

ASSEMBLY BILL

No. 1382

Introduced by Assembly Member Nakanishi

February 22, 2005

An act to add Sections 111723 and 111785.3 to the Health and Safety Code, relating to contact lenses.

LEGISLATIVE COUNSEL'S DIGEST

AB 1382, as introduced, Nakanishi. Tinted noncorrective (plano) contact lenses: adulterated and misbranded lenses.

Existing law requires the State Department of Health Services, the State Board of Optometry, and the Division of Licensing and Division of Medical Quality of the Medical Board of California to prepare and adopt quality standards and adopt regulations relating to prescription ophthalmic devices, including, but not limited to, contact lenses. With respect to furnishing contact lenses that do not have a prescriptive power for vision correction, also known as plano contact lenses, existing law requires a prescription.

The existing Sherman Food, Drug, and Cosmetic Law regulates the packaging, labeling, and advertising of food, drugs, and cosmetics. The law prohibits a person from manufacturing, selling, delivering, holding, offering for sale, or receiving in commerce any cosmetic that is adulterated, and prohibits a person from adulterating any cosmetic. The law also prohibits a person from manufacturing or selling any cosmetic that is misbranded. A violation of these provisions is punishable as a misdemeanor.

This bill would provide that plano tinted contact lenses intended to change the appearance of the normal eye in decorative fashion and marketed or offered for sale in this state are considered cosmetics and are adulterated if they are distributed without the involvement of a

physician and surgeon or optometrist as provided under existing provisions regulating prescription lenses. The bill would provide that these cosmetic plano tinted contact lenses are misbranded if their labeling fails to make 4 disclosures.

Because a violation of the requirements prescribed by the bill would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 111723 is added to the Health and
2 Safety Code, to read:

3 111723. (a) (1) For purposes of this part, plano tinted contact
4 lenses intended to change the appearance of the normal eye in
5 decorative fashion and marketed or offered for sale in this state
6 are considered cosmetics.

7 (2) For purposes of this section, “plano” means noncorrective
8 or zero prescriptive power.

9 (b) A plano tinted contact lens described in subdivision (a) is
10 adulterated as described in Section 111670 if the lens is
11 distributed without the involvement of a physician and surgeon
12 or optometrist as provided in Chapter 5.4 (commencing with
13 Section 2540) of Division 2 of the Business and Professions
14 Code.

15 SEC. 2. Section 111785.3 is added to the Health and Safety
16 Code, to read:

17 111785.3. Cosmetic plano tinted contact lenses described in
18 Section 111723 are misbranded if their labeling fails to disclose
19 all of the following:

20 (a) That adverse consequences, such as serious damage or
21 injury to the eye and eye problems, including corneal ulcers and
22 ultimate loss of vision, may result even if the lenses are used
23 under labeled, customary, or usual conditions.

1 (b) That some persons are not suitable for contact lens wear
2 due to the presence of ocular or systemic health conditions.

3 (c) That lens wear by a person who is not a suitable candidate
4 poses a greater risk of serious damage or injury to that person's
5 eye.

6 (d) That first-time lens users should consult a physician and
7 surgeon or optometrist as provided in Chapter 5.4 (commencing
8 with Section 2540) of Division 2 of the Business and Professions
9 Code to determine their suitability for lens wear prior to use.

10 SEC. 3. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the
15 penalty for a crime or infraction, within the meaning of Section
16 17556 of the Government Code, or changes the definition of a
17 crime within the meaning of Section 6 of Article XIII B of the
18 California Constitution.