WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994

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ENROLLED

Com. Jnl. for

HOUSE BILL No. 4012

(By Delegate Mr. Speaker, Mr. Chambers and Del Beek)

[By Request of the Executive]

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Passed February 25, 1994

In Effect 90 Days from Passage
AN ACT to amend and reenact section three hundred two, article three, chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article four of said chapter by adding thereto a new section, designated section four hundred nine, all relating to the establishment of the separate and distinct offenses involving the transportation of controlled substances into this state; exemption of certain acts by certain persons from certain prohibitions provided by said chapter; and criminal penalties.

Be it enacted by the Legislature of West Virginia:

That section three hundred two, article three, chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article four of said chapter be amended by adding thereto a new section, designated section four hundred nine, all to read as follows:

ARTICLE 3. REGULATION OF MANUFACTURE, DISTRIBUTION AND DISPENSING OF CONTROLLED SUBSTANCES.

§60A-3-302. Registration required; effect of registration; exemptions; waiver; inspections.
(a) Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, must obtain annually a registration issued by the state board of pharmacy or the appropriate department, board, or agency, as the case may be, as specified in section 301, in accordance with its rules.

(b) Persons registered by said state board of pharmacy or said appropriate department, board, or agency, as the case may be, under this act to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

(c) The following persons need not register and may lawfully possess, deliver, or transport into this state controlled substances under this act:

(A) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he is acting in the usual course of his business or employment;

(B) A common or contract carrier or warehouseman, or an employee thereof, whose possession, delivery, or transportation into this state of any controlled substance is in the usual course of a lawful business or employment;

(2) The following persons need not register and may lawfully possess or transport into this state controlled substances under this act: An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance.

(d) The said state board of pharmacy or said appropriate department, board, or agency, as the case may be, may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.
(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The said state board of pharmacy or said appropriate department, board, or agency, as the case may be, may inspect the establishment of a registrant or applicant for registration in accordance with the rule of said state board of pharmacy or said appropriate department, board, or agency, as the case may be.

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-409. Prohibited acts - Transportation of controlled substances into state; penalties.

(a) Except as otherwise authorized by the provisions of this code, it shall be unlawful for any person to transport into this state a controlled substance with the intent to deliver the same or with the intent to manufacture a controlled substance.

(b) Any person who violates this section with respect to:

(1) A controlled substance classified in Schedule I or II which is a narcotic drug, shall be guilty of a felony, and, upon conviction, may be imprisoned in the penitentiary for not less than one year nor more than fifteen years, or fined not more than twenty-five thousand dollars, or both;

(2) Any other controlled substance classified in Schedule I, II or III, shall be guilty of a felony, and, upon conviction, may be imprisoned in the penitentiary for not less than one year nor more than five years, or fined not more than fifteen thousand dollars, or both;

(3) A substance classified in Schedule IV, shall be guilty of a felony, and, upon conviction, may be imprisoned in the penitentiary for not less than one year nor more than three years, or fined not more than ten thousand dollars, or both;

(4) A substance classified in Schedule V, shall be guilty of a misdemeanor, and, upon conviction, may be
26 confined in the county jail for not less than six months
27 nor more than one year, or fined not more than five
28 thousand dollars, or both.
29 (c) The offense established by this section shall be in
30 addition to and a separate and distinct offense from any
31 other offense set forth in this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Donald E. Kay
Clerk of the House of Delegates

Matt Donnelly
President of the Senate

Speaker of the House of Delegates

The within is approved this the 10th day of March, 1994.

Governor

[Signature]