

1 2. THE TERM "COMPETITOR" SHALL MEAN AN ENTITY THAT MANUFACTURES
2 CONTACT LENSES AND SELLS THOSE LENSES WITHIN THE STATE IN DIRECT COMPE-
3 TITION WITH ANY OTHER MANUFACTURER.

4 3. THE TERM "MANUFACTURER" SHALL MEAN A MANUFACTURER AND ITS PARENT
5 COMPANIES, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS.

6 4. THE TERM "PRESCRIBER" SHALL MEAN AN INDIVIDUAL LICENSED OR AUTHOR-
7 IZED TO PRESCRIBE CONTACT LENSES UNDER THIS ARTICLE.

8 S 429-B. CERTIFICATION OF AVAILABILITY OF CONTACT LENSES; EXCEPTIONS.

9 1. BEGINNING JULY FIRST, TWO THOUSAND THIRTEEN, A MANUFACTURER OF
10 CONTACT LENSES DOING BUSINESS IN THE STATE SHALL CERTIFY BY AFFIDAVIT TO
11 THE ATTORNEY GENERAL THOSE BRANDS OF CONTACT LENSES PRODUCED, MARKETING,
12 DISTRIBUTED OR SOLD BY THE MANUFACTURER IN THE STATE THAT ARE MADE
13 AVAILABLE IN A COMMERCIALY REASONABLE AND NONDISCRIMINATORY MANNER TO
14 (A) PRESCRIBERS, (B) ENTITIES ASSOCIATED WITH PRESCRIBERS AND (C) ALTER-
15 NATIVE CHANNELS OF DISTRIBUTION. NOTWITHSTANDING ANY OTHER PROVISION OF
16 LAW, A MANUFACTURER SHALL ONLY SELL, MARKET OR DISTRIBUTE LENSES IN THE
17 STATE THAT HAVE BEEN CERTIFIED UNDER THIS SECTION.

18 2. THIS SECTION SHALL NOT APPLY TO:

19 (A) RIGID GAS PERMEABLE LENSES;

20 (B) BITORIC GAS PERMEABLE LENSES;

21 (C) BIFOCAL GAS PERMEABLE LENSES;

22 (D) KERATOCONUS LENSES;

23 (E) CUSTOM SOFT TORIC LENSES THAT ARE MANUFACTURED FOR AN INDIVIDUAL
24 PATIENT AND ARE NOT MASS MARKETING OR MASS PRODUCED; AND

25 (F) CUSTOM DESIGNED LENSES THAT ARE MANUFACTURED FOR AN INDIVIDUAL
26 PATIENT AND ARE NOT MASS MARKETING OR MASS PRODUCED.

27 3. ANY TIME A CONTACT LENS BRAND CEASES TO BE MADE AVAILABLE AFTER
28 JULY FIRST, TWO THOUSAND THIRTEEN, THE MANUFACTURER SHALL IMMEDIATELY
29 CERTIFY THAT FACT BY AFFIDAVIT TO THE ATTORNEY GENERAL.

30 4. NOTHING IN THIS SECTION SHALL BE INTENDED OR CONSTRUED TO REQUIRE A
31 MANUFACTURER TO:

32 (A) SELL TO A COMPETITOR;

33 (B) SELL CONTACT LENSES TO DIFFERENT CONTACT LENS DISTRIBUTORS OR
34 CUSTOMERS AT THE SAME PRICE;

35 (C) OPEN OR MAINTAIN ANY ACCOUNT FOR A CONTACT LENS SELLER WHO IS NOT
36 IN SUBSTANTIAL COMPLIANCE WITH APPLICABLE STATE AND FEDERAL LAWS REGARD-
37 ING THE SALE OF CONTACT LENSES;

38 (D) DECIDE WHETHER A LOW-VOLUME ACCOUNT WITH A CONTACT LENS SELLER IS
39 A DIRECT ACCOUNT OR HANDLED THROUGH A DISTRIBUTOR; OR

40 (E) SELL TO CUSTOMERS IN ALL GEOGRAPHIC AREAS, LENSES THAT ARE BEING
41 TEST MARKETING ON A LIMITED BASIS IN RESTRICTED GEOGRAPHIC AREAS.

42 S 429-C. VIOLATIONS; PENALTIES. 1. ANY PERSON WHO KNOWINGLY AND
43 INTENTIONALLY VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR.

44 2. THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION OR SEEK AN INJUNCTION
45 AND A CIVIL PENALTY AGAINST A PERSON, ENTITY OR MANUFACTURER WHO
46 VIOLATES THIS SECTION.

47 S 4. This act shall take effect immediately.