

109TH CONGRESS
2^D SESSION

H. R. 5762

To amend the Fairness to Contact Lens Consumers Act with respect to the availability of contact lenses.

IN THE HOUSE OF REPRESENTATIVES

JULY 11, 2006

Mr. TERRY introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Fairness to Contact Lens Consumers Act with respect to the availability of contact lenses.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Contact Lens Con-
5 sumer Protection Act”.

6 **SEC. 2. CONTACT LENS CONSUMER PROTECTION.**

7 The Fairness to Contact Lens Consumers Act (15
8 U.S.C. 7601 et seq.) is amended by inserting after section
9 7, the following new section:

1 **“SEC. 7A. POLICY REGARDING THE AVAILABILITY OF CON-**
2 **TACT LENSES.**

3 “(a) IN GENERAL.—A manufacturer shall make any
4 contact lens the manufacturer produces, markets, distrib-
5 utes, or sells available in a commercially reasonable and
6 nondiscriminatory manner to—

7 “(1) prescribers;

8 “(2) entities associated with prescribers; and

9 “(3) alternative channels of distribution.

10 “(b) EXCLUSION.—

11 “(1) IN GENERAL.—For purposes of this sec-
12 tion, the term ‘contact lens’ does not include lenses
13 that are described in paragraph (2).

14 “(2) LENSES DESCRIBED.—The lenses de-
15 scribed in this paragraph include—

16 “(A) rigid gas permeable lenses;

17 “(B) bitoric gas permeable lenses;

18 “(C) bifocal gas permeable lenses;

19 “(D) keratoconus lenses;

20 “(E) custom soft toric lenses; and

21 “(F) any other custom designed lenses
22 that are manufactured for an individual patient
23 and are not mass marketed or mass produced.

24 “(c) DEFINITIONS.—In this section:

25 “(1) ALTERNATIVE CHANNELS OF DISTRIBUTION.—The term ‘alternative channels of distribu-
26 tion.—The term ‘alternative channels of distribu-

1 tion’ means any mail order company, Internet re-
2 tailer, pharmacy, buying club, department store, or
3 mass merchandise outlet, without regard to whether
4 the entity is associated with a prescriber, unless the
5 entity is a competitor as defined in paragraph (2).

6 “(2) COMPETITOR.—The term ‘competitor’
7 means an entity that manufactures contact lenses
8 and sells the lenses in direct competition with an-
9 other manufacturer.

10 “(3) MANUFACTURER.—The term ‘manufac-
11 turer’ includes the manufacturer and the parent
12 company of the manufacturer, and any subsidiaries,
13 affiliates, successors, and assigns of the manufac-
14 turer.

15 “(d) SAFE HARBOR FOR MANUFACTURERS.—Noth-
16 ing in this section shall be deemed to impose on a manu-
17 facturer an obligation to—

18 “(1) sell to a competitor;

19 “(2) sell contact lenses to different contact lens
20 distributors or customers at the same price, con-
21 sistent with applicable Federal law;

22 “(3) open or maintain any account for a seller
23 who is not in substantial compliance with this Act;

24 “(4) decide whether to sell to a low volume ac-
25 count directly or through a distributor; or

1 “(5) make available to sellers in all geographic
2 areas lenses that are being test marketed on a lim-
3 ited basis in one geographic area.

4 “(e) RULEMAKING.—The Federal Trade Commission
5 shall prescribe rules to carry out this section in the same
6 manner as set forth under section 8 of this Act and any
7 rule prescribed under this section shall take effect not
8 later than 60 days after the date of the enactment of this
9 Act.

10 “(f) VIOLATIONS.—Any violation of this section or
11 the rules required under subsection (e) shall be treated
12 in the same manner as provided for under section 9 of
13 this Act.”.

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