

House Bill 1446

By: Representatives Butler of the 18th, Burmeister of the 119th, Randall of the 138th, and Bearden of the 68th

A BILL TO BE ENTITLED
AN ACT

To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to enact the "Contact Lens Consumer Protection Act"; to provide a short title; to provide a statement of policy; to define certain terms; to prohibit certain sales practices; to provide for penalties and enforcement; to provide for related editorial revisions; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by redesignating Code Section 31-12-12, relating to restrictions on sale or dispensing of contact lenses, responsibilities relating to prescriptions, criminal violations, and enforcement, as new Code Section 31-46-1 in Article 1 of new Chapter 46, reserving the former Code Section 31-12-12 designation, and by adding a new article to read as follows:

"ARTICLE 2

31-46-20.

This act shall be known and may be cited as the 'Contact Lens Consumer Protection Act.'

31-46-21.

It is the policy of the State of Georgia that citizens who wear contact lenses pursuant to a valid prescription should not be denied the opportunity to purchase their contact lenses from the retailer of their choice.

31-46-22.

As used in this act, the following term:

(1) 'Alternative channels of distribution' means any mail-order company, Internet retailer, pharmacy, buying club, department store, or mass merchandise outlet without regard to whether it is associated with a prescriber unless the account meets the definition of a competitor as provided for in paragraph (2) of this Code section.

(2) 'Competitor' means an entity that manufacturers contact lenses and wholesales those lenses within this state in direct competition with any other manufacturer.

(3) 'Manufacturer' means the manufacturer, its parents, subsidiaries, affiliates, successors, and assigns.

(4) 'Prescriber' means an individual licensed or authorized to prescribe contact lenses under the laws of this state.

31-46-23.

Notwithstanding any other provision of law, on and after September 1, 2006, a manufacturer that sells contact lenses to any resident of this state shall make any contact lens it produces, markets, distributes, or sells in this state available in a commercially reasonable and nondiscriminatory manner to prescribers and entities associated with prescribers and to alternative channels of distribution.

31-46-24.

Nothing in Section 31-46-23 is intended to require a manufacturer to:

(1) Sell to a competitor;

(2) Sell contact lenses to different contact lens distributors or customers at the same price;

(3) Open or maintain an account for a contact lens seller found to be in violation of applicable Georgia and federal law regarding the sale of contact lenses;

(4) Decide whether a low volume account with a contact lens seller is a direct account or handled through a distributor; or

(5) Sell to customers in all geographic areas lenses that are being test marketed on a limited basis in one geographic area.

31-46-25.

(a) A knowing and intentional violation of Code Section 31-46-23 shall constitute a misdemeanor.

(b) The attorney general may bring a civil action or seek an injunction and a civil penalty not to exceed \$10,000.00 for every day a person, entity, or manufacturer violates the provisions of Code Section 31-46-23."

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- SECTION 2.
- All laws and parts of laws in conflict with this Act are repealed.