

The Senate Regulated Industries and Utilities Committee offered the following substitute to HB 184:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions, so as
2 to provide certain requirements relating to eye care and treatment; to provide for certain
3 requirements relating to contact lenses; to provide for additional pharmaceutical agents
4 which may be used by a doctor of optometry for treatment purposes; to provide for related
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

7 Title 43 of the Official Code of Georgia Annotated, relating to professions, is amended by
8 adding a new chapter to read as follows:
9

"CHAPTER 29A

10
11 43-29A-1.

12 As used in this chapter, the term:

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

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

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

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

1 43-29A-2.

2 (a) Beginning July 1, 2006, a manufacturer of contact lenses doing business in the state
3 shall certify by affidavit to the Attorney General those brands of contact lenses produced,
4 marketed, distributed, or sold by the manufacturer in the state that are made available in
5 a commercially reasonable and nondiscriminatory manner to:

- 6 (1) Prescribers;
- 7 (2) Entities associated with prescribers; and
- 8 (3) Alternative channels of distribution.

9 (b) Notwithstanding any other provision of law, a manufacturer shall only sell, market, or
10 distribute lenses in Georgia that have been certified under subsection (a) of this Code
11 section.

12 (c) Subsections (a) and (b) of this Code section do not apply to:

- 13 (1) Rigid gas permeable lenses;
- 14 (2) Bitoric gas permeable lenses;
- 15 (3) Bifocal gas permeable lenses;
- 16 (4) Keratoconus lenses;
- 17 (5) Custom soft toric lenses that are manufactured for an individual patient and are not
18 mass marketed or mass produced; or
- 19 (6) Custom designed lenses that are manufactured for an individual patient and are not
20 mass marketed or mass produced.

21 (d) Any time a brand ceases to be made available after July 1, 2006, the manufacturer shall
22 immediately certify that fact by affidavit to the Attorney General.

23 (e) Nothing in this Code section shall be construed to require a prescriber to stock, sell, or
24 prescribe any specific type brand or specific manufacturer's line of contact lenses.

25 43-29A-3.

26 Nothing in Code Section 43-29A-2 is intended to require a manufacturer to:

- 27 (1) Sell to a competitor;
- 28 (2) Sell contact lenses to different contact lens distributors or customers at the same
29 price;
- 30 (3) Open or maintain an account for a contact lens seller who is not in substantial
31 compliance with Georgia and federal law regarding the sale of contact lenses;
- 32 (4) Decide whether a low volume account with a contact lens seller is a direct account
33 or handled through a distributor; or
- 34 (5) Sell to customers in all geographic areas lenses that are being test marketed on a
35 limited basis in one geographic area.

1 43-29A-4.

2 (a) A knowing and intentional violation of Code Section 43-29A-2 shall constitute a
3 misdemeanor.

4 (b) The Attorney General may bring a civil action or seek an injunction or both against any
5 person, entity, or manufacturer who violates the provisions of Code Section 43-29A-2."

6 **SECTION 2.**

7 All laws and parts of laws in conflict with this Act are repealed.