

By the Committee on Health, Aging and Long-Term Care; and
Senator Wasserman Schultz

317-1588-01

1 A bill to be entitled
2 An act relating to opticianry; amending s.
3 484.002, F.S.; redefining the term "opticianry"
4 and defining the term "contact lenses";
5 amending ss. 484.002, 484.006, 484.012, F.S.;
6 replacing references to the term "medical
7 doctor" with the term "allopathic or
8 osteopathic physician"; amending s. 484.013,
9 F.S.; revising provisions prescribing
10 violations and penalties applicable to the
11 practice of opticianry; amending s. 484.015,
12 F.S.; revising inspection authority; amending
13 s. 921.0022, F.S., relating to the Criminal
14 Punishment Code; providing an offense severity
15 ranking for the offense of practicing
16 opticianry without a license; providing an
17 effective date.

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

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21 Section 1. Subsection (3) of section 484.002, Florida
22 Statutes, is amended, and subsection (8) is added to that
23 section, to read:

24 484.002 Definitions.--As used in this part:

25 (3) "Opticianry" means the preparation and dispensing
26 of lenses, spectacles, eyeglasses, contact lenses, and other
27 optical devices to the intended user or agent thereof, upon
28 the written prescription of a licensed allopathic or
29 osteopathic physician ~~medical doctor~~ or optometrist who is
30 duly licensed to practice or upon presentation of a duplicate
31 prescription. The selection of frame designs, the actual

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

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

20 Section 2. Subsection (2) of section 484.006, Florida
21 Statutes, is amended to read:

22 484.006 Certain rules prohibited.--

23 (2) No rule or policy of the board shall prohibit any
24 optician from practicing jointly with optometrists or
25 allopathic or osteopathic physicians ~~medical doctors~~ licensed
26 in this state.

27 Section 3. Subsections (1) and (2) of section 484.012,
28 Florida Statutes, are amended to read:

29 484.012 Prescriptions; filing; duplication of
30 prescriptions; duplication of lenses.--

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

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

22 Section 4. Section 484.013, Florida Statutes, is
23 amended to read:

24 484.013 Violations and penalties.--

25 (1) It is unlawful for any person:

26 (a) To intentionally make a false or fraudulent
27 statement, either for herself or himself or for another
28 person, in any application, affidavit, or statement presented
29 to the board or in any proceeding before the board.

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

4 (c) To prepare or dispense lenses, spectacles,
5 eyeglasses, contact lenses, or other optical devices without
6 first being furnished with a prescription as provided for in
7 s. 484.012.

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

12 (3) It is unlawful for any optician to engage in the
13 diagnosis of the human eyes, attempt to determine the
14 refractive powers of the human eyes, or, in any manner,
15 attempt to prescribe for or treat diseases or ailments of
16 human beings.

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

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

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26 This section does not apply to an individual transferring her
27 or his personal lenses, spectacles, eyeglasses, contact
28 lenses, or other optical devices that are exclusively cosmetic
29 to another individual without any compensation or any
30 incidental or peripheral compensation.

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1 Section 5. Section 484.015, Florida Statutes, is
2 amended to read:

3 484.015 Authority to inspect.--Duly authorized agents
4 and employees of the department shall have the power to
5 inspect in a lawful manner at all reasonable hours an ~~any~~
6 establishment of any kind in the state in which lenses,
7 spectacles, eyeglasses, contact lenses, and any other optical
8 devices are prepared or ~~and~~ dispensed, for the purposes of:

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

11 (2) Securing samples or specimens of any lenses,
12 spectacles, eyeglasses, contact lenses, or other optical
13 devices, after paying or offering to pay for such sample or
14 specimen; or

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

17 Section 6. Paragraph (g) of subsection (3) of section
18 921.0022, Florida Statutes, is amended to read:

19 921.0022 Criminal Punishment Code; offense severity
20 ranking chart.--

21 (3) OFFENSE SEVERITY RANKING CHART

22	23 Florida	24 Statute	25 Felony	26 Degree	27 Description
28				(g) LEVEL 7	
29	316.193(3)(c)2.	3rd			DUI resulting in serious bodily injury.
30	327.35(3)(c)2.	3rd			Vessel BUI resulting in serious bodily injury.

