

act, to promptly remove him from office. It shall be the duty of the state inspector of oils to promptly remove from office any of his deputies who shall prove himself to be unfaithful or dishonest in the discharge of his duties.

§ 14. PORTS OF ENTRY.] All illuminating oils and gasoline when shipped into this state shall be inspected on entering this state, the following points being designated as ports of entry: Fairmount, Wahpeton, Fargo, Grand Forks, Hankinson, Oakes and Ellendale. For making inspections other than at said points, the inspector or his deputies shall be entitled in addition to the fees prescribed, to mileage at the rate of ten cents per mile for each mile actually traveled, such mileage to be paid by the party for whom the inspection is made.

§ 15. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 16. EMERGENCY.] Whereas, there is now no law requiring the inspection of gasoline, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1903.

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## OPTOMETRY.

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### CHAPTER 130.

[H. B. No. 18—Beck.]

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#### REGULATING PRACTICE OF OPTOMETRY.

AN ACT to Regulate the Practice of Optometry in the State of North Dakota, Defining the Same, Creating a State Board of Optometry, and Defining the Duties of Such Board, Providing for Compensation of Its Members, and Prescribing Who, and the Conditions Upon Which Any Person May Practice Optometry in this State, and Providing Penalties for the Violation of the Provisions of this Act.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. DEFINED.] The practice of optometry is defined as follows, namely: The employment of subjective and objective mechanical means to determine the accommodative and refractive states of the eye and the scope of its functions in general.

§ 2. UNLAWFUL TO PRACTICE WITHOUT CERTIFICATE.] It shall be unlawful for any person to practice optometry in the state of North Dakota, unless he shall first have obtained a certificate of registration and filed the same, or a certified copy thereof, with the register of deeds of the county of his residence, all as hereinafter provided.

§ 3. BOARD CREATED.] There is hereby created a board, whose duty it shall be to carry out the purposes and enforce the provisions of this act, and shall be styled the North Dakota State Board of Examiners of Optometry. Said board shall be appointed by the governor as soon as practicable after the passage of this act, and shall consist of five resident opticians who are members of the North Dakota Optical association, engaged in the actual practice of optometry. Each member of said board shall hold office for a term of three years, and until his successor is appointed. Appointments to fill vacancies caused by death, resignation or removal shall be made for the residue of such term by the governor. The members of said board, before entering upon their duties, shall respectively take and subscribe to the oath required to be taken by other state officers, and said board shall have a common seal.

§ 4. GOVERNOR TO APPOINT OFFICERS. MEETINGS.] The governor shall appoint one of the members of said board president, and one member secretary, who severally shall have the power during the term of office to administer oaths and take affidavits, certifying thereto under their hand and the seal of the board. Said board shall meet at least once in each year at a place designated by the board, and in addition thereto, whenever and wherever the president and secretary thereof shall call a meeting; a majority of said board shall at all times constitute a quorum. The secretary of said board shall keep a full record of the proceedings of said board, which records shall at all reasonable times be open to public inspection.

§ 5. EXAMINATIONS.] Every person before beginning to practice optometry in this state, after the passage of this act, shall pass an examination before said board of examiners. Such examination shall be confined to such knowledge as is essential to the practice of optometry. Any person having signified to said board his desire to be examined by them shall appear before them at such time and place as they may designate, and before beginning such examination shall pay to the secretary of said board, for the use of said board, the sum of ten dollars, and if he shall successfully pass such examination, shall pay to the said secretary, for the use of said board, a further sum of five dollars on the issuance to him of a certificate. All persons successfully passing such examination shall be registered in the board register, which shall be kept by said secretary, as licensed to practice optometry, and shall also receive a certificate of such registration to be signed by the president and secretary of said board, which shall be filed as hereinbefore provided.

§ 6. FEES.] Every person who is residing and engaged in the practice of optometry in the state of North Dakota at the time of the passage of this act, shall, within six months thereafter, file an affidavit in proof thereof with said board, who shall make and keep record of such person, and shall for the consideration of the sum of three dollars, issue to him a certificate of registration.

§ 7. WHO EXEMPT FROM PROVISIONS OF SECTION 5.] All per-

sons entitled to a certificate of registration under the full provisions of section 6 shall be exempt from the provisions of section 5 of this act.

§ 8. DUTY OF REGISTER OF DEEDS.] Recipients of said certificate of registration shall present the same for record to the register of deeds of the county in which they reside, and shall pay a fee of fifty cents to the register of deeds for recording the same. Said register of deeds shall record said certificate in a book to be provided by him for that purpose. Any person so licensed removing his residence from one county to another in this state shall, before engaging in the practice of optometry in such other county, obtain from the register of deeds of the county in which said certificate of registration is recorded, a certified copy of such record, or else obtain a new certificate of registration from the board of-examiners, and shall, before comencing practice in such county, file the same for record with the register of deeds of the county to which he removes and pay the register of deeds thereof for recording the same a fee of fifty cents. Any failure, neglect or refusal on the part of any person holding such certificate or copy of record to file the same for record, as hereinbefore provided, for six months after the issuance thereof, shall forfeit the same. Such board shall be entitled to a fee of one dollar for the re-issue of any certificate, and the register of deeds of any county shall be entitled to a fee of one dollar for making and certifying a copy of the record of any such certificate; this is not to prevent a registered optician from practicing in any county of the state.

