

By Senator Wasserman Schultz

32-441A-01

See HB 315

1                                   A bill to be entitled  
 2           An act relating to opticianry; amending s.  
 3           484.013, F.S.; revising violations and  
 4           penalties applicable to the practice of  
 5           opticianry; amending s. 484.015, F.S.; revising  
 6           inspection authority; amending s. 921.0022,  
 7           F.S., relating to the Criminal Punishment Code;  
 8           providing an offense severity ranking for the  
 9           offense of practicing opticianry without a  
 10          license; providing an effective date.

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 12 Be It Enacted by the Legislature of the State of Florida:

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 14           Section 1. Section 484.013, Florida Statutes, is  
 15 amended to read:

16           484.013 Violations and penalties.--

17           (1) It is unlawful for any person:

18           (a) To make a false or fraudulent statement, either  
 19 for herself or himself or for another person, in any  
 20 application, affidavit, or statement presented to the board or  
 21 in any proceeding before the board.

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

25           (c) To prepare or dispense lenses, spectacles,  
 26 eyeglasses, contact lenses, or other optical devices, whether  
 27 for medical or cosmetic purposes, without first being  
 28 furnished with a prescription as provided for in s. 484.012.

29           (2) It is unlawful for any person other than an  
 30 optician licensed under this part to use the title "optician"

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1 or otherwise lead the public to believe that she or he is  
2 engaged in the practice of opticianry.

3 (3) It is unlawful for any optician to engage in the  
4 diagnosis of the human eyes, attempt to determine the  
5 refractive powers of the human eyes, or, in any manner,  
6 attempt to prescribe for or treat diseases or ailments of  
7 human beings.

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

12 (5) A ~~Any~~ person who violates any ~~a~~ provision of this  
13 section commits a felony ~~misdemeanor~~ of the third ~~second~~  
14 degree, punishable as provided in s. 775.082, or s. 775.083,  
15 or s. 775.084.

16 Section 2. Section 484.015, Florida Statutes, is  
17 amended to read:

18 484.015 Authority to inspect.--Duly authorized agents  
19 and employees of the department shall have the power to  
20 inspect in a lawful manner at all reasonable hours an ~~any~~  
21 establishment of any kind in the state in which lenses,  
22 spectacles, eyeglasses, contact lenses, and any other optical  
23 devices are prepared or ~~and~~ dispensed, for the purposes of:

24 (1) Determining if any provision of this part, or any  
25 rule promulgated under its authority, is being violated;

26 (2) Securing samples or specimens of any lenses,  
27 spectacles, eyeglasses, contact lenses, or other optical  
28 devices, after paying or offering to pay for such sample or  
29 specimen; or

30 (3) Securing such other evidence as may be needed for  
31 prosecution under this part.

1 Section 3. Paragraph (g) of subsection (3) of section  
2 921.0022, Florida Statutes, is amended to read:

3 921.0022 Criminal Punishment Code; offense severity  
4 ranking chart.--

5 (3) OFFENSE SEVERITY RANKING CHART

6	7 Florida	8 Felony	9
10	11 Statute	12 Degree	13 Description
14			(g) LEVEL 7
15	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
16	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
17	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
18	409.920(2)	3rd	Medicaid provider fraud.
19	456.065(2)	3rd	Practicing a health care profession without a license.
20	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
21	458.327(1)	3rd	Practicing medicine without a license.
22	459.013(1)	3rd	Practicing osteopathic medicine without a license.

