

SECOND REGULAR SESSION

SENATE BILL NO. 1100

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDDLE.

Read 1st time March 1, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6779S.02I

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to the sale of vision correction devices, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto one new
2 section, to be known as section 407.1630, to read as follows:

407.1630. 1. For the purposes of this section, the following terms
2 **shall mean:**

3 (1) "Assessment mechanism", automated or virtual equipment,
4 application, or technology designed to be used on a telephone,
5 computer, or through the internet that can be used either in person or
6 remotely to conduct an examination of an individual's eyes. The term
7 "assessment mechanism" shall not include artificial intelligence devices
8 and any equipment, electronic or nonelectronic, used to perform a self-
9 administered eye assessment;

10 (2) "Board", the Missouri state board of optometry;

11 (3) "Director", the director of the department of insurance,
12 financial institutions and professional registration;

13 (4) "Person", an individual, corporation, trust, partnership,
14 incorporated or unincorporated association, or any other legal entity;

15 (5) "Prescription", a handwritten or electronic order issued by a
16 licensed optometrist or physician based on an in-person eye
17 examination or its equivalent through telehealth, as defined in section
18 191.1145;

19 (6) "Seller", an individual or entity that sells contact lenses or
20 prescription aid glasses and dispenses them to Missouri residents in
21 any manner, including mail-order sellers that utilize the U.S. Postal

22 Service or another common carrier.

23 2. No person located outside of Missouri shall ship, mail, deliver,
24 or sell contact lenses or prescription aid glasses to a patient at a
25 Missouri address unless such person is:

26 (1) Registered with the board; and

27 (2) In possession of a valid prescription for contact lenses or
28 prescription aid glasses for such patient.

29 3. The board shall require and provide for the annual
30 registration of all sellers located outside of the state of Missouri that
31 dispense contact lenses or prescription aid glasses to Missouri
32 residents, including those that sell contact lenses and prescription aid
33 glasses over the internet. The board, in cooperation with the Missouri
34 attorney general, shall promulgate rules regarding registration,
35 including, but not limited to, the following:

36 (1) Proof that the seller is licensed or registered to distribute
37 contact lenses or prescription aid glasses in the state in which the
38 seller is located and from which the contact lenses and prescription aid
39 glasses are distributed;

40 (2) A certification that the seller shall maintain records of
41 contact lenses and prescription aid glasses dispensed to residents of
42 this state for a period of ten years, and that the records shall be readily
43 available for inspection by the board or the attorney general; and

44 (3) Proof that the seller's license or registration with the state
45 in which it is licensed or registered is in good standing and that the
46 seller is not the subject of any investigation undertaken by the
47 licensing or registering state.

48 4. No person shall operate an assessment mechanism to conduct
49 an eye assessment or to generate a prescription for contact lenses or
50 prescription aid glasses to a patient at a Missouri residence unless:

51 (1) Diagnostic information and data, including photographs and
52 scans, gathered by the assessment mechanism are read and interpreted
53 by a licensed optometrist or physician;

54 (2) The licensed optometrist or physician who reads and
55 interprets the diagnostic information and data, including photographs
56 and scans, gathered by the assessment mechanism has an established
57 doctor-patient relationship with the patient and has performed at least
58 one in-person comprehensive eye health examination with the patient;

59 (3) The assessment mechanism prominently displays the name
60 and state license number of the optometrist or physician who will read
61 and interpret the diagnostic information and data, including
62 photographs and scans;

63 (4) The licensed optometrist or physician utilizing an assessment
64 mechanism shall provide a handwritten or electronic signature
65 certifying his or her evaluation, treatment, prescription, or
66 consultation recommendations of the patient;

67 (5) The patient has received an in-person comprehensive eye
68 health examination by a licensed optometrist or physician at least
69 every two years, unless otherwise specified by the optometrist or
70 physician; and

71 (6) Any other requirements as promulgated by rule under this
72 section.

73 5. Any person who dispenses, offers to dispense, or attempts to
74 dispense contact lenses or prescription aid glasses in violation of this
75 section or the rules jointly promulgated by the board and the attorney
76 general concerning the dispensing of contact lenses or prescription aid
77 glasses shall, in addition to any other penalty provided by law, pay a
78 fine to the state in an amount not to exceed fifteen thousand dollars for
79 each violation.

80 6. For the purpose of any investigation or proceeding relating to
81 a violation of the provisions of this section or the rules jointly
82 promulgated by the board and the attorney general, the director or any
83 officer designated by him or her or the attorney general or any officer
84 designated by him or her may administer oaths and affirmations,
85 subpoena witnesses, compel their attendance, take testimony, require
86 answers to written interrogatories and require production of any
87 books, papers, correspondence, memoranda, agreements or other
88 documents or records which the director or the attorney general deem
89 relevant and material to the inquiry.

90 7. The board and attorney general shall jointly promulgate rules
91 to assist in the implementation of this section. Any rule or portion of
92 a rule, as that term is defined in section 536.010, that is created under
93 the authority delegated in this section shall become effective only if it
94 complies with and is subject to all of the provisions of chapter 536, and,
95 if applicable, section 536.028. This section and chapter 536 are

96 nonseverable, and if any of the powers vested with the general
97 assembly pursuant to chapter 536 to review, to delay the effective date,
98 or to disapprove and annul a rule are subsequently held
99 unconstitutional, then the grant of rulemaking authority and any rule
100 proposed or adopted after August 28, 2018, shall be invalid and void.

✓

Unofficial

Bill

Copy