

1 A bill to be entitled
 2 An act relating to contact lens consumer protection;
 3 providing a short title; providing a policy statement;
 4 providing definitions; prohibiting licensed prescribers of
 5 contact lenses from selling uncertified contact lens
 6 brands or having any financial or legal relationship with
 7 persons selling uncertified contact lens brands; requiring
 8 manufacturer certification of contact lens brands;
 9 requiring the Board of Optometry and the Board of Medicine
 10 to provide to licensed prescribers a list of certified
 11 contact lens brands; prohibiting monetary competition
 12 prevention or limiting activities; providing for
 13 enforcement by the Attorney General; providing penalties;
 14 providing construction of certain activities as unfair
 15 business practices; providing an effective date.

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

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 19 Section 1. (1) SHORT TITLE.--This act may be cited as the
 20 "Contact Lens Consumer Protection Act."

21 (2) POLICY.--It is the policy of this state that citizens
 22 of this state who wear contact lenses pursuant to valid
 23 prescriptions should not be denied the right to purchase their
 24 lenses from a retailer of their choice.

25 (3) DEFINITIONS.--As used in this act:

26 (a) "Alternative channels of distribution" means any mail
 27 order company, Internet retailer, pharmacy, buying club,

28 department store, or mass merchandise outlet, without regard to
 29 any association with a prescriber.

30 (b) "Manufacturer" includes a manufacturer and any parent,
 31 subsidiary, affiliate, successor, and assign of the
 32 manufacturer.

33 (4) IN GENERAL.--Notwithstanding any other provision of
 34 law, after 60 days following the effective date of this act, an
 35 individual licensed or authorized under the laws of this state
 36 to prescribe contact lenses may not knowingly and intentionally
 37 sell a brand of contact lens, or have any financial or legal
 38 relationship with any other individual that knowingly and
 39 intentionally sells a brand of contact lens, unless the brand is
 40 certified by affidavit at the time of sale, pursuant to
 41 subsection (5), as being available in a commercially reasonable
 42 and nondiscriminatory manner directly to, and generally within,
 43 all alternative channels of distribution.

44 (5) CERTIFICATION.--No later than 30 days after the
 45 effective date of this act and every year thereafter, and at any
 46 time a brand becomes available or ceases to be made available as
 47 described in this subsection, a manufacturer of contact lenses
 48 doing business in this state shall make a certification by
 49 affidavit to the Attorney General, with a copy to the Board of
 50 Optometry and the Board of Medicine, identifying those brands of
 51 contact lenses produced, marketed, distributed, or sold by the
 52 manufacturer that are made available in a commercially
 53 reasonable and nondiscriminatory manner directly to, and
 54 generally within, all alternative channels of distribution.

55 (6) PUBLICATION.--To enable a prescriber to determine

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56 which brands may be prescribed pursuant to this act, the Board
57 of Optometry and the Board of Medicine shall make available to
58 all licensees a listing of all brands of contact lenses
59 certified at that time as being made available in a commercially
60 reasonable and nondiscriminatory manner directly to, and
61 generally within, all alternative channels of distribution.

62 (7) ANTI-KICKBACK PROVISION.--No individual shall provide,
63 directly or indirectly, or offer to any individual licensed or
64 authorized under the laws of this state related to the
65 prescribing or sale of contact lenses, any gift, gratuity, cash,
66 or other item or service of monetary value, including any
67 actions, commitment, or agreements intended to or having the
68 effect of prohibiting or otherwise inhibiting competition in the
69 sale of contact lenses.

70 (8) ENFORCEMENT.--Any violation of this act shall be
71 subject to such monetary or other penalties as prescribed by the
72 Attorney General and shall constitute an unfair business
73 practice on the part of the prescriber and the manufacturer.

74 Section 2. This act shall take effect July 1, 2006.