1	460.411(1)	3rd	Practicing chiropractic medicine
2			without a license.
3	461.012(1)	3rd	Practicing podiatric medicine
4			without a license.
5	462.17	3rd	Practicing naturopathy without a
6			license.
7	463.015(1)	3rd	Practicing optometry without a
8			license.
9	464.016(1)	3rd	Practicing nursing without a
10			license.
11	465.015(2)	3rd	Practicing pharmacy without a
12			license.
13	466.026(1)	3rd	Practicing dentistry or dental
14			hygiene without a license.
15	467.201	3rd	Practicing midwifery without a
16			license.
17	468.366	3rd	Delivering respiratory care
18			services without a license.
19	483.828(1)	3rd	Practicing as clinical laboratory
20			personnel without a license.
21	483.901(9)	3rd	Practicing medical physics
22			without a license.
23	<u>484.013</u>	<u>3rd</u>	<u>Practicing opticianry without a</u>
24			<u>license.</u>
25	484.053	3rd	Dispensing hearing aids without a
26			license.
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1	494.0018(2)	1st	Conviction of any violation of
2			ss. 494.001-494.0077 in which the
3			total money and property
4			unlawfully obtained exceeded
5			\$50,000 and there were five or
6			more victims.
7	560.123(8)(b)1.	3rd	Failure to report currency or
8			payment instruments exceeding
9			\$300 but less than \$20,000 by
10			money transmitter.
11	560.125(5)(a)	3rd	Money transmitter business by
12			unauthorized person, currency or
13			payment instruments exceeding
14			\$300 but less than \$20,000.
15	655.50(10)(b)1.	3rd	Failure to report financial
16			transactions exceeding \$300 but
17			less than \$20,000 by financial
18			institution.
19	782.051(3)	2nd	Attempted felony murder of a
20			person by a person other than the
21			perpetrator or the perpetrator of
22			an attempted felony.
23	782.07(1)	2nd	Killing of a human being by the
24			act, procurement, or culpable
25			negligence of another
26			(manslaughter).
27	782.071	2nd	Killing of human being or viable
28			fetus by the operation of a motor
29			vehicle in a reckless manner
30			(vehicular homicide).
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1	782.072	2nd	Killing of a human being by the
2			operation of a vessel in a
3			reckless manner (vessel
4			homicide).
5	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
6			causing great bodily harm or
7			disfigurement.
8	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
9			weapon.
10	784.045(1)(b)	2nd	Aggravated battery; perpetrator
11			aware victim pregnant.
12	784.048(4)	3rd	Aggravated stalking; violation of
13			injunction or court order.
14	784.07(2)(d)	1st	Aggravated battery on law
15			enforcement officer.
16	784.08(2)(a)	1st	Aggravated battery on a person 65
17			years of age or older.
18	784.081(1)	1st	Aggravated battery on specified
19			official or employee.
20	784.082(1)	1st	Aggravated battery by detained
21			person on visitor or other
22			detainee.
23	784.083(1)	1st	Aggravated battery on code
24			inspector.
25	790.07(4)	1st	Specified weapons violation
26			subsequent to previous conviction
27			of s. 790.07(1) or (2).
28	790.16(1)	1st	Discharge of a machine gun under
29			specified circumstances.
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1	790.166(3)	2nd	Possessing, selling, using, or
2			attempting to use a hoax weapon
3			of mass destruction.
4	796.03	2nd	Procuring any person under 16
5			years for prostitution.
6	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
7			victim less than 12 years of age;
8			offender less than 18 years.
9	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
10			victim 12 years of age or older
11			but less than 16 years; offender
12			18 years or older.
13	806.01(2)	2nd	Maliciously damage structure by
14			fire or explosive.
15	810.02(3)(a)	2nd	Burglary of occupied dwelling;
16			unarmed; no assault or battery.
17	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
18			unarmed; no assault or battery.
19	810.02(3)(d)	2nd	Burglary of occupied conveyance;
20			unarmed; no assault or battery.
21	812.014(2)(a)	1st	Property stolen, valued at
22			\$100,000 or more; property stolen
23			while causing other property
24			damage; 1st degree grand theft.
25	812.019(2)	1st	Stolen property; initiates,
26			organizes, plans, etc., the theft
27			of property and traffics in
28			stolen property.
29	812.131(2)(a)	2nd	Robbery by sudden snatching.
30	812.133(2)(b)	1st	Carjacking; no firearm, deadly
31			weapon, or other weapon.

