ENROLLED

HOUSE BILL No. 264

(By Mr. Bean and Mr. Fairman)

PASSED March 9, 1963

In Effect ninety days from Passage

Filed in Office of the Secretary of State
of West Virginia 3-15-63

JOE F. BURDETT
SECRETARY OF STATE
ENROLLED

House Bill No. 264
(By MR. BIAS and MR. D'AURORA)

[Passed March 9, 1963; in effect ninety days from passage.]

AN ACT to amend and reenact sections seventeen and twenty-three, article eight-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to certain offenses under the uniform narcotic drug act and prescribing penalties for violation of such act.

Be it enacted by the Legislature of West Virginia:

That sections seventeen and twenty-three, article eight-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 17. Obtaining Narcotic Drugs by Fraud, etc.—

2 (1) No person shall obtain or attempt to obtain a nar-
cotic drug, or procure or attempt to procure the adminis-
tration of a narcotic drug, (a) by fraud, deceit, mis-
representation, or subterfuge; or (b) by forgery or alter-
ation of a prescription or of any written order; or (c)
by the concealment of a material fact; or (d) by the use
of a false name or the giving of a false address.

(2) Information communicated to a physician in an
effort to unlawfully procure a narcotic drug, or unlaw-
fully to procure the administration of any such drug,
shall not be deemed a privileged communication.

(3) No person shall wilfully make a false statement
in any prescription, order, report, or record, required by
this article.

(4) No person shall, for the purpose of obtaining a
narcotic drug, falsely assume the title of, or represent
himself to be, a manufacturer, wholesaler, pharmacist,
pharmacy owner, physician, dentist, veterinarian, or other
authorized person.

(5) No person shall make or utter any false or forged
prescription or false or forged written order.

(6) No person shall affix any false or forged label to a
package or receptacle containing narcotic drugs.
(7) The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of section eight of this article, and in the same way as they apply to transactions under all other sections.

(8) Whoever violates any provision of this section shall be guilty of a misdemeanor, and, upon conviction for the first offense shall be fined not less than fifty nor more than one hundred dollars; and, upon conviction for a subsequent offense shall be fined not less than one hundred nor more than two hundred dollars and, in addition to such fine, any person so convicted may be imprisoned in the county jail for not more than six months.

Sec. 23. Penalties for Violation.—Whoever violates any provision of this article, where punishment is not otherwise provided, shall be guilty of a felony, and, upon conviction, shall be fined not more than one thousand dollars and be imprisoned in the penitentiary for not less than two nor more than five years. For a second offense, or if, in case of a first conviction of violation of any provision of this article, the offender shall previously have been convicted of any violation of the laws of the United
States or of any other state, territory or district relating to narcotic drugs or marihuana, the offender shall be fined not more than five thousand dollars and be imprisoned in the penitentiary for not less than five nor more than ten years. For a third or subsequent offense, or if the offender shall previously have been convicted two or more times in the aggregate of any violation of the law of the United States or of any other state, territory or district relating to narcotic drugs or marihuana, the offender shall be fined not more than ten thousand dollars and be imprisoned in the penitentiary not less than ten nor more than twenty years.

Except in the case of conviction for a first offense in violation of the provisions of this article, and except where punishment is otherwise provided, the imposition or execution of sentence shall not be suspended and probation or parole shall not be granted until the minimum imprisonment herein provided for the offense shall have been served. The court shall in each case fix and determine the exact length of sentence to be served for each conviction.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

O. Ray Parker
Chairman Senate Committee

Ethel L. Randall
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard Hypes
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard P. Carnan
President of the Senate

Julius W. Sifleeton, Jr.
Speaker House of Delegates

The within approve this the 14th day of March, 1963.

Governor