1	House BILL NO. 387
2	INTRODUCED BY Rasmussen
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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
5	66-1316 AND 66-1302, R.C.M. 1947, TO PREVENT UNAUTHORIZED
6	PERSONS FROM PRACTICING OPTOMETRY."
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8	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9	Section 1. Section 66-1316, R.C.M. 1947, is amended to
10	read as follows:
11	"66-1316. Act not to apply to physicians and surgeons.
12	Nothing in this act shall be construed to apply to
13	physicians and surgeons authorized to practice under the
14	laws of the state of Montana nor to an optician performing
15	the required mechanical work under an order or prescription
16	signed by a duly licensed physician or surgeon, nor to
17	commissioned officers of the armed forces of the United
18	States performing functions of this act in the line of their
19	regular duty, nor to persons who sell spectacles or
20	eyeglasses without attempting to traffic upon assumed skill
21	in adapting them to the eye. Nothing in this act shall be
22	construed to allow a physician licensed under the laws of
23	the state of Montana to delegate his authority under this
24	act to another person."
25	Section 2. Section 66-1302, R.C.M. 1947, is amended to

read as follows: "66-1302. Provisions regulating practice of optometry. (1) It is unlawful for a person: 4 (a) To practice optometry in this state unless he has first obtained a certificate of registration, and filed it 6 or a certified copy with the county clerk and recorder of 7 the county of his residence; 8 (b) To sell, barter, or offer to sell or barter a certificate of registration issued by the department; 10 (c) To purchase or procure by barter a certificate of 11 registration with intent to use it as evidence of the 12 holder's qualification to practice optometry; 13 (d) To materially alter with fraudulent intent a 14 certificate of registration; 15 (e) To use or attempt to use a certificate of registration which has been purchased, fraudulently issued, 16 17 counterfeited, or materially altered as a valid certificate 1.8 of registration; 19 (f) To practice optometry under a false or assumed 20 name; (g) To willfully make a materially false statement in 21 an application for an examination by the department or for a 22 certificate of registration; 23

(h) To advertise by displaying a sign or by otherwise

holding himself out to be an optometrist without having at

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the time a valid certificate of registration:

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- (i) To replace or duplicate ophthalmic lenses with or without a prescription or to dispense ophthalmic lenses from prescriptions, without having at the time a valid certificate of registration as an optometrist; however, this subsection does not prevent an optical mechanic from doing the merely mechanical work on an ophthalmic lens which is ordered on a prescription signed by a registered optometrist and is dispensed only by the optometrist or a person employed by the optometrist and who does so in the office of and under the direct personal supervision of an optometrist;
- (j) To take or make measurements for the purpose of fitting or adapting ophthalmic lenses to the human eye, without having at the time a valid certificate of registration. A person who takes or makes measurements or uses mechanical devices for this purpose or who in the sale of spectacles, eyeglasses, or lenses uses, in the testing of the eyes, lenses other than the lenses actually sold, is practicing optometry. However, this section does not apply to the prescriptions of qualified optometrists when sent to a recognized optical laboratory.
- (k) To advertise at a price, or stated terms of a price, or as being free, the following: The examination or treatment of the eyes, furnishing of optometrical services, or furnishing a lens, lenses, contact lens, contact lenses,

- l contact lenses, glasses, frames, or fitting thereof.
- However, this subdivision does not apply to advertising
- 3 goggles, sunglasses, colored glasses, or occupational
- 4 eye-protective devices, if they are not made with refractive
- 5 values and are not advertised in connection with the
- 6 practice of optometry or professional service.

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- (1) To adapt a lens to direct contiguous contact to the human eyeball without having at the time a valid certificate of registration as an optometrist.
- 10 (2) When the board has reasonable cause to believe that a person is violating this section, or a rule issued under 11 this chapter, it may, in addition to other remedies provided 12 13 in this chapter, bring an action for injunctive relief in district court in the county where the violation occurs to 14 enjoin the person from engaging in or continuing the 15 violation. The department may employ legal counsel to 16 prosecute these actions. In these actions, and on notice and 17 18 hearing, an order or judgment may be entered awarding a temporary restraining order or final injunction as 19 considered proper by the judge of the district court in the 20 21 county where the violation occurred. This chapter does not apply to physicians and surgeons authorized to practice 22 under the laws of this state nor-te-a-person-employed-in-the 23 office-of-and-acting-under-the-direct--personal--supervision 24 of--a--physician--or--surgeon, nor to a person excepted from 25

1 this chapter by section 66-1316."

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