

Senate Bill 153

By: Senators Brass of the 28th, Mullis of the 53rd, Watson of the 1st, Hill of the 4th, Henson of the 41st and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 20 of Title 43 of the Official Code of Georgia Annotated, relating to
2 hearing aid dealers and dispensers, so as to provide for the sale of over-the-counter hearing
3 aids under certain conditions; to provide for definitions; to prohibit the selling of
4 over-the-counter hearing aids to individuals under 18 years of age; to provide for the
5 promulgation of rules and regulations by the State Board of Hearing Aid Dealers and
6 Dispensers; to provide for related matters; to repeal conflicting laws; and for other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 Chapter 20 of Title 43 of the Official Code of Georgia Annotated, relating to hearing aid
10 dealers and dispensers, is amended by revising Code Section 43-20-7, relating to license
11 required, scope of authority of license holders, and issuance of duplicate licenses, as follows:
12 "43-20-7.

13 (a) ~~It is~~ Except as provided in Code Section 43-20-19.1, it shall be unlawful for any person
14 or firm to engage in the practice of dispensing hearing aids, as defined in this chapter, in
15 this state without having a valid license issued under this chapter.

16 (b) No person or firm, except those exempted in Code ~~Section~~ Sections 43-20-19
17 and 43-20-19.1, shall engage in the practice of dispensing hearing aid devices or
18 instruments or display a sign or in any way advertise or represent himself or herself or any
19 firm as practicing the dispensing of hearing aid devices or instruments in this state unless
20 such person holds an unsuspended, unrevoked license issued by the board.

21 (c) A dispenser's license issued under this chapter shall entitle the holder to dispense
22 hearing aid devices or instruments under the supervision of a licensed dealer.

23 (d) The dealer's license issued under this chapter shall permit and require the holder to
24 establish and operate an establishment open to the public for the purpose of dispensing
25 hearing aids and providing follow-up services.

26 (e) Except as provided in Code Section 43-20-19.1, no ~~No~~ firm shall engage in the practice
 27 of dispensing hearing aid devices or instruments or display a sign or in any way advertise
 28 or represent itself as dispensing hearing aid devices or instruments in this state unless each
 29 office or location is staffed by a person who holds a valid dispenser's license issued under
 30 this chapter.

31 (f) Duplicate dealers' licenses shall be issued by the division director on behalf of the
 32 board to valid license holders operating more than one office or place of practice upon the
 33 payment of an additional dealer's license fee for each location, provided that each such
 34 location shall be staffed and supervised by a person holding a valid dispenser's license
 35 issued under this chapter."

36 SECTION 2.

37 Said chapter is further amended by adding a new Code section to read as follows:

38 "43-20-19.1.

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

40 (1) 'Air-conduction hearing aid' means a wearable sound-amplifying device intended to
 41 compensate for impaired hearing.

42 (2) 'Over-the-counter hearing aid' means a hearing aid that:

43 (A) Uses the same fundamental scientific technology as an air-conduction hearing aid
 44 or a wireless air-conduction hearing aid;

45 (B) Has been approved for use by the United States Food and Drug
 46 Administration;

47 (C) Is manufactured by a manufacturer that is registered with the United States Food
 48 and Drug Administration;

49 (D) Has the capacity for the volume to be adjusted by the end user; and

50 (E) Is intended to be used by adults to compensate for mild to moderate hearing
 51 impairment.

52 (3) 'Wireless air-conduction hearing aid' shall have the same meaning as provided
 53 in 21 C.F.R. Section 874.3305 and any rules and regulations promulgated thereunder, as
 54 such existed on June 30, 2017.

55 (b) Notwithstanding any other provision of law, any person, firm, corporation,
 56 partnership, trust, association, or like organization or any other entity that employs as an
 57 employee or independent contractor one or more persons licensed under this chapter as
 58 a hearing aid dispenser or licensed under Chapter 44 of this title as an audiologist may
 59 sell an over-the-counter hearing aid, provided that:

60 (1) The over-the-counter hearing aid is not sold or otherwise furnished to an individual
 61 who is under 18 years of age.

62 (2) The purchaser of the over-the-counter hearing aid provides proof that he or she has
63 obtained an audiogram administered within the past six months. Such proof shall be
64 maintained by the seller for seven years; and

65 (3) All marketing material for any such over-the-counter hearing aid clearly reflects that
66 such product is an 'over-the-counter hearing aid' as such term is defined in this Code
67 section and does not market the product as any other type of hearing aid or device.

68 (c) The board may adopt such rules and regulations as may be reasonable and necessary
69 to enforce this Code section, provided that such rules and regulations are not in conflict
70 with the provisions of this Code section and do not interfere with the sale of
71 over-the-counter hearing aids as allowed under this Code section."

72 **SECTION 3.**

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