

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 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 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 to an intended wearer who is located outside this State at the time of purchase, if the manufacturing is supervised by a 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.



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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. (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, is not licensed pursuant to this chapter and fails to comply with the requirements of subsection 2:

(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.

