
DRUGS

CHAPTER 117.

[S. B. No. 191—Haggart.]

PROHIBITING SALE OF CERTAIN DRUGS.

An Act Restricting and Prohibiting the Selling, Keeping for Sale, Prescribing and Having Possession of Certain Drugs, Providing a Penalty for Violations of the Act and Relating to the Method of Enforcing and of Charging and of Proving Violations of the Act.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SALE AND GIFT OF CERTAIN DRUGS PROHIBITED.] It shall be unlawful for any person, firm or corporation, either personally or by servant or agent, or as the servant or agent of any other person, or of any firm or corporation, to sell, furnish or give away any opium or coca leaves or any compound, manufacture, salt, derivative or preparation thereof, and especially to sell, furnish or give away any cocaine, salts of cocaine, or preparation containing cocaine or salts of cocaine, or morphine, or preparation containing morphine or salts of morphine, or any codeine, or salt or derivative thereof, or any preparation containing codeine, or any chloral hydrate, or preparation containing chloral hydrate, or any heroin, or any of its salts or derivatives, or any preparation containing heroin, or any other habit-forming drug, whatever its nature or character, or any preparation containing any habit-forming drug, whatever its nature or character, or any substance or residue left after the smoking of opium, whether obtained from an opium pipe or other article used for smoking opium; except upon the original written order or prescription of a recognized and reputable practitioner of medicine, or of veterinary medicine, duly licensed to practice in the State of North Dakota, which order or prescription shall be dated and shall contain the name of the person for whom prescribed, or if ordered by a practitioner of veterinary medicine shall state the kind of animal for which ordered, and shall be signed by the person giving the order or prescription. Such order or prescription shall be, for a period of two years, retained on file by the person, firm or corporation who compounds or dispenses the article ordered or prescribed, and it shall not be compounded or dispensed after the first time except upon the written order of the original prescriber. The record so kept may be examined by the state's attorney of the county, or his assistant, at any time, and it shall be unlawful for any person, firm or corporation compounding or dispensing articles prescribed as aforesaid to fail to keep such orders and prescriptions on file, and to fail, refuse or neglect to exhibit the same to the state's attorney or his assistant when re-

quested. Provided, however, that any physician or veterinary surgeon, licensed to practice in the state of North Dakota may dispense or distribute any of the aforesaid drugs to a patient in the course of his professional practice only, and a dentist may use and administer such drugs in the course of professional treatment of a patient; provided, further that such dispensation or distribution must be in good faith, in the course of practice, when the administration of such drugs is necessary and proper in the proper practice of medicine, veterinary medicine or dentistry, and not for the purpose of evading the spirit or provisions of this Act. Any physician, dentist or veterinary surgeon, so distributing or dispensing any of the drugs herein mentioned, shall keep a record of all such drugs dispensed or distributed, showing the amount dispensed or distributed, the date, and the name and address of the patient to whom such drugs are dispensed or distributed, which record shall be kept for a period of two years from the date of dispensing or distributing such drugs, and shall be kept open to the inspection of the state's attorney of the county in which such physician, veterinary surgeon or dentist resides, or his assistant. Provided, further, that the provisions of this act shall not be construed to permit the selling, furnishing, giving away, or prescribing for the use of any habitual users of any of the substances hereinbefore first named and referred to, any of such substances. This last proviso shall not be construed to prevent any physician, duly licensed to practice medicine in the state of North Dakota, from furnishing in good faith for the use of any habitual user of narcotic drugs who is under his professional care, such substances as he may deem necessary for their treatment, when such prescriptions are not given or substances furnished for the purpose of evading the provisions of this Act, and provided a record is kept of the same, to be kept open for inspection by the state's attorney or his assistant, as hereinbefore provided for. It shall be unlawful, however, for any physician or veterinary surgeon to write a prescription or order for the furnishing of or to furnish any of the substances hereinbefore named, the selling, furnishing or giving away of which is hereby made unlawful, to any habitual users of any of said substances, unless in the course of good faith treatment of such person or persons for some disease or for the cure of the drug habit, in the proper and usual practice of medicine.

The above provisions shall not apply to preparations which do not contain more than two grains of opium, or more than one-quarter grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of them in one fluid ounce, or, if solid or semi-solid preparation, in one avoirdupois ounce, or to liniments, ointments or other preparations which are prepared for external use only, except liniments, ointments and other preparations which contain cocaine or any of its salts, or alpha or beta eucaine, or any of their salts or any synthetic substitute for them. Provided, however, that such

remedies and preparations last named shall be excepted from this act only when they are sold, distributed, given away, dispensed or possessed as medicines and not for the purpose of evading the intentions and provisions of this act.