1	402.319(2)	2nd	Misrepresentation and negligence
2			or intentional act resulting in
3			great bodily harm, permanent
4			disfiguration, permanent
5			disability, or death.
6	409.920(2)	3rd	Medicaid provider fraud.
7	456.065(2)	3rd	Practicing a health care
8			profession without a license.
9	456.065(2)	2nd	Practicing a health care
10			profession without a license
11			which results in serious bodily
12			injury.
13	458.327(1)	3rd	Practicing medicine without a
14			license.
15	459.013(1)	3rd	Practicing osteopathic medicine
16			without a license.
17	460.411(1)	3rd	Practicing chiropractic medicine
18			without a license.
19	461.012(1)	3rd	Practicing podiatric medicine
20			without a license.
21	462.17	3rd	Practicing naturopathy without a
22			license.
23	463.015(1)	3rd	Practicing optometry without a
24			license.
25	464.016(1)	3rd	Practicing nursing without a
26			license.
27	465.015(2)	3rd	Practicing pharmacy without a
28			license.
29	466.026(1)	3rd	Practicing dentistry or dental
30			hygiene without a license.
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1	467.201	3rd	Practicing midwifery without a
2			license.
3	468.366	3rd	Delivering respiratory care
4			services without a license.
5	483.828(1)	3rd	Practicing as clinical laboratory
6			personnel without a license.
7	483.901(9)	3rd	Practicing medical physics
8			without a license.
9	<u>484.013</u>	<u>3rd</u>	<u>Practicing opticianry without a</u>
10			<u>license.</u>
11	484.053	3rd	Dispensing hearing aids without a
12			license.
13	494.0018(2)	1st	Conviction of any violation of
14			ss. 494.001-494.0077 in which the
15			total money and property
16			unlawfully obtained exceeded
17			\$50,000 and there were five or
18			more victims.
19	560.123(8)(b)1.	3rd	Failure to report currency or
20			payment instruments exceeding
21			\$300 but less than \$20,000 by
22			money transmitter.
23	560.125(5)(a)	3rd	Money transmitter business by
24			unauthorized person, currency or
25			payment instruments exceeding
26			\$300 but less than \$20,000.
27	655.50(10)(b)1.	3rd	Failure to report financial
28			transactions exceeding \$300 but
29			less than \$20,000 by financial
30			institution.
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1	782.051(3)	2nd	Attempted felony murder of a
2			person by a person other than the
3			perpetrator or the perpetrator of
4			an attempted felony.
5	782.07(1)	2nd	Killing of a human being by the
6			act, procurement, or culpable
7			negligence of another
8			(manslaughter).
9	782.071	2nd	Killing of human being or viable
10			fetus by the operation of a motor
11			vehicle in a reckless manner
12			(vehicular homicide).
13	782.072	2nd	Killing of a human being by the
14			operation of a vessel in a
15			reckless manner (vessel
16			homicide).
17	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
18			causing great bodily harm or
19			disfigurement.
20	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
21			weapon.
22	784.045(1)(b)	2nd	Aggravated battery; perpetrator
23			aware victim pregnant.
24	784.048(4)	3rd	Aggravated stalking; violation of
25			injunction or court order.
26	784.07(2)(d)	1st	Aggravated battery on law
27			enforcement officer.
28	784.08(2)(a)	1st	Aggravated battery on a person 65
29			years of age or older.
30	784.081(1)	1st	Aggravated battery on specified
31			official or employee.

