

The Senate Committee on Health and Human Services offered the following substitute to SB 153:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 20 of Title 43 of the Official Code of Georgia Annotated, relating to hearing aid dealers and dispensers, so as to exempt certain activities related to the manufacture and sale of certain over-the-counter hearing aids from the applicability of said chapter; to provide for definitions; to prohibit the selling of over-the-counter hearing aids to individuals under 18 years of age; to provide for a criminal penalty; 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 20 of Title 43 of the Official Code of Georgia Annotated, relating to hearing aid dealers and dispensers, is amended by revising Code Section 43-20-7, relating to license required, scope of authority of license holders, and issuance of duplicate licenses, as follows:
"43-20-7.

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

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

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

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

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

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

SECTION 2.

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

"43-20-19.1.

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

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

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

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

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

(C) Is manufactured by a manufacturer that has been approved by the United States Food and Drug Administration;

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

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

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

(b) Nothing in this chapter shall be construed to prohibit any person from manufacturing or selling an over-the-counter hearing aid, provided that:

(1) The purchaser of the over-the-counter hearing aid shall provide proof that he or she has obtained an audiogram administered within the past six months from an audiologist licensed under Chapter 44 of Title 43 or a hearing aid dealer or hearing aid dispenser prior to purchasing the over-the-counter hearing aid; and

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

63 (B) In any case where a reasonable or prudent person could reasonably be in doubt as
64 to whether or not the person to whom an over-the-counter hearing aid is to be sold or
65 otherwise furnished is actually 18 years of age or older, it shall be the duty of the
66 person selling or otherwise furnishing such over-the-counter hearing aid to request to
67 see and to be furnished with proper identification in order to verify the age of such
68 person. The failure to make such request and verification in any case where the person
69 to whom the over-the-counter hearing aid is sold or otherwise furnished is less than 18
70 years of age may be considered by the trier of fact in determining whether the person
71 selling or otherwise furnishing such over-the-counter hearing aid did so knowingly.

72 (C) Any person who violates this paragraph shall be guilty of a misdemeanor.

73 (c) All marketing material shall reflect that any product sold pursuant to this Code section
74 clearly reflects that such product is an over-the-counter hearing aid as defined under this
75 Code section."

76 **SECTION 3.**

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