§ 9. PENALTY.] Any person entitled to a certificate, as provided for in section 6 of this act, who shall not within six months after the passage thereof make written application to the board of examiners for a certificate of registration, accompanied by a written statement, signed by him, and duly verified before an officer authorized to administer oaths within this state, fully setting forth the grounds upon which he claims such certificate, shall be deemed to have waived his right to a certificate under the provisions of said section. Any failure, neglect or refusal on the part of any person holding such certificate to file the same for record as hereinbefore provided, for six months after the issuance thereof, shall forfeit the same.

§ 10. CERTIFICATE TO BE DISPLAYED.] Every person to whom a certificate of examination or registration is granted shall display the same in a conspicuous part of his office wherein the practice of optometry is conducted.

§ 11. COMPENSATION OF BOARD.] Out of the funds coming into the possession of said board, each member thereof may receive, as compensation, the sum of five dollars for each day actually engaged in the duties of his office and mileage at three cents per mile for all distance necessarily traveled in going to and coming from the meetings of the board. Said expenses shall be paid from the fees and assessments received by the board under the provisions of this act, and no part of the salary or other expenses of the board shall ever

be paid out of the state treasury. All moneys received in excess of said per diem allowance and mileage, as above provided for, shall be held by the secretary as a special fund for meeting expenses of said board and carrying out the provisions of this act, and he shall give such bonds as the board shall from time to time direct, and the said board shall make an annual report of its proceedings to the governor on the first Monday of December of each year, which report shall contain an account of all moneys received and disbursed by them pursuant to this act; all surplus moneys shall go to the state school fund.

§ 12. ANNUAL LICENSE FEE.] Every registered optician shall in every year after 1903, pay to the said board of examiners the sum of two dollars as a license fee for each year. Such payment shall be made prior to the first day of April in each and every year, and in case of default in such payment, by any person, his certificate may be revoked by the board of examiners, upon twenty days' notice of the time and place of considering such revocation. But no license shall be revoked for such non-payment if the person so notified shall pay before or at such time of consideration his fee and such penalty as may be imposed by said board; provided, that said board may impose a penalty of five dollars and no more on any one person so notified, as a condition of allowing his license to stand; provided, further, that said board of examiners may collect any such dues by suit.

§ 13. CERTIFICATE REVOKED. WHEN.] Said board shall have power and must revoke any certificate of registration granted by it under this act for conviction of crime, habitual drunkenness for six months immediately before a charge is made, gross incompetency, contagious or infectious disease, or for advertising himself as an eye specialist or doctor, or for holding himself out to the public as being other than an optician, skilled in the art of optometry; provided, that before any certificate shall be so revoked, the holder thereof shall have notice in writing of the charge or charges against him, and at a day specified in said notice, at least five days after the service thereof, be given a public hearing, and have opportunity to produce testimony in his behalf and to confront the witnesses against him. Any person whose certificate has been so revoked may, after the expiration of ninety days, apply to have the same re-granted, and the same shall be re-granted him, upon a satisfactory showing that the disqualification has ceased.

§ 14. PENALTY.] Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction may be fined not less than twenty dollars, nor more than one hundred dollars, or to be confined not less than one month nor more than three months in the county jail. And all fines thus received shall be paid into the common school fund of the county in which such conviction takes place.

§ 15. JUSTICES OF PEACE TO HAVE JURISDICTION.] Justices of the peace and the respective municipal courts shall have jurisdiction of

violations of this act. It shall be the duty of the respective county attorneys to prosecute all violations of this act.

§ 16. WHO EXEMPT.] Nothing in this act shall be construed to apply to physicians and surgeons authorized to practice under the laws of the state of North Dakota, nor to persons who sell spectacles or eyeglasses as any other article of merchandise without attempting to traffic upon assumed skill in adapting them to the eye, nor to student practitioners under the supervision of registered opticians.

Approved March 4, 1903.

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## PERSONAL INJURY.

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### CHAPTER 131.

[H. B. No. 17—McKenzie.]

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#### PERSONAL INJURY ACT.

AN ACT Fixing the Liability of Railroad Companies for Injuries Sustained by Employes of Such Companies in Consequence of the Negligence of Fellow Employes.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. RAILROADS LIABLE FOR DAMAGES TO EMPLOYES.] Every railroad company organized or doing business in this state shall be liable for all damages done to any employe of such company, in consequence of any negligence of its agents, or by any mismanagement of its engineers, or other employes, to any person sustaining such damage; and no contract which restricts such liability shall be legal or binding.

§ 2. REPEAL.] All acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 10, 1903.