

Bill No. CS for SB 1558, 1st Eng.

Amendment No.      Barcode 824110

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Wasserman Schultz moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 On page 164, between lines 22 and 23,

15

16 insert:

17 Section 52. Subsection (3) of section 484.002, Florida  
18 Statutes, is amended, and subsections (8) and (9) are added to  
19 that section, to read:

20 484.002 Definitions.--As used in this part:

21 (3) "Opticianry" means the preparation and dispensing  
22 of lenses, spectacles, eyeglasses, contact lenses, and other  
23 optical devices to the intended user or agent thereof, upon  
24 the written prescription of a licensed allopathic or  
25 osteopathic physician ~~medical doctor~~ or optometrist who is  
26 duly licensed to practice or upon presentation of a duplicate  
27 prescription. The selection of frame designs, the actual  
28 sales transaction, and the transfer of physical possession of  
29 lenses, spectacles, eyeglasses, contact lenses, and other  
30 optical devices subsequent to performance of all services of  
31 the optician shall not be considered the practice of

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1 opticianry; however, such physical possession shall not be  
2 transferred until the optician has completed the fitting of  
3 the optical device upon the customer. The practice of  
4 opticianry also includes the duplication of lenses accurately  
5 as to power, without prescription. A board-certified optician  
6 qualified and operating under rules established by the board  
7 may fill, fit, adapt, or dispense any soft contact lens  
8 prescription. Such optician may fill, fit, adapt, or dispense  
9 any extended wear or hard contact lens prescription to the  
10 extent authorized to do so by the prescribing allopathic or  
11 osteopathic physician ~~medical doctor~~ or optometrist.

12 (8) "Contact lenses" means a prescribed medical device  
13 intended to be worn directly against the cornea of the eye to  
14 correct vision conditions, act as a therapeutic device, or  
15 provide a cosmetic effect.

16 (9) "Optical dispensing" means interpreting but not  
17 altering a prescription of a licensed physician or optometrist  
18 and designing, adapting, fitting, or replacing the prescribed  
19 optical aids, pursuant to such prescription, to or for the  
20 intended wearer; duplicating lenses, accurately as to power  
21 without a prescription; and duplicating nonprescription  
22 eyewear and parts of eyewear. "Optical dispensing" does not  
23 include selecting frames, transferring an optical aid to the  
24 wearer after an optician has completed fitting it, or  
25 providing instruction in the general care and use of an  
26 optical aid, including placement, removal, hygiene, or  
27 cleaning.

28 Section 53. Subsection (2) of section 484.006, Florida  
29 Statutes, is amended to read:

30 484.006 Certain rules prohibited.--

31 (2) No rule or policy of the board shall prohibit any

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1 optician from practicing jointly with optometrists or  
2 allopathic or osteopathic physicians ~~medical doctors~~ licensed  
3 in this state.

4 Section 54. Subsections (1) and (2) of section  
5 484.012, Florida Statutes, are amended to read:

6 484.012 Prescriptions; filing; duplication of  
7 prescriptions; duplication of lenses.--

8 (1) Any prescription written by a duly licensed  
9 allopathic or osteopathic physician ~~medical doctor~~ or  
10 optometrist for any lenses, spectacles, eyeglasses, contact  
11 lenses, or other optical devices shall be kept on file for a  
12 period of 2 years with the optical establishment that fills  
13 such prescription. However, the licensed optician may  
14 maintain a copy of the prescription.

15 (2) Upon request by the intended user of the  
16 prescribed lenses, spectacles, eyeglasses, contact lenses, or  
17 other optical devices, or by an agent of the intended user,  
18 the optician who fills the original prescription shall  
19 duplicate, on a form prescribed by rule of the board, the  
20 original prescription. However, for medical reasons only, the  
21 prescribing allopathic or osteopathic physician ~~medical doctor~~  
22 or optometrist may, upon the original prescription, prohibit  
23 its duplication. Any duplication shall be considered a valid  
24 prescription to be filled for a period of 5 years from the  
25 date of the original prescription, except that a contact lens  
26 prescription shall be considered a valid prescription to be  
27 filled for a period of 2 years from the date of the original  
28 prescription.

