Senate Bill 513

By: Senators Balfour of the 9th, Price of the 56th, Hamrick of the 30th, Hall of the 22nd, Kemp of the 46th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 12 of Title 31 of the Official Code of Georgia Annotated, relating to control of hazardous conditions, preventable diseases, and metabolic disorders, so as to provide for the revision of provisions regarding the sale or dispensing of contact lenses; to provide that contact lenses may be sold or dispensed in this state only by licensed providers; to provide for violations and for civil and criminal enforcement; to change provisions relating to the duties and obligations of contact lens prescribers; to change certain provisions relating to prescriptions; to provide for conformity with federal law; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"31-12-12.

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

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

(b) All contact lenses used in the determination of a contact lens prescription are considered to be diagnostic lenses. After the diagnostic period and the contact lenses have been adequately fitted and the patient released from immediate follow-up care by persons licensed and regulated by Chapter 29, 30, or 34 of Title 43, the prescribing optometrist or

ophthalmologist shall, upon the request of the patient, at no cost, provide a prescription in writing for replacement contact lenses. A person shall not dispense or adapt contact lenses without first receiving authorization to do so by a written prescription, except when authorized orally to do so by a person licensed and regulated by Chapter 30 or 34 of Title 43.

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

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

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

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

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

(3) Explicitly states the number of refills;

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

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

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

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

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

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

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

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

SECTION 2.

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