

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1937



ENROLLED

HOUSE BILL No. 196

(By Mr. Erhard)



PASSED Febry-26 1937

In Effect 90 days from Passage

110

ENROLLED
House Bill No. 196

(By MR. ERIHARD)

[Passed February 26, 1937; in effect ninety days from passage.]

AN ACT to amend and reenact sections seven and eight, article eight, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the certificate to practice optometry, and to further amend said article and chapter by the addition of a new section thereto numbered section ten, relating to the prevention of the unlawful practice of optometry.

Be it enacted by the Legislature of West Virginia:

That sections seven and eight, article eight, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted, and that said article and chapter be amended by the addition thereto of section ten, all to read as follows:

Section 7. *Annual Renewal of Registration; Restoration*

2 of *Expired Certificate*. Every registered optometrist who
3 desires to continue in active practice or service shall, annu-
4 ally, on or before the first day of August, of each year, re-
5 new his certificate of registration and pay an annual re-
6 newal fee of ten dollars. Every certificate of registration
7 which has not been renewed during the month of August in
8 any one year shall expire on the first day of September of
9 that year. A registered optometrist whose certificate of reg-
10 istration has expired may have the same restored only upon
11 payment of the required renewal fee. Any registered op-
12 tometrist who retires from the practice of optometry for more
13 than five years may renew his certificate of registration upon
14 payment of all lapsed renewal fees: *Provided*, That the re-
15 newal fees payable on or before the first day of August, one
16 thousand nine hundred thirty-seven, shall be for one and one-
17 fourth years.

Sec. 8. *Suspension or Revocation of Certificate of Regis-*
2 *tration; False and Deceptive Advertising*. The board may
3 either refuse to issue, or may refuse to renew, or may sus-
4 pend or revoke any certificate of registration for any one,
5 or any combination, of the following causes: Conviction of

6 a felony, as shown by a certified copy of the record of the
7 court wherein such conviction was had, the obtaining of, or
8 the attempt to obtain, a certificate of registration, or prac-
9 tice in the profession of optometry, or money, or any other
10 thing of value, by fraudulent misrepresentation, gross mal-
11 practice, continued practice by a person knowingly having
12 an infectious disease, habitual drunkenness, or addiction to
13 the use of morphine, cocaine, or other habit-forming drugs;
14 advertising, practicing, or attempting to practice under a
15 name other than one's own; advertising by means of know-
16 ingly false or deceptive statements. All advertising, whether
17 by means of newspapers, or in any manner, whatsoever, of
18 the following statements, or statements of similar import,
19 that are "false and deceptive" within the meaning of this act,
20 shall be prohibited. False and deceptive advertising shall be
21 prohibited in the following: (a) Advertising of complete
22 glasses, that is to say, lenses and frames or mountings, at a
23 stated price, either alone or in conjunction with professional
24 services; (b) advertising "free examination of eyes," or
25 "free consultation," or "free advice," or words of similar im-
26 port and meaning; (c) advertising frames or mountings for

27 glasses, which advertisement does not accurately describe the
28 same in all its component parts, (all such advertisements
29 shall state clearly, in type equal in size to the price figures
30 given, that such price does not include cost of lenses, or pro-
31 fessional services in examining the eyes), and, (d) advertis-
32 ing a particular sum or sums of money required as a "down"
33 or cash payment, or any definite amount or amounts of fu-
34 ture payments, or when the same shall be paid: *Provided,*
35 That nothing herein contained shall be construed so as to
36 prohibit the advertising of free examinations for school chil-
37 dren or for any charitable organization.

Sec. 10. *Unlawful Practice of Optometry; Penalties.* Any
2 corporation or voluntary association shall not practice, or
3 assume to practice, or in any manner to hold itself out to the
4 public as being entitled to practice the profession of optom-
5 etry, or advertise the title of optometrist in such manner as
6 to convey the impression to the public that it is entitled to
7 practice optometry, or furnish optometric advice and serv-
8 ices, or advertise that, either alone or together with or by
9 or through any person, whether a duly registered and licensed
10 optometrist or not, it has, owns, conducts or maintains an

11 office or place for the practice of optometry. Any duly reg-
12 istered and licensed optometrist shall not associate himself
13 with any corporation or voluntary association for the prac-
14 tice of optometry, or in any manner practice such profes-
15 sion, on a salary or commission basis, for any such corpora-
16 tion or voluntary association. Any corporation or voluntary
17 association violating any of the provisions of this section, or
18 any officer, trustee, director, agent, or employee of such cor-
19 poration or voluntary association who, either directly or in-
20 directly, engages in any of the acts herein prohibited, or as-
21 sists such corporation or voluntary association to do such
22 prohibited acts, shall be guilty of a misdemeanor, and upon
23 conviction thereof shall be fined not less than one hundred
24 nor more than one thousand dollars. The fact that any such
25 officer, trustee, director, agent or employee shall be a duly
26 registered and licensed optometrist shall not be held to per-
27 mit or allow any such corporation or voluntary association
28 to do the acts prohibited herein, nor shall such fact be a de-
29 fense upon the trial of any of the persons hereinbefore men-
30 tioned for a violation of this section. Any duly registered
31 and licensed optometrist who shall violate the provisions of

32 this section shall be guilty of a misdemeanor, and upon con-
33 viction thereof shall be fined not less than ten dollars nor
34 more than twenty-five dollars, and each and every day such
35 violation continues shall constitute a separate offense; and in
36 addition to the foregoing penalties, such offending optome-
37 trist shall have his license to practice suspended for a period
38 of one year, by the court in which such conviction is had:
39 *Provided*, That this section shall not apply to a partnership
40 of two or more duly registered and licensed optometrists who
41 practice under their own names.

42 No person, registered under this act, or any individual,
43 firm or corporation engaged in the sale of merchandise of any
44 description who maintains or operates, or who allows to be
45 maintained or operated in connection with said merchandise
46 business, an optometric department, or who rents or sub-
47 leases to any person or persons for the purpose of engaging
48 in the practice of optometry therein, any part of premises in
49 which such person, persons, firm or corporation is engaged
50 in mercantile business, shall publish or circulate, or print
51 or cause to be printed by any means whatsoever, any adver-
52 tisement or notice of the optometric department maintained,

53 operated or conducted in said establishment or place of busi-
 54 ness, in which said advertisement or notice appears, any un-
 55 truthful, or misleading statement, or anything calculated or
 56 intended to mislead or deceive the public or any individual.
 57 Any person violating this provision shall be guilty of a
 58 misdemeanor, and, upon conviction thereof shall be fined not
 59 less than fifty nor more than five hundred dollars, and each
 60 and every day such violation continues shall constitute a
 61 separate offense.

I certify that the foregoing act,
 having been presented to the Governor for
 his approval, and not having been returned
 by him to the House of the Legislature in
 which it originated within the time pre-
 scribed by the constitution of the state, has
 become a law without his approval.

This the 10th day of March

1937


 SECRETARY OF STATE

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Carl B. Galbraith

Chairman Senate Committee

W. B. Hunter

Chairman House Committee

Originated in the.....

Takes effect..... passage.

Thomas H. Miller

Clerk of the Senate

Wm. S. Stace

Clerk of the House of Delegates

Chas. E. Hooper

President of the Senate

James Kay Thomas

Speaker House of Delegates

The within..... this the.....

day of....., 1937.

.....
Governor.

Filed in the office of the Secretary of State
of West Virginia.

MAR 10 1937

Wm. S. O'BRIEN,
Secretary of State