1	784.082(1)	1st	Aggravated battery by detained
2			person on visitor or other
3			detainee.
4	784.083(1)	1st	Aggravated battery on code
5			inspector.
6	790.07(4)	1st	Specified weapons violation
7			subsequent to previous conviction
8			of s. 790.07(1) or (2).
9	790.16(1)	1st	Discharge of a machine gun under
10			specified circumstances.
11	790.166(3)	2nd	Possessing, selling, using, or
12			attempting to use a hoax weapon
13			of mass destruction.
14	796.03	2nd	Procuring any person under 16
15			years for prostitution.
16	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
17			victim less than 12 years of age;
18			offender less than 18 years.
19	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
20			victim 12 years of age or older
21			but less than 16 years; offender
22			18 years or older.
23	806.01(2)	2nd	Maliciously damage structure by
24			fire or explosive.
25	810.02(3)(a)	2nd	Burglary of occupied dwelling;
26			unarmed; no assault or battery.
27	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
28			unarmed; no assault or battery.
29	810.02(3)(d)	2nd	Burglary of occupied conveyance;
30			unarmed; no assault or battery.
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1	812.014(2)(a)	1st	Property stolen, valued at
2			\$100,000 or more; property stolen
3			while causing other property
4			damage; 1st degree grand theft.
5	812.019(2)	1st	Stolen property; initiates,
6			organizes, plans, etc., the theft
7			of property and traffics in
8			stolen property.
9	812.131(2)(a)	2nd	Robbery by sudden snatching.
10	812.133(2)(b)	1st	Carjacking; no firearm, deadly
11			weapon, or other weapon.
12	825.102(3)(b)	2nd	Neglecting an elderly person or
13			disabled adult causing great
14			bodily harm, disability, or
15			disfigurement.
16	825.1025(2)	2nd	Lewd or lascivious battery upon
17			an elderly person or disabled
18			adult.
19	825.103(2)(b)	2nd	Exploiting an elderly person or
20			disabled adult and property is
21			valued at \$20,000 or more, but
22			less than \$100,000.
23	827.03(3)(b)	2nd	Neglect of a child causing great
24			bodily harm, disability, or
25			disfigurement.
26	827.04(3)	3rd	Impregnation of a child under 16
27			years of age by person 21 years
28			of age or older.
29	837.05(2)	3rd	Giving false information about
30			alleged capital felony to a law
31			enforcement officer.

1	872.06	2nd	Abuse of a dead human body.
2	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
3			cocaine (or other drug prohibited
4			under s. 893.03(1)(a), (1)(b),
5			(1)(d), (2)(a), (2)(b), or
6			(2)(c)4.) within 1,000 feet of a
7			child care facility or school.
8	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
9			cocaine or other drug prohibited
10			under s. 893.03(1)(a), (1)(b),
11			(1)(d), (2)(a), (2)(b), or
12			(2)(c)4., within 1,000 feet of
13			property used for religious
14			services or a specified business
15			site.
16	893.13(4)(a)	1st	Deliver to minor cocaine (or
17			other s. 893.03(1)(a), (1)(b),
18			(1)(d), (2)(a), (2)(b), or
19			(2)(c)4. drugs).
20	893.135(1)(a)1.	1st	Trafficking in cannabis, more
21			than 50 lbs., less than 2,000
22			lbs.
23	893.135		
24	(1)(b)1.a.	1st	Trafficking in cocaine, more than
25			28 grams, less than 200 grams.
26	893.135		
27	(1)(c)1.a.	1st	Trafficking in illegal drugs,
28			more than 4 grams, less than 14
29			grams.
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1	893.135		
2	(1)(d)1.	1st	Trafficking in phencyclidine,
3			more than 28 grams, less than 200
4			grams.
5	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
6			than 200 grams, less than 5
7			kilograms.
8	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
9			than 14 grams, less than 28
10			grams.
11	893.135		
12	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
13			grams or more, less than 14
14			grams.
15	893.135		
16	(1)(h)1.a.	1st	Trafficking in
17			gamma-hydroxybutyric acid (GHB),
18			1 kilogram or more, less than 5
19			kilograms.
20	893.135		
21	(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
22			kilogram or more, less than 5
23			kilograms.
24	893.135		
25	(1)(j)2.a.	1st	Trafficking in Phenethylamines,
26			10 grams or more, less than 200
27			grams.
28	896.101(5)(a)	3rd	Money laundering, financial
29			transactions exceeding \$300 but
30			less than \$20,000.
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1 896.104(4)(a)1. 3rd Structuring transactions to evade
2 reporting or registration
3 requirements, financial
4 transactions exceeding \$300 but
5 less than \$20,000.

6 Section 7. This act shall take effect October 1, 2001.

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8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 Senate Bill 786

11 The Committee Substitute adds a definition of the term
12 "contact lenses" in part I of ch. 484, F.S., relating to
13 opticianry; replaces the term "medical doctor" with
14 "allopathic or osteopathic physician;" and revises violations
15 proscribing conduct for purposes of the opticianry practice
16 act.
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