

EYE CARE CONSUMER PROTECTION LAW

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 853 (Substitute H-1)

Sponsor: Sen. Rick Jones

First House Committee: Regulatory Reform

Second House Committee: Health Policy

Senate Committee: Health Policy

Complete to 6-10-14

A SUMMARY OF SENATE BILL 853 AS REPORTED BY HOUSE COMMITTEE 6-3-14

The bill would add Part 55A (Eye Care Consumer Protection) to the Public Health Code to regulate contact lenses and corrective spectacles (eye glasses) as medical devices for consumer protection purposes.

Referred to as the "Eye Care Consumer Protection Law," the bill would essentially prohibit kiosks that provide automated eye exams and issue prescriptions for glasses (spectacles) or contact lenses from being operated in Michigan.

Briefly, the bill would do the following:

- Prohibit a person other than a licensee (a licensed physician specializing in eye care or a licensed optometrist) from using certain means to make a determination about the human eye, or prescribing spectacles or contact lenses based on that determination.
- Require a valid prescription for the dispensing, giving, or selling of spectacles and contact lenses.
- Prohibit the use of certain automated testing devices to generate objective refractive data or to prescribe spectacles or contact lenses without the supervision of a licensee.
- Designate the Department of Licensing and Regulatory Affairs (LARA) as the entity responsible for the administration and enforcement of proposed Part 55A, and allow LARA to promulgate rules.
- Authorize LARA to investigate a violation of Part 55A.
- Authorize LARA to issue cease and desist orders, and entitle the person to request a hearing.
- Allow LARA to assess costs related to an investigation of a violation.
- Allow LARA to file a civil action seeking an injunction or other appropriate relief to enforce Part 55A.
- Allow a court to impose a civil fine of up to \$5,000 for each violation, and to award investigative costs and attorney fees from a person who violates Part 55A.
- Make a violation of Part 55A or a violating a cease and desist order a misdemeanor punishable by imprisonment for not more than one year and/or a fine of not less than \$5,000 or more than \$25,000. If successful in obtaining a

conviction, entitle the agency prosecuting the case to actual costs and attorney fees from the defendant.

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on the Bureau of Health Care Services (BHCS) within the Department of Licensing and Regulatory Affairs (LARA) dependent on whether the costs of administering, implementation, and enforcing the provisions of Part 55A as added to the Public Health Code of 1978 by SB 853 would be offset by the revenue generated by the administrative fine established by SB 853 and collected by the BHCS. If the revenue generated by administrative fines is not sufficient to offset the cost to administer, implement, and enforce the provisions of Part 55A, existing revenues and resources would likely be utilized to support increased costs.

POSITIONS:

A representative of the Michigan Optometric Association testified in support of the bill. (6-3-14)

The Michigan Society of Eye Physicians and Surgeons indicated support for the bill. (6-3-14)

The Michigan Osteopathic Association indicated support for the bill. (6-3-14)

The Michigan State Medical Society indicated support for the bill. (6-3-14)

The Department of Licensing and Regulatory Affairs is neutral on the bill. (6-3-14)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Paul Holland

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.