

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935



ENROLLED

HOUSE BILL No. 136

(By Mr. Shuman)



PASSED February 27 1935

In Effect from Passage

136

ENROLLED
House Bill No. 136

(BY MR. WISEMAN)

[Passed February 27, 1935; in effect from passage.]

AN ACT to amend and reenact sections three and four, article seven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to inspection and analysis of food and drugs; adulteration of food and drugs; sale and penalties; and conferring upon the West Virginia board of pharmacy certain power and duties in relation thereto.

Be it enacted by the Legislature of West Virginia:

That sections three and four, article seven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, are hereby amended and reenacted to read as follows:

Section 3. Whenever the state department of health, the
2 West Virginia board of pharmacy, or any county or municipi-
3 pal health officer has reason to believe that any food or drug

4 manufactured for sale, offered for sale, or sold, within this
5 state, is adulterated, such department of health or board of
6 pharmacy, by its authorized agents, or such county or munic-
7 pal health officer, shall have the power, and it shall be his
8 duty, to enter, during the usual hours of business, into any
9 creamery, factory, store, sales room, drug store, laboratory, or
10 other place where he has reason to believe such food or drug
11 is manufactured, prepared, sold, or offered for sale, within
12 the county or municipality, as the case may be, and to open
13 any case, tub, jar, bottle, or package containing, or sup-
14 posed to contain, any such food or drug, and take a specimen
15 thereof for examination and analysis. If less than a whole
16 package is taken, the specimen shall be sealed and properly
17 prepared for shipment to the person who will make the analy-
18 sis hereinafter provided for. No whole or less than a whole
19 package taken and prepared for shipment shall be opened
20 before it has been received by the analyst aforesaid.

21 It shall be the duty of the chief chemist of the state hygienic
22 laboratory to test and analyze any such specimen, to record the
23 result of his analysis among the records of the laboratory, and
24 to certify such findings to the state department of health, the

25 West Virginia board of pharmacy, or to the county or municipal health officer, as the case may be. If the analysis indicates that the said food or drug is adulterated, a certificate of such result, sworn to by the person making the analysis, who shall also state in his certificate the reasonable cost and expense of such analysis, shall be prima facie evidence of such adulteration in prosecution under this article.

Sec. 4. Whoever, by himself or his agents, knowingly adulterates or causes to be adulterated any article of food or drug, or knowingly manufactures for sale, offers for sale, or sells, within this state, any article of food or drug which is adulterated within the meaning of this article, without making the same known to the buyer, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding five hundred dollars, or confined in jail not more than one year, or both, in the discretion of the court; and in addition to the penalties hereinbefore provided, he shall be adjudged to pay the cost and expense of analyzing such adulterated food or drug, as set in the certificate of the person making the analysis, not exceeding twenty-five dollars in any one

14 case, which shall be included in the cost of such prosecution
15 and taxed in favor of the state department of health or the
16 West Virginia board of pharmacy, as the case may be; and if
17 he be a registered pharmacist or assistant pharmacist, his
18 name shall be stricken from the register. The adulterated
19 article shall be forfeited and destroyed.

20 All acts and parts of acts inconsistent herewith are hereby
21 repealed insofar, and only so far, as they are inconsistent
22 with this particular act.

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

Clinton Howard
.....
Chairman Senate Committee

Amos M. Vickers
.....
Chairman House Committee

Originated in the *House of Delegates*
.....

Takes effect *from* passage.

Phyllis M. ...
.....
Clerk of the Senate

Geo. S. Hall
.....
Clerk of the House of Delegates

Chas. E. Hoyle
.....
President of the Senate

John S. Diller
.....
Speaker House of Delegates.

The within *is* approved this the *5th*
.....

day of *March*, 1935.

H. S. ...
.....
Governor.

Filed in the office of the Secretary of State
of West Virginia. **MAR 6 1935**

Wm. S. O'BRIEN,
Secretary of State