

House Bill 775 (AS PASSED HOUSE AND SENATE)

By: Representatives Ehrhart of the 36<sup>th</sup> and Meadows of the 5<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

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

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

12 "31-12-12.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

78 (3) Explicitly states the number of refills;

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

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

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

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

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

96 **SECTION 2.**

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