

HB 4012

RECEIVED

1994 MAR 10 PM 4:34

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

Com. Sub. for
HOUSE BILL NO. 4012

(By Delegate *Mr. Speaker, Mr. Chambers & Del Burk*)
[By Request of the Executive]



Passed *Feb. 25,* 1994

In Effect *90 Days From* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 4012

(By MR. SPEAKER, MR. CHAMBERS, AND DELEGATE BURK)
[By Request of the Executive]

[Passed February 25, 1994; in effect ninety 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.

1 (a) Every person who manufactures, distributes, or
2 dispenses any controlled substance within this state or
3 who proposes to engage in the manufacture, distribu-
4 tion, or dispensing of any controlled substance within
5 this state, must obtain annually a registration issued by
6 the state board of pharmacy or the appropriate depart-
7 ment, board, or agency, as the case may be, as specified
8 in section 301, in accordance with its rules.

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

17 (c)(1) The following persons need not register and may
18 lawfully possess, deliver, or transport into this state
19 controlled substances under this act:

20 (A) An agent or employee of any registered manufac-
21 turer, distributor, or dispenser of any controlled
22 substance if he is acting in the usual course of his
23 business or employment;

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

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

35 (d) The said state board of pharmacy or said appro-
36 priate department, board, or agency, as the case may be,
37 may waive by rule the requirement for registration of
38 certain manufacturers, distributors, or dispensers if it
39 finds it consistent with the public health and safety.

40 (e) A separate registration is required at each
41 principal place of business or professional practice
42 where the applicant manufactures, distributes, or
43 dispenses controlled substances.

44 (f) The said state board of pharmacy or said appro-
45 priate department, board, or agency, as the case may be,
46 may inspect the establishment of a registrant or
47 applicant for registration in accordance with the rule of
48 said state board of pharmacy or said appropriate
49 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.

1 (a) Except as otherwise authorized by the provisions
2 of this code, it shall be unlawful for any person to
3 transport into this state a controlled substance with the
4 intent to deliver the same or with the intent to manu-
5 facture a controlled substance.

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

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

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

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

24 (4) A substance classified in Schedule V, shall be
25 guilty of a misdemeanor, and, upon conviction, may be

Enr. Com. Sub. for H. B. 4012] 4

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.

[Handwritten Signature]

Chairman Senate Committee

Ernest C Moore

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Carroll Thomas

Clerk of the Senate

Donald Ross

Clerk of the House of Delegates

Neil Pridgett

President of the Senate

Paul Abner

Speaker of the House of Delegates

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

Winston Capenhor

Governor

PRESENTED TO THE

GOVERNOR

Date 3/8/94

Time 9:50 am