

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939

ENROLLED

SENATE BILL No. 18

(By Mr. Young)

PASSED March 8th 1939

In Effect Twenty days for Passage



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that sections one, three, nine and twenty-three of said chapter be amended and re-enacted, that section nineteen be repealed and a new section nineteen enacted, all to read as follows: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

2 this act, shall have the following meanings, unless the con-
3 text otherwise requires:

4 (1) "Person" includes any corporation, association, co-
5 partnership, or one or more individuals.

6 (2) "Physician" means a person authorized by law to
7 practice medicine in this state and any other person au-
8 thorized by law to treat sick and injured human beings in the
9 state and to use narcotic drugs in connection with such
10 treatment.

11 (3) "Dentist" means a person authorized by law to
12 practice dentistry in this state.

13 (4) "Veterinarian" means a person authorized by law to
14 practice veterinary medicine in this state.

15 (5) "Manufacturer" means a person who, by compound-
16 ing, mixing, cultivating, growing, or other process, produces
17 or prepares narcotic drugs, but does not include a phar-
18 macist who compounds narcotic drugs to be sold or dis-
19 pensed on prescriptions.

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

23 (7) "Pharmacist" means a licensed pharmacist as de-
24 fined by the laws of this state.

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

32 (9) "Hospital" means an institution for the care and
33 treatment of the sick and injured, approved by the state

34 board of pharmacy as proper to be entrusted with the
35 custody of narcotic drugs and the professional use of
36 narcotic drugs under the direction of a physician, dentist,
37 or veterinarian.

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

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

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

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

54 (13-a) "Cannabis" includes all parts of the plant canna-

55 his sativa, L.; whether growing or not; the seeds thereof;
56 the resin extracted from any part of the plant; and every
57 compound, manufacture, salt, derivative, mixture, or prepa-
58 ration of such plant, its seeds, or resin; but shall not include
59 the mature stalks of such plant, fiber produced from such
60 stalks, oil or cake made from the seeds of such plant, or
61 any other compound, manufacture, salt, derivative, mixture,
62 or preparation of such mature stalks (except the resin ex-
63 tracted therefrom), fiber, oil, or cake, of the sterilized seed
64 of such plant which is incapable of germination.

65 (14) "Narcotic Drugs" means coca leaves and opium,
66 cannabis and other substances not chemically distinguish-
67 able from them.

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

71 (16) "Official Written Order" means an order written
72 on a form provided for that purpose by the United States
73 commissioner of narcotics, under any laws of the United
74 States making provision therefor, if such order forms are
75 authorized and required by federal law, and if no such

76 order form is provided then on an official form provided for
77 that purpose by the state board of pharmacy.

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

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

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

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

Sec. 9. (1) Every physician, dentist, veterinarian, or other
2 person who is authorized to administer or professionally use
3 narcotic drugs, shall keep a record of such drugs received by
4 him, and a record of all such drugs administered, dispensed,
5 or professionally used by him otherwise than by prescription.

6 The keeping of a record by any such person using small
7 quantities of solutions or other preparations of such drugs
8 for local application, of the quantity, character, and potency
9 of such solutions or other preparations purchased or made up
10 by him, and of the dates when purchased or made up, without
11 keeping a record of the amount of such solution or other
12 preparation applied by him to individual patients, shall con-
13 stitute a sufficient compliance with this subsection.

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

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

22 (4) Every person who purchases for resale, or who sells
23 narcotic drug preparations exempted by section eight of this
24 act, shall keep a record showing the quantities and kinds
25 thereof received and sold, or disposed of otherwise, in accord-
26 ance with the provisions of subsection five of this section.

27 (5) The form of records shall be prescribed by the state
28 board of pharmacy. The record of narcotic drugs received
29 shall in every case show the date of receipt, the name and ad-
30 dress of the person from whom received, and the kind and
31 quantity of drugs received, the kind and quantity of narcotic
32 drugs produced or removed from process of manufacture, and
33 the date of such production or removal from process of manu-
34 facture; and the record shall in every case show the proportion
35 of morphine, cocaine, or ecognine contained in or producible
36 from crude opium or coca leaves received or produced, and
37 the proportion of resin contained in or producible from the
38 plant cannabis sativa, L., received or produced.

39 The record of all narcotic drugs sold, administered, com-
40 pounded, dispensed, or otherwise disposed of, shall show the
41 date of selling, administering, compounding, or dispensing,
42 the name and address of the person to whom or for whose
43 use, or the owner and species of animal for which the drugs
44 were sold, administered, compounded, or dispensed, and the
45 kind and quantity of drugs. Every such record shall be kept
46 for a period of two years from the date of the transaction
47 recorded. The keeping of a record required by or under the

48 federal narcotic laws, containing substantially the same in-
49 formation as is specified above, shall constitute compliance
50 with this section, except that every record shall contain a
51 detailed list of narcotic drugs lost, destroyed, or stolen, if
52 any, the kind and quantity of such drugs, and the date of the
53 discovery of such loss, destruction, or theft.

Sec. 19. *Search Warrants.* If there be complaint, on oath,
2 that any narcotic drug or drugs, as defined by this act, are
3 being manufactured, sold, kept, stored, or in any manner
4 held, used or concealed in a particular house or other place,
5 in violation of law, a justice of the peace, circuit, criminal or
6 intermediate court, or the judge thereof, in vacation, or the
7 mayor of any city, town or village, or any person or tribunal
8 which may hereafter be vested with authority to issue war-
9 rants, to whom such complaint is made, if satisfied that there
10 is a probable cause for such belief, shall issue a warrant to
11 search such house or other place for narcotic drugs. Warrants
12 may also be issued under this article for the search of any
13 automobile, boat, conveyance or vehicle, or for the search of
14 any trunk, grip or other article of baggage for narcotic
15 drugs, and may be executed in any part of the state where

16 the same are overtaken, and shall be returnable before any
17 justice of the peace, circuit, criminal or intermediate court,
18 or the judge thereof, in vacation, or the mayor of any city,
19 town or village, or any person or tribunal which may here-
20 after be vested with authority to issue warrants, within
21 whose jurisdiction such automobile, boat, conveyance, ve-
22 hicle, trunk, grip or other article of baggage, or any of them,
23 were transported or attempted to be transported contrary to
24 law.

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

Sec. 23. *Penalties for Violations.* Any person violating
2 any provision of this article, except section two, shall upon
3 conviction be punished, for the first offense, by a fine not
4 exceeding one hundred dollars, or by imprisonment in jail

5 for not exceeding one year, or by both such fine and imprison-
6 ment; and for any second or subsequent offense, by a fine not
7 exceeding one thousand dollars, or by imprisonment for not
8 exceeding five years in the penitentiary, or by both such fine
9 and imprisonment.

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

Sec. 29. Chapter forty-six, acts of the Legislature, regular
2 session, one thousand nine hundred thirty-five, is hereby de-
3 clared to be an amendment to chapter sixteen of the code of
4 West Virginia, one thousand nine hundred thirty-one, and
5 designated as article eight-a of said chapter.

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

E. O. Wiseman

 Chairman Senate Committee

Ned B. Butler

 Chairman House Committee

Originated in the

Senate

Takes effect

Thirty days for

passage

Shamrock

 Clerk of the Senate

Geo. H. Stace

 Clerk of the House of Delegates

Wm. McComb

 President of the Senate

James L. Thomas

 Speaker House of Delegates

The within

approved

this the

15th

day of

March

, 1939.

James L. Thomas

 Governor

Filed in the office of the Secretary of State
 of West Virginia. **MAR 16 1939**
 Wm. S. O'BRIEN,
 Secretary of State