

SB 416

FILED

2007 APR -3 AM 11:07

OFFICE WEST VIRGINIA
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
36 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;

- 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.

Ch White
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell E. Gibbs
.....
Clerk of the Senate

Suzanne S. Swain
.....
Clerk of the House of Delegates

Carl Roy Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this
the *3rd* Day of *April*, 2007.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 20 2007

Time 3:30 p