WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1939

ENROLLED
SENATE BILL No. 18

(By Mr. Young)

PASSED March 8th, 1939

In Effect
ENROLLED

Senate Bill No. 18

(By Mr. Young)

[Passed March 8, 1939; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, three, nine and twenty-three, and to repeal section nineteen and reenact a new section nineteen, all of chapter forty-six, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, relating to narcotic drugs, and amending said chapter forty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-five, by adding thereto a new section twenty-nine, providing that said chapter shall be designated as article eight-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one.
Be it enacted by the Legislature of West Virginia:

That chapter forty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be and the same is hereby designated article eight-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, that sections one, three, nine and twenty-three of said chapter be amended and re-enacted, that section nineteen be repealed and a new section nineteen enacted, all to read as follows:

Section 1. The following words and phrases, as used in this act, shall have the following meanings, unless the context otherwise requires:

1. "Person" includes any corporation, association, partnership, or one or more individuals.

2. "Physician" means a person authorized by law to practice medicine in this state and any other person authorized by law to treat sick and injured human beings in the state and to use narcotic drugs in connection with such treatment.

3. "Dentist" means a person authorized by law to practice dentistry in this state.
(4) "Veterinarian" means a person authorized by law to practice veterinary medicine in this state.

(5) "Manufacturer" means a person who, by compounding, mixing, cultivating, growing, or other process, produces or prepares narcotic drugs, but does not include a pharmacist who compounds narcotic drugs to be sold or dispensed on prescriptions.

(6) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced or prepared, on official written orders, but not prescriptions.

(7) "Pharmacist" means a licensed pharmacist as defined by the laws of this state.

(8) "Pharmacy Owner" means the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a registered pharmacist; but nothing in this act contained shall be construed as conferring on a person who is not registered or licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this state.

(9) "Hospital" means an institution for the care and treatment of the sick and injured, approved by the state
board of pharmacy as proper to be entrusted with the
custody of narcotic drugs and the professional use of
narcotic drugs under the direction of a physician, dentist,
or veterinarian.

(10) "Laboratory" means a laboratory approved by the
state board of pharmacy as proper to be entrusted with the
custody of narcotic drugs and the use of narcotic drugs for
scientific and medical purposes and for purposes of instruc-
tion.

(11) "Sale" includes barter, exchange, or offer therefor,
and each such transaction made by any person, whether as
principal, proprietor, agent, servant, or employee.

(12) "Coca Leaves" includes cocaine and any compound,
manufacture, salt, derivative, mixture, or preparation of
coca leaves, except derivatives of coca leaves which do not
contain cocaine, ecgonine, or substances from which cocaine
or ecgonine may be synthesized or made.

(13) "Opium" includes morphine, codeine, and heroin,
and any compound, manufacture, salt, derivative, mixture
or preparation of opium.

(13-a) "Cannabis" includes all parts of the plant canna-
bis sativa, L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, of the sterilized seed of such plant which is incapable of germination.

(14) "Narcotic Drugs" means coca leaves and opium, cannabis and other substances not chemically distinguishable from them.

(15) "Federal Narcotic Laws" means the laws of the United States relating to opium, coca leaves, cannabis, and other narcotic drugs.

(16) "Official Written Order" means an order written on a form provided for that purpose by the United States commissioner of narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such
order form is provided then on an official form provided for
that purpose by the state board of pharmacy.

(17) "Dispense" includes distribute, leave with, give
away, dispose of, or deliver.

(18) "Registry Number" means the number assigned to
each person registered under the federal narcotic laws.

Sec. 3. No person shall manufacture, compound, mix,
cultivate, grow, or by any other process produce or prepare
narcotic drugs, and no person as a wholesaler shall supply
the same, without having first obtained a license so to do
from the state board of pharmacy.

A fee of three dollars shall be charged and collected by
the state board of pharmacy for each manufacturer’s and
each wholesaler’s license issued under the provision of this
section. The license shall be for the calendar year, and
shall be renewable on the first day of January of each year.

