing facility or hospice licensed as such pursuant to Chapter
 83 7 of Title 31 that does not have an on-site pharmacy and in which medication may be
 84 dispensed in a manner that may be specific to a patient."

85 **SECTION 6.**

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

89 "(12.1) The licensure for the use of remote automated medication systems and the
 90 regulation and establishment of minimum standards for the use and operation of remote
 91 automated medication systems to ensure safe and efficient dispensing, including, but not
 92 limited to, appropriate security measures, requirements for skilled nursing facilities and
 93 hospices that utilize such systems, training requirements, accuracy and quality assurance
 94 measures, recordkeeping requirements, and such other appropriate requirements as

95 determined by the board. The board may establish rules and regulations to implement the
96 requirements of this paragraph."

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
105 **SECTION 8.**

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

108 "26-4-89.

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

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

113 **SECTION 9.**

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

116 **SECTION 10.**

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