

By Senator Wise

5-1658-06

1 A bill to be entitled
 2 An act relating to contact lenses; creating the
 3 "Contact Lens Consumer Protection Act";
 4 providing definitions; prohibiting a person who
 5 is licensed to prescribe contact lenses from
 6 selling a brand of contact lenses under certain
 7 conditions or having a financial or legal
 8 relationship with a person who sells a brand of
 9 contact lenses under certain conditions;
 10 requiring a manufacturer of contact lenses to
 11 annually provide a certification to the
 12 Attorney General; requiring the Board of
 13 Medicine and the Board of Optometry to make
 14 available a listing of certain brands of
 15 contact lenses to persons licensed under ch.
 16 463, F.S.; prohibiting a person from giving an
 17 item or service of monetary value to a person
 18 licensed to prescribe or sell contact lenses;
 19 providing penalties; providing an effective
 20 date.
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 22 Be It Enacted by the Legislature of the State of Florida:
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 24 Section 1. Contact lenses; consumer protection.--
 25 (1) This section may be cited as the "Contact Lens
 26 Consumer Protection Act."
 27 (2) It is the policy of this state that residents of
 28 this state who wear contact lenses pursuant to valid
 29 prescriptions should not be denied the right to purchase
 30 lenses from the retailer of their choice.
 31 (3) As used in this section, the term:

1 (a) "Alternative channels of distribution" means any
2 mail-order company, Internet retailer, pharmacy, buying club,
3 department store, or mass merchandise outlet, without regard
4 to whether it is associated with a prescriber.

5 (b) "Manufacturer" includes the manufacturer and its
6 parents, subsidiaries, affiliates, successors, and assigns.

7 (4) Notwithstanding any other law, an individual
8 licensed or authorized in this state to prescribe contact
9 lenses may not:

10 (a) Knowingly sell a brand of contact lenses unless
11 the lens brand is certified by affidavit at the time of sale
12 pursuant to subsection (5) as being available in a
13 commercially reasonable and nondiscriminatory manner directly
14 to, and generally within, all channels of distribution,
15 including, but not limited to, alternative channels of
16 distribution.

17 (b) Have any financial or legal relationship with any
18 other individual that sells a brand of contact lenses unless
19 the lens brand is certified by affidavit at the time of sale
20 pursuant to subsection (5) as being available in a
21 commercially reasonable and nondiscriminatory manner directly
22 to, and generally within, all channels of distribution,
23 including, but not limited to, alternative channels of
24 distribution.

25 (5) On July 31, 2006, and each year thereafter, and at
26 any time a brand becomes available or ceases to be made
27 available, as described in this section, a manufacturer of
28 contact lenses doing business in this state shall provide a
29 certification by affidavit to the Attorney General, with a
30 copy to the Board of Optometry and the Board of Medicine,
31 which identifies those brands of contact lenses produced,

1 marketed, distributed, or sold by the manufacturer which are
2 made available in a commercially reasonable and
3 nondiscriminatory manner directly to, and generally within,
4 all channels of distribution, including, but not limited to,
5 alternative channels of distribution.

6 (6) The Board of Optometry and the Board of Medicine
7 shall make available to a person licensed under chapter 463,
8 Florida Statutes, a listing of all brands of contact lenses
9 certified at that time as being made available in a
10 commercially reasonable and nondiscriminatory manner directly
11 to and generally within all channels of distribution,
12 including, but not limited to, alternative channels of
13 distribution.

14 (7) A person may not provide, directly or indirectly,
15 or offer to any other person licensed or authorized under the
16 laws of this state, any gift, gratuity, cash, or other item or
17 service of monetary value, including any action, commitment,
18 or agreement intended to or having the effect of prohibiting
19 or otherwise inhibiting competition in the sale of contact
20 lenses, which is related to the prescribing or sale of contact
21 lenses.

22 (8) Any person who violates this section is subject to
23 such monetary or other penalties as prescribed by the Attorney
24 General and such violation constitutes an unfair business
25 practice on the part of the prescriber and the manufacturer.

26 Section 2. This act shall take effect July 1, 2006.
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SENATE SUMMARY

Creates the "Contact Lens Consumer Protection Act."
Prohibits a person who is licensed to prescribe contact lenses from selling a brand of contact lenses under certain conditions or having a financial or legal relationship with a person who sells a brand of contact lenses under certain conditions. Requires a manufacturer of contact lenses to annually provide a certification to the Attorney General. Requires the Board of Medicine and the Board of Optometry to make available a listing of certain brands of contact lenses to persons licensed under ch. 463, F.S. Prohibits a person from giving an item or service of monetary value to a person licensed to prescribe or sell contact lenses. Provides penalties.

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