

Amendment No. 683

Assembly Amendment to Senate Bill No. 106 First Reprint (BDR 54-543)

Proposed by: Assembly Committee on Commerce and Labor

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

JDK/EWR



Date: 5/23/2023

S.B. No. 106—Revises provisions relating to ophthalmic dispensing.  
(BDR 54-543)





SENATE BILL NO. 106—SENATORS SEEVERS GANSERT;  
AND D. HARRIS

PREFILED FEBRUARY 3, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to ophthalmic dispensing.  
(BDR 54-543)FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to ophthalmic dispensing; exempting the sale of prescription eyewear to intended wearers outside this State from provisions regulating ophthalmic dispensing ~~for~~ under certain circumstances; authorizing the imposition of certain administrative action and injunctive relief for certain violations; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

~~{Existing law requires a person to hold a license as a dispensing optician issued by the Board of Dispensing Opticians in order to engage in the practice of ophthalmic dispensing in this State. (NRS 637.090) Existing law defines "ophthalmic dispensing" as the design, verification and delivery to the intended wearer of lenses, frames and other specially fabricated optical devices upon prescription. (NRS 637.022)}~~

Existing law exempts certain activity from provisions of law governing ophthalmic dispensing. (NRS 637.025) Section 9 of this bill additionally exempts from such provisions the manufacturing and direct online sale of lenses, frames and other specially fabricated optical devices upon prescription eyewear to an intended wearer who is located outside this State at the time of purchase, if the manufacturing for other activity in conjunction with such is supervised by a sale licensed dispensing optician. Section 9 requires such supervision to include a daily review of all optical manufacturing equipment by the licensed dispensing optician. Section 9 requires a person engaged in such manufacturing and direct online sale to confirm that lenses shipped to the intended wearer match the relevant prescription, as submitted by the intended wearer.

Existing law authorizes the imposition of disciplinary action and the issuance of an injunction against a person who is licensed to engage in the practice of ophthalmic dispensing or manage a business engaged in ophthalmic dispensing and violates certain provisions of law governing ophthalmic dispensing. (NRS 637.150, 637.185) Existing law also provides that such a person is guilty of a misdemeanor. (NRS 637.200) Section 9 provides that such a licensee is subject to disciplinary action and injunctive relief if the licensee: (1) is engaged in activity which, under the provisions of section 9, is otherwise exempt from provisions governing ophthalmic dispensing; and (2) fails to comply with section 9 or, alternatively, with other provisions governing ophthalmic dispensing.

Existing law prohibits a person from engaging in the practice of ophthalmic dispensing or managing a business engaged in ophthalmic dispensing without a license.

(NRS 637.090) Existing law provides that a person who violates that prohibition is guilty of a misdemeanor and subject to an administrative fine and injunctive relief. (NRS 637.181, 637.185, 637.200) Section 9 provides that an unlicensed person is subject to such an administrative fine and injunctive relief if the person: (1) is engaged in activity which, under the provisions of section 9, is otherwise exempt from provisions governing ophthalmic dispensing; and (2) fails to comply with section 9. Sections 9 and 10 of this bill provide that a person who fails to comply with section 9 is not guilty of a misdemeanor, regardless of whether the person is licensed.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** (Deleted by amendment.)

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** (Deleted by amendment.)

**Sec. 4.** (Deleted by amendment.)

**Sec. 5.** (Deleted by amendment.)

**Sec. 6.** ~~NRS 637.025 is hereby amended to read as follows:~~

~~637.025 The provisions of this chapter do not apply to:~~

~~1. Ophthalmic dispensing personally by a licensed physician, surgeon or optometrist unless exclusively engaged in the business of filling prescriptions.~~

~~2. Ophthalmic dispensing by an employee of a licensed physician, surgeon or optometrist if the employee practices ophthalmic dispensing only under the direct supervision of the licensed physician, surgeon or optometrist and only as an assistant to the licensed physician, surgeon or optometrist.~~

~~3. A licensed pharmacist dispensing prepackaged contact lenses pursuant to the provisions of NRS 639.2825.~~

~~4. The sale of goggles, sunglasses, colored glasses or occupational protective eye devices not having a refractive value, or the sale as merchandise of complete ready to wear eyeglasses.~~

~~5. The sale of prescription eyewear to an intended wearer located outside this State or any design, manufacturing or other activity in conjunction with such a sale.~~ **(Deleted by amendment.)**

**Sec. 7.** (Deleted by amendment.)

**Sec. 8.** (Deleted by amendment.)

**Sec. 9.** Chapter 637 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a person is exempt from the provisions of this chapter if the person:

(a) Is engaged in the manufacturing and direct online sale of lenses, frames and other specially fabricated optical devices upon prescription to an intended wearer who is located outside this State at the time of purchase; and

(b) Complies with the requirements of subsection 2.

2. Any person who engages in the activity described in paragraph (a) of subsection 1 and does not otherwise comply with the provisions of this chapter shall:

(a) Ensure that the manufacturing of lenses, frames and other specially fabricated optical devices is supervised by a dispensing optician licensed pursuant to this chapter. Such supervision must include, without limitation, a daily review of all optical manufacturing equipment by the dispensing optician to ensure that the lenses, frames and other specially fabricated optical devices being

manufactured meet the standards adopted by the Board pursuant to this chapter; and

(b) Confirm that any lenses shipped to an intended wearer meet the requirements of the relevant prescription, as submitted by the intended wearer.

3. A person who engages in the activity described in paragraph (a) of subsection 1, is licensed pursuant to this chapter and fails to comply with the requirements of subsection 2 or the requirements of this chapter:

(a) Is subject to the provisions of 637.150 and 637.185; and

(b) Is not guilty of a misdemeanor.

4. A person who engages in the activity described in paragraph (a) of subsection 1 who is not licensed pursuant to this chapter:

(a) Shall be deemed to be in violation of NRS 637.090 and, except as otherwise provided in paragraph (b), is subject to all provisions applicable to a person who violates that section; and

(b) Is not guilty of a misdemeanor.

Sec. 10. NRS 637.200 is hereby amended to read as follows:

637.200 The following acts constitute misdemeanors, unless a greater penalty is provided pursuant to NRS 200.830 or 200.840:

1. The insertion of a false or misleading statement in any advertising in connection with the business of ophthalmic dispensing.

2. Making use of any advertising statement of a character tending to indicate to the public the superiority of a particular system or type of eyesight examination or treatment.

3. Furnishing or advertising the furnishing of the services of a refractionist, optometrist, physician or surgeon.

4. Changing the prescription of a lens without an order from a person licensed to issue such a prescription.

5. Filling a prescription for a contact lens in violation of the expiration date or number of refills specified by the prescription.

6. ~~Violating~~ Except as otherwise provided in section 9 of this act, violating any provision of this chapter.