Sec. 9. (1) Every physician, dentist, veterinarian, or other
person who is authorized to administer or professionally use
narcotic drugs, shall keep a record of such drugs received by
him, and a record of all such drugs administered, dispensed,
or professionally used by him otherwise than by prescription.
The keeping of a record by any such person using small quantities of solutions or other preparations of such drugs for local application, of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients, shall constitute a sufficient compliance with this subsection.

(2) Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection five of this section.

(3) Pharmacists and pharmacy owners shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection five of this section.

(4) Every person who purchases for resale, or who sells narcotic drug preparations exempted by section eight of this act, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise, in accordance with the provisions of subsection five of this section.
(5) The form of records shall be prescribed by the state board of pharmacy. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received, the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced, and the proportion of resin contained in or producible from the plant cannabis sativa, L., received or produced.

The record of all narcotic drugs sold, administered, compounded, dispensed, or otherwise disposed of, shall show the date of selling, administering, compounding, or dispensing, the name and address of the person to whom or for whose use, or the owner and species of animal for which the drugs were sold, administered, compounded, or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the
federal narcotic laws, containing substantially the same in-
formation as is specified above, shall constitute compliance
with this section, except that every record shall contain a
detailed list of narcotic drugs lost, destroyed, or stolen, if
any, the kind and quantity of such drugs, and the date of the
discovery of such loss, destruction, or theft.

Sec. 19. Search Warrants. If there be complaint, on oath,
that any narcotic drug or drugs, as defined by this act, are
being manufactured, sold, kept, stored, or in any manner
held, used or concealed in a particular house or other place,
in violation of law, a justice of the peace, circuit, criminal or
intermediate court, or the judge thereof, in vacation, or the
mayor of any city, town or village, or any person or tribunal
which may hereafter be vested with authority to issue war-
nants, to whom such complaint is made, if satisfied that there
is a probable cause for such belief, shall issue a warrant to
search such house or other place for narcotic drugs. Warrants
may also be issued under this article for the search of any
automobile, boat, conveyance or vehicle, or for the search of
any trunk, grip or other article of baggage for narcotic
drugs, and may be executed in any part of the state where
the same are overtaken, and shall be returnable before any
justice of the peace, circuit, criminal or intermediate court,
or the judge thereof, in vacation, or the mayor of any city,
town or village, or any person or tribunal which may here-
after be vested with authority to issue warrants, within
whose jurisdiction such automobile, boat, conveyance, ve-
hicle, trunk, grip or other article of baggage, or any of them,
were transported or attempted to be transported contrary to
law.

An officer charged with the execution of a warrant issued
under this section may, wherever it is necessary, break open
and enter a house or other place herein described, or any
conveyance, container or receptacle described in this section.
Warrants issued under this section may be executed by any
member of the department of public safety of West Vir-
ginia, sheriff or deputy sheriff of any county, constable, and
the police officers of any incorporated city, town of village.

Sec. 23. Penalties for Violations. Any person violating
any provision of this article, except section two, shall upon
conviction be punished, for the first offense, by a fine not
exceeding one hundred dollars, or by imprisonment in jail
for not exceeding one year, or by both such fine and imprison-
ment; and for any second or subsequent offense, by a fine not
exceeding one thousand dollars, or by imprisonment for not
exceeding five years in the penitentiary, or by both such fine
and imprisonment.

Any person violating the provisions of section two of this
article shall be guilty of a felony, and upon conviction thereof
shall be punished by a fine not exceeding one thousand dollars,
or by imprisonment for not exceeding ten years in the peni-
tentiary, or by both such fine and imprisonment.

Sec. 29. Chapter forty-six, acts of the Legislature, regular
session, one thousand nine hundred thirty-five, is hereby de-
clared to be an amendment to chapter sixteen of the code of
West Virginia, one thousand nine hundred thirty-one, and
designated as article eight-a of said chapter.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate

Takes effect.......................... passage

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within.................................. this the 15th day of ........................., 1939.

Governor

Filed in the office of the Secretary of State of West Virginia, MAR 16 1939.

Wm. S. O'Brien, Secretary of State