29 Section 55. Section 484.013, Florida Statutes, is  
30 amended to read:

31 484.013 Violations and penalties.--

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1 (1) It is unlawful for any person:

2 (a) To intentionally make a false or fraudulent  
3 statement, either for herself or himself or for another  
4 person, in any application, affidavit, or statement presented  
5 to the board or in any proceeding before the board.

6 (b) To prepare or dispense lenses, spectacles,  
7 eyeglasses, contact lenses, or other optical devices when such  
8 person is not licensed as an optician in this state.

9 (c) To prepare or dispense lenses, spectacles,  
10 eyeglasses, contact lenses, or other optical devices without  
11 first being furnished with a prescription as provided for in  
12 s. 484.012.

13 (2) It is unlawful for any person other than an  
14 optician licensed under this part to use the title "optician"  
15 or otherwise lead the public to believe that she or he is  
16 engaged in the practice of opticianry.

17 (3) It is unlawful for any optician to engage in the  
18 diagnosis of the human eyes, attempt to determine the  
19 refractive powers of the human eyes, or, in any manner,  
20 attempt to prescribe for or treat diseases or ailments of  
21 human beings.

22 (4) It is unlawful for any person to open or operate,  
23 either alone or with any other person or persons, an optical  
24 establishment which does not have the permit required by this  
25 part.

26 (5) A ~~Any~~ person who knowingly violates any a  
27 provision of this section commits a felony ~~misdemeanor~~ of the  
28 third ~~second~~ degree, punishable as provided in s. 775.082, ~~or~~  
29 s. 775.083, or s. 775.084.

30 Section 56. Section 484.015, Florida Statutes, is  
31 amended to read:

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1           484.015 Authority to inspect.--Duly authorized agents  
2 and employees of the department shall have the power to  
3 inspect in a lawful manner at all reasonable hours an any  
4 establishment of any kind in the state in which lenses,  
5 spectacles, eyeglasses, contact lenses, and any other optical  
6 devices are prepared or and dispensed, for the purposes of:  
7           (1) Determining if any provision of this part, or any  
8 rule promulgated under its authority, is being violated;  
9           (2) Securing samples or specimens of any lenses,  
10 spectacles, eyeglasses, contact lenses, or other optical  
11 devices, after paying or offering to pay for such sample or  
12 specimen; or  
13           (3) Securing such other evidence as may be needed for  
14 prosecution under this part.

15           Section 57. Paragraph (g) of subsection (3) of section  
16 921.0022, Florida Statutes, is amended to read:

17           921.0022 Criminal Punishment Code; offense severity  
18 ranking chart.--

19           (3) OFFENSE SEVERITY RANKING CHART

Florida	Felony	Description
Statute	Degree	
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent

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1			disfiguration, permanent
2			disability, or death.
3	409.920(2)	3rd	Medicaid provider fraud.
4	456.065(2)	3rd	Practicing a health care
5			profession without a license.
6	456.065(2)	2nd	Practicing a health care
7			profession without a license
8			which results in serious bodily
9			injury.
10	458.327(1)	3rd	Practicing medicine without a
11			license.
12	459.013(1)	3rd	Practicing osteopathic medicine
13			without a license.
14	460.411(1)	3rd	Practicing chiropractic medicine
15			without a license.
16	461.012(1)	3rd	Practicing podiatric medicine
17			without a license.
18	462.17	3rd	Practicing naturopathy without a
19			license.
20	463.015(1)	3rd	Practicing optometry without a
21			license.
22	464.016(1)	3rd	Practicing nursing without a
23			license.
24	465.015(2)	3rd	Practicing pharmacy without a
25			license.
26	466.026(1)	3rd	Practicing dentistry or dental
27			hygiene without a license.
28	467.201	3rd	Practicing midwifery without a
29			license.
30	468.366	3rd	Delivering respiratory care
31			services without a license.

