2007 APR -3 AMII: 07

OFFICE ALGO VINGINIA SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE SEVENTY-EIGHTH LEGISLATURE

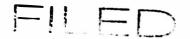
REGULAR SESSION, 2007

ENROLLED

Senate Bill No. 416

(By Senators Kessler, Oliverio, Chafin, Foster, Hunter, Jenkins, Minard, Stollings, Wells, White, Barnes, Caruth, Deem, Hall, McKenzie and Yoder)

[Passed March 5, 2007; in effect ninety days from passage.]



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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-412, relating to creating misdemeanor offenses for adulterating or defeating or attempting to adulterate or defeat bodily fluid test results and drug and alcohol tests; creating adulteration offenses; defining terms; and penalties for first, second and subsequent offenses.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be

amended by adding thereto a new section, designated §60A-4-412, to read as follows:

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-412. Defeating drug and alcohol screening tests; penalties.

- 1 (a) Any person who:
- 2 (1) Knowingly sells, gives away, distributes or markets
- 3 any substance or product in this state or transports such
- 4 a substance or product into this state with the intent
- 5 that the substance or product will be used to defeat a
- 6 drug or alcohol screening test;
- 7 (2) Attempts to defeat a drug or alcohol screening test
- 8 by the substitution of a false sample;
- 9 (3) Knowingly advertises for sale or distribution any
- 10 substance or product the advertised purpose of which is
- 11 to defeat a bodily fluid screening test for drugs or
- 12 alcohol;
- 13 (4) Adulterates a bodily fluid sample with the intent
- 14 to defeat a drug or alcohol screening test;
- 15 (5) Knowingly possesses adulterants for the purpose of
- 16 defeating a drug or alcohol screening test; or
- 17 (6) Knowingly sells adulterants which are intended to
- 18 be used to adulterate a urine or other bodily fluid
- 19 sample for the purpose of defeating a drug or alcohol
- 20 screening test.
- 21 (b) A person who violates a provision of subsection (a)

- 22 of this section:
- 23 (1) For a first offense is guilty of a misdemeanor and,
- 24 upon conviction, shall be fined not more than one
- 25 thousand dollars;
- 26 (2) For a second offense is guilty of a misdemeanor
- 27 and, upon conviction, be fined not more than five
- 28 thousand dollars; and
- 29 (3) For a third or subsequent offense is guilty of a
- 30 misdemeanor and, upon conviction, be fined not more
- 31 than ten thousand dollars or confined in the regional
- 32 jail for not more than one year, or both.
- 33 (c) As used in this section, "adulterate" means a
- 34 substance that is not expected to be in human fluids but
- 35 that is a concentration so high that it is not consistent
- with human bodily fluids, including, but not limited to:
- 37 (1) Bleach;
- 38 (2) Chromium;
- 39 (3) Creatinine;
- 40 (4) Detergent;
- 41 (5) Glutaraldehyde;
- 42 (6) Glutaraldehyde/squalene;
- 43 (7) Hydrochloric acid;
- 44 (8) Hydroiodic acid;

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- 45 (9) Iodine;
- 46 (10) Nitrite;
- 47 (11) Peroxidase;
- 48 (12) Potassium dichromate;
- 49 (13) Potassium nitrate;
- 50 (14) Pyridinium chlorochromate; and
- 51 (15) Sodium nitrite.

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.
In effect ninety days from passage.
Narself Solves Clerk of the Senate
Sugg 2. Sw Clerk of the House of Delegates
President of the Senate
Speaker House of Delegates
The within Us appulled this
the 31d Day of April , 2007.
Governor

PRESENTED TO THE GOVERNOR

MAR 2 0 2007

Time 3:30