1	825.102(3)(b)	2nd	Neglecting an elderly person or
2			disabled adult causing great
3			bodily harm, disability, or
4			disfigurement.
5	825.1025(2)	2nd	Lewd or lascivious battery upon
6			an elderly person or disabled
7			adult.
8	825.103(2)(b)	2nd	Exploiting an elderly person or
9			disabled adult and property is
10			valued at \$20,000 or more, but
11			less than \$100,000.
12	827.03(3)(b)	2nd	Neglect of a child causing great
13			bodily harm, disability, or
14			disfigurement.
15	827.04(3)	3rd	Impregnation of a child under 16
16			years of age by person 21 years
17			of age or older.
18	837.05(2)	3rd	Giving false information about
19			alleged capital felony to a law
20			enforcement officer.
21	872.06	2nd	Abuse of a dead human body.
22	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
23			cocaine (or other drug prohibited
24			under s. 893.03(1)(a), (1)(b),
25			(1)(d), (2)(a), (2)(b), or
26			(2)(c)4.) within 1,000 feet of a
27			child care facility or school.
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1	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
2			cocaine or other drug prohibited
3			under s. 893.03(1)(a), (1)(b),
4			(1)(d), (2)(a), (2)(b), or
5			(2)(c)4., within 1,000 feet of
6			property used for religious
7			services or a specified business
8			site.
9	893.13(4)(a)	1st	Deliver to minor cocaine (or
10			other s. 893.03(1)(a), (1)(b),
11			(1)(d), (2)(a), (2)(b), or
12			(2)(c)4. drugs).
13	893.135(1)(a)1.	1st	Trafficking in cannabis, more
14			than 50 lbs., less than 2,000
15			lbs.
16	893.135		
17	(1)(b)1.a.	1st	Trafficking in cocaine, more than
18			28 grams, less than 200 grams.
19	893.135		
20	(1)(c)1.a.	1st	Trafficking in illegal drugs,
21			more than 4 grams, less than 14
22			grams.
23	893.135		
24	(1)(d)1.	1st	Trafficking in phencyclidine,
25			more than 28 grams, less than 200
26			grams.
27	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
28			than 200 grams, less than 5
29			kilograms.
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1 893.135(1)(f)1. 1st Trafficking in amphetamine, more  
2 than 14 grams, less than 28  
3 grams.  
4 893.135  
5 (1)(g)1.a. 1st Trafficking in flunitrazepam, 4  
6 grams or more, less than 14  
7 grams.  
8 893.135  
9 (1)(h)1.a. 1st Trafficking in  
10 gamma-hydroxybutyric acid (GHB),  
11 1 kilogram or more, less than 5  
12 kilograms.  
13 893.135  
14 (1)(i)1.a. 1st Trafficking in 1,4-Butanediol, 1  
15 kilogram or more, less than 5  
16 kilograms.  
17 893.135  
18 (1)(j)2.a. 1st Trafficking in Phenethylamines,  
19 10 grams or more, less than 200  
20 grams.  
21 896.101(5)(a) 3rd Money laundering, financial  
22 transactions exceeding \$300 but  
23 less than \$20,000.  
24 896.104(4)(a)1. 3rd Structuring transactions to evade  
25 reporting or registration  
26 requirements, financial  
27 transactions exceeding \$300 but  
28 less than \$20,000.  
29 Section 4. This act shall take effect October 1, 2001.  
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LEGISLATIVE SUMMARY

Provides that the prohibition against preparing or dispensing an optical device without first being furnished with a prescription applies regardless of whether the device is to be used for medical or cosmetic purposes. Increases penalties applicable to the unlawful practice of opticianry. Expands inspection authority to cover any establishment in which optical devices are prepared or dispensed. Revises the Criminal Punishment Code to provide an offense severity ranking for the offense of practicing opticianry without a license. (See bill for details.)