

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 832

H.P. 591

House of Representatives, February 16, 2005

### An Act To Amend the Laws Regulating the Practice of Optometry

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Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative BLANCHETTE of Bangor.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 32 MRSA §2414** is enacted to read:

6 **§2414. Contract with optical shop or other commercial or mercantile establishment**

8 **1. Contract requirements.** An optometrist may enter into a written contract for space in or on the premises of an optical shop or other commercial or mercantile establishment if:

12 **A. The optical shop or other commercial or mercantile establishment does not control or attempt to control the professional judgment of the optometrist;**

16 **B. The optometrist maintains control of the optometrist's practice and the optometrist's records related to the practice;**

20 **C. The office or offices to be used for the practice of optometry are private and equipped as required for a complete ocular examination; and**

24 **D. Appropriate identification is visible to the public indicating the optometrist's name and phone number and that the optometrist is independent of the optical shop or other commercial or mercantile establishment.**

28 **2. Effect of rental or payment.** Rental or payment for space, equipment or services on a flat rate or percentage of gross revenue is lawful and may not be construed as fee splitting or the sharing or dividing of profit.

34 **Sec. 2. 32 MRSA §2431-A, sub-§2, ¶¶J and K,** as amended by PL 1993, c. 600, Pt. A, §160, are repealed.

36 **Sec. 3. 32 MRSA §2434, sub-§4,** as amended by PL 1993, c. 600, Pt. A, §161, is further amended to read:

40 **4. Mercantile employment.** The practice of optometry as a full or part-time employee of a mercantile establishment or ~~directly or indirectly encouraging one's optometric services to be promoted as part of a mercantile or commercial establishment.~~ In this prohibition is included This chapter does not prohibit the practice of optometry as a lessee of a in or on the premises of an optical shop or other commercial or mercantile establishment involved in the selling of spectacles, frames, mounting, lenses or other optical devices under the terms of a written contract as authorized in section 2414; and

2           **Sec. 4. 32 MRSA §2435**, as amended by PL 1993, c. 600, Pt. A,  
§162, is further amended by adding a new 2nd paragraph to read:

4           This chapter does not prohibit a written contract for space,  
5           equipment or other services between any person, firm or  
6           corporation and an optometrist as authorized in section 2414.  
7           Such a contract may not be construed as the direct or indirect  
8           practice of optometry.

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## SUMMARY

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This bill does the following.

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1. It eliminates the prohibition on optometric practice on  
16 premises where nonoptometric materials are dispensed.

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2. It eliminates the existing prohibition on mercantile  
employment of optometrists by clarifying related provisions.

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3. It eliminates the prohibition on association by any  
22 optometrist with a person, firm or corporation who is not a  
registered optometrist.

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4. It permits optometrists to practice under a trade name  
26 like other medical professionals.

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5. It authorizes contracts for the practice of optometry in  
or on the premises of an optical shop or commercial or mercantile  
30 establishment and permits the joint marketing of the optometrist  
and mercantile or retail establishment.

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