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1	483.828(1)	3rd	Practicing as clinical laboratory
2			personnel without a license.
3	483.901(9)	3rd	Practicing medical physics
4			without a license.
5	<u>484.013</u>	<u>3rd</u>	<u>Practicing opticianry without a</u>
6			<u>license.</u>
7	484.053	3rd	Dispensing hearing aids without a
8			license.
9	494.0018(2)	1st	Conviction of any violation of
10			ss. 494.001-494.0077 in which the
11			total money and property
12			unlawfully obtained exceeded
13			\$50,000 and there were five or
14			more victims.
15	560.123(8)(b)1.	3rd	Failure to report currency or
16			payment instruments exceeding
17			\$300 but less than \$20,000 by
18			money transmitter.
19	560.125(5)(a)	3rd	Money transmitter business by
20			unauthorized person, currency or
21			payment instruments exceeding
22			\$300 but less than \$20,000.
23	655.50(10)(b)1.	3rd	Failure to report financial
24			transactions exceeding \$300 but
25			less than \$20,000 by financial
26			institution.
27	782.051(3)	2nd	Attempted felony murder of a
28			person by a person other than the
29			perpetrator or the perpetrator of
30			an attempted felony.
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1	782.07(1)	2nd	Killing of a human being by the
2			act, procurement, or culpable
3			negligence of another
4			(manslaughter).
5	782.071	2nd	Killing of human being or viable
6			fetus by the operation of a motor
7			vehicle in a reckless manner
8			(vehicular homicide).
9	782.072	2nd	Killing of a human being by the
10			operation of a vessel in a
11			reckless manner (vessel
12			homicide).
13	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
14			causing great bodily harm or
15			disfigurement.
16	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
17			weapon.
18	784.045(1)(b)	2nd	Aggravated battery; perpetrator
19			aware victim pregnant.
20	784.048(4)	3rd	Aggravated stalking; violation of
21			injunction or court order.
22	784.07(2)(d)	1st	Aggravated battery on law
23			enforcement officer.
24	784.08(2)(a)	1st	Aggravated battery on a person 65
25			years of age or older.
26	784.081(1)	1st	Aggravated battery on specified
27			official or employee.
28	784.082(1)	1st	Aggravated battery by detained
29			person on visitor or other
30			detainee.
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1	784.083(1)	1st	Aggravated battery on code
2			inspector.
3	790.07(4)	1st	Specified weapons violation
4			subsequent to previous conviction
5			of s. 790.07(1) or (2).
6	790.16(1)	1st	Discharge of a machine gun under
7			specified circumstances.
8	790.166(3)	2nd	Possessing, selling, using, or
9			attempting to use a hoax weapon
10			of mass destruction.
11	796.03	2nd	Procuring any person under 16
12			years for prostitution.
13	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
14			victim less than 12 years of age;
15			offender less than 18 years.
16	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
17			victim 12 years of age or older
18			but less than 16 years; offender
19			18 years or older.
20	806.01(2)	2nd	Maliciously damage structure by
21			fire or explosive.
22	810.02(3)(a)	2nd	Burglary of occupied dwelling;
23			unarmed; no assault or battery.
24	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
25			unarmed; no assault or battery.
26	810.02(3)(d)	2nd	Burglary of occupied conveyance;
27			unarmed; no assault or battery.
28	812.014(2)(a)	1st	Property stolen, valued at
29			\$100,000 or more; property stolen
30			while causing other property
31			damage; 1st degree grand theft.

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1	812.019(2)	1st	Stolen property; initiates,
2			organizes, plans, etc., the theft
3			of property and traffics in
4			stolen property.
5	812.131(2)(a)	2nd	Robbery by sudden snatching.
6	812.133(2)(b)	1st	Carjacking; no firearm, deadly
7			weapon, or other weapon.
8	825.102(3)(b)	2nd	Neglecting an elderly person or
9			disabled adult causing great
10			bodily harm, disability, or
11			disfigurement.
12	825.1025(2)	2nd	Lewd or lascivious battery upon
13			an elderly person or disabled
14			adult.
15	825.103(2)(b)	2nd	Exploiting an elderly person or
16			disabled adult and property is
17			valued at \$20,000 or more, but
18			less than \$100,000.
19	827.03(3)(b)	2nd	Neglect of a child causing great
20			bodily harm, disability, or
21			disfigurement.
22	827.04(3)	3rd	Impregnation of a child under 16
23			years of age by person 21 years
24			of age or older.
25	837.05(2)	3rd	Giving false information about
26			alleged capital felony to a law
27			enforcement officer.
28	872.06	2nd	Abuse of a dead human body.
29	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
30			cocaine (or other drug prohibited
31			under s. 893.03(1)(a), (1)(b),

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1			(1)(d), (2)(a), (2)(b), or
2			(2)(c)4.) within 1,000 feet of a
3			child care facility or school.
4	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
5			cocaine or other drug prohibited
6			under s. 893.03(1)(a), (1)(b),
7			(1)(d), (2)(a), (2)(b), or
8			(2)(c)4., within 1,000 feet of
9			property used for religious
10			services or a specified business
11			site.
12	893.13(4)(a)	1st	Deliver to minor cocaine (or
13			other s. 893.03(1)(a), (1)(b),
14			(1)(d), (2)(a), (2)(b), or
15			(2)(c)4. drugs).
16	893.135(1)(a)1.	1st	Trafficking in cannabis, more
17			than 50 lbs., less than 2,000
18			lbs.
19	893.135		
20	(1)(b)1.a.	1st	Trafficking in cocaine, more than
21			28 grams, less than 200 grams.
22	893.135		
23	(1)(c)1.a.	1st	Trafficking in illegal drugs,
24			more than 4 grams, less than 14
25			grams.
26	893.135		
27	(1)(d)1.	1st	Trafficking in phencyclidine,
28			more than 28 grams, less than 200
29			grams.
30	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
31			than 200 grams, less than 5

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1			kilograms.
2	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
3			than 14 grams, less than 28
4			grams.
5	893.135		
6	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
7			grams or more, less than 14
8			grams.
9	893.135		
10	(1)(h)1.a.	1st	Trafficking in
11			gamma-hydroxybutyric acid (GHB),
12			1 kilogram or more, less than 5
13			kilograms.
14	893.135		
15	(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
16			kilogram or more, less then 5
17			kilograms.
18	893.135		
19	(1)(j)2.a.	1st	Trafficking in Phenethylamines,
20			10 grams or more, less than 200
21			grams.
22	896.101(5)(a)	3rd	Money laundering, financial
23			transactions exceeding \$300 but
24			less than \$20,000.
25	896.104(4)(a)1.	3rd	Structuring transactions to evade
26			reporting or registration
27			requirements, financial
28			transactions exceeding \$300 but
29			less than \$20,000.
30			
31	(Redesignate subsequent sections.)		

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 3, line 22, following the semicolon

4  
5 insert:

6 amending s. 484.002, F.S.; redefining the term  
7 "opticianry" and defining the terms "contact  
8 lenses" and "optical dispensing"; amending ss.  
9 484.002, 484.006, 484.012, F.S.; replacing  
10 references to the term "medical doctor" with  
11 the term "allopathic or osteopathic physician";  
12 amending s. 484.013, F.S.; revising provisions  
13 prescribing violations and penalties applicable  
14 to the practice of opticianry; amending s.  
15 484.015, F.S.; revising inspection authority;  
16 amending s. 921.0022, F.S., relating to the  
17 Criminal Punishment Code; providing an offense  
18 severity ranking for the offense of practicing  
19 opticianry without a license;

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