

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999

# A Bill

Act 524 of 1999  
SENATE BILL 497

4  
5 By: Senator Bearden  
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## For An Act To Be Entitled

8  
9 "AN ACT TO AMEND CERTAIN PROVISIONS OF THE OPHTHALMIC  
10 DISPENSING ACT; AND FOR OTHER PURPOSES."

### Subtitle

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13 "AN ACT TO AMEND CERTAIN PROVISIONS OF  
14 THE OPHTHALMIC DISPENSING ACT."

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code 17-89-201(d) is repealed.

20 ~~(d) No person or employee of a person who owns or has direct or~~  
21 ~~indirect financial interest or control of a manufacturer of ophthalmic lenses~~  
22 ~~which are prescribed, delivered, sold, or dispensed in the State of Arkansas~~  
23 ~~shall serve on the board.~~

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25 SECTION 2. Arkansas Code 17-89-201(e)(2) is repealed.

26 ~~(2) No person shall be eligible to serve more than two (2) full~~  
27 ~~consecutive terms.~~

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29 SECTION 3. Arkansas Code 17-89-203(a) is amended to add the following  
30 new language:

31 "(10) Have the discretion to adopt an official seal."  
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33 SECTION 4. Arkansas Code 17-89-309(b) is amended to add the following  
34 new language:

35 ~~"(b) Upon a conviction of a violation of this section, the board, after~~  
36 ~~due notice and hearing, shall suspend or revoke or fail to issue or renew the~~

1 ~~license or registration of any licensee or registrant under this chapter.~~

2 "(b) After due notice and hearing, a person licensed or registered as  
 3 an optician or apprentice under this chapter is found to have violated this  
 4 chapter, the board may impose any one or more of the following sanctions:

5 (i) Suspension, revocation or denial of the license  
 6 or registration or the renewal thereof;

7 (ii) A penalty not to exceed one thousand dollars  
 8 (\$1,000.00) for each violation;

9 (iii) Place conditions or restrictions upon the  
 10 person's license, registration or practice; or

11 (iv) Such other requirements or penalties as may be  
 12 appropriate to the circumstances or the case, and which would achieve the  
 13 desired disciplinary purposes, but which would not impair the public welfare  
 14 and morals.

15 (c) Unless the penalty assessed under this section is paid within  
 16 fifteen (15) days following the date for an appeal from the order, the board  
 17 shall have the power to file suit in the Circuit Court of Pulaski County to  
 18 obtain the judgment for the amount of penalty not paid."

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 20 SECTION 5. Arkansas Code 17-89-310(b) is amended to add the following  
 21 new language:

22 "(5) The board may administer oaths and issue a subpoena for any  
 23 witness or a subpoena duces tecum to compel the production of any books,  
 24 records, papers, or documents pertinent to any matters coming before the  
 25 board."

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 27 SECTION 6. Arkansas Code Title 17, Chapter 89, Subchapter 4 is amended  
 28 by adding the following section to be appropriately numbered by the Arkansas  
 29 Code Revision Commission:

30 "(a) It shall be unlawful for any person or legal entity to conduct an  
 31 office or place of business in this state where ophthalmic dispensing services  
 32 are offered or performed unless that person or entity shall have first secured  
 33 an office permit from the board, pursuant to board regulation, for each such  
 34 office or place of business; provided, however, that persons or entities  
 35 identified in Arkansas Code 17-89-103 are exempt from this section. The  
 36 office permit shall be prominently displayed in each office or place of

1 business in this state where ophthalmic dispensing services are offered or  
 2 performed.

3 (b) The office permit shall be renewed on or before July 1 of each year  
 4 at a cost and pursuant to procedures to be determined by board rule or  
 5 regulation.

6 (c) The board shall suspend, revoke or refuse to issue or renew an  
 7 office permit for any violation of any provision of this chapter or of any  
 8 rules and regulations promulgated by the board, including at least the  
 9 following:

10 (1) The applicant, person, or legal entity obtains an office  
 11 permit by means of fraud, misrepresentation, or concealment of material facts;

12 (2) The applicant, person, or legal entity violating any  
 13 prohibitive provision under this chapter;

14 (3) The applicant, person, or legal entity engaging in any  
 15 fraudulent, misleading, or deceptive advertising;

16 (4) The applicant, person, or legal entity failing to qualify for  
 17 the office permit; or

18 (5) The applicant, person, or legal entity violating any other  
 19 rule or regulation promulgated by the board.

20 (d) After due notice and a hearing regarding a violation of this  
 21 section, the board may impose any one of the following sanctions:

22 (i) Suspension, revocation or denial of the office  
 23 permit renewal thereof;

24 (ii) A penalty not to exceed one thousand dollars  
 25 (\$1,000.00) for each violation;

26 (iii) Such other requirements or penalties as may be  
 27 appropriate to the circumstance or the case, and which would achieve the  
 28 desired disciplinary purpose, but which would not impair the public welfare  
 29 and morals.

30 (e) Unless the penalty assessed under this section is paid within  
 31 fifteen (15) days following the date for an appeal from the order, the board  
 32 shall have the power to file suit in the Circuit Court of Pulaski County to  
 33 obtain the judgment for the amount of penalty not paid."

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 35 SECTION 7. All provisions of this act of a general and permanent nature  
 36 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

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3 SECTION 8. If any provision of this act or the application thereof to  
4 any person or circumstance is held invalid, such invalidity shall not affect  
5 other provisions or applications of the act which can be given effect without  
6 the invalid provision or application, and to this end the provisions of this  
7 act are declared to be severable.

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9 SECTION 9. All laws and parts of laws in conflict with this act are  
10 hereby repealed.

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13 APPROVED: 3/10/1999  
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