The provisions of this section shall not apply to sales at wholesale between jobbers, manufacturers, and retail druggists, hospitals, scientific or public institutions. The prescriptions and orders hereinbefore referred to may be filled only in retail drug stores and by registered pharmacists. The provisions of this act shall not only apply to decocainized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine or any habit-forming drug.

§ 2. HAVING IN POSSESSION OF CERTAIN DRUGS PROHIBITED.] It shall be unlawful for any person, firm or corporation, except physicians, practitioners of veterinary medicine, and dentists, all duly licensed to practice their professions within the State of North Dakota, owners of retail drug stores conducted by registered pharmacists, jobbers of drugs, manufacturers of drugs and medicines carrying on a regular business within the State of North Dakota, hospitals, scientific and public institutions, and nurses, acting under the supervision of duly licensed and practicing physicians, having the substances hereinafter named by virtue of their employment or occupation and not on their own account, to have in his, her or its possession any opium or coca leaves, or any compound, manufacture, salt, derivative or preparation thereof, and especially any cocaine, salts of cocaine, or preparation containing cocaine or salts of cocaine, or morphine, or preparation containing morphine or salts of morphine, or any codeine or salt or derivative thereof, or any preparation containing codeine, or any chloral hydrate or preparation containing chloral hydrate, or any heroin or any of its salts or derivatives, or any preparation containing heroin, or any substance or residue left after the smoking of opium, whether obtained from an opium pipe or other articles used for smoking opium, or any other habit-forming drugs, whatever its nature or character, unless the person so having the same in his, her or its possession has obtained the same from a retail drug store within the State of North Dakota upon the written prescription of a duly licensed physician or practitioner of veterinary medicine, licensed to practice and practicing and having his residence within the State of North Dakota, under the conditions provided for in Section one of this act, the said person having obtained the same in good faith as a remedy and not for the purpose of evading this Act, or any of the provisions thereof, or the intention and spirit thereof. The provisions of this section, however, shall not apply to any United States, state, county, municipal or other public officer who has possession of any of said drugs by reason of his official duties, or to a warehouseman holding possession for another who is entitled under the provisions hereof to have possession of said drugs, or to common carriers engaged in transporting said drugs.

The persons excepted from the operation of the provisions of this section shall not be exempted if any of the substances or drugs herein named are kept by them to be disposed of in violation of this Act.

§ 3. COMPLAINTS, INFORMATIONS AND INDICTMENTS FOR VIOLATIONS OF ACT. EVIDENCE. BURDEN OF PROOF.] It shall not be necessary to negative any of the exemptions in this act contained in any complaint, information or indictment, or other writ or proceeding laid or brought under this Act, but it shall only be necessary that the state allege in such complaint, information, or indictment, or other writ or proceeding, that the defendant did wilfully, unlawfully, and feloniously sell, furnish, prescribe, give away, or have in his possession, as the case may be, one or more of the substances hereinbefore in this Act mentioned and referred to. Upon any hearing or trial of any person, firm or corporation for a violation of Section 1 of this Act, proof of a sale, furnishing, giving away or prescribing by the accused of any of the substances in paragraph 1 mentioned and referred to, or any article or preparation containing any of said substances, shall be prima facie proof of a violation of said section and of this Act, and shall be sufficient evidence to support a conviction for a violation of said section and of this Act, and the burden shall be upon the accused to prove that such sale, furnishing, giving away or prescribing was within one or more of the exceptions or exemptions provided by said Section, Upon any hearing or trial of any person, firm or corporation for a violation of the provisions of Section 2 of this Act, proof of the finding of any of the substances hereinbefore mentioned and referred to, upon the person of, or in the dwelling house of, or in any room or place occupied by or controlled by the accused, or in any manner in the possession of the accused, shall be prima facie evidence of a violation of said section and of this Act, and shall be sufficient evidence to support a conviction for a violation of said section and of this Act. In case the accused, in a prosecution for a violation of Section 2 of this Act, shall claim to have received the said substance from a retail druggist upon a prescription, as hereinbefore provided for, or from a physician or veterinary surgeon, it shall be necessary for him to produce the original prescription, and the testimony of the physician writing the prescription and of the pharmacist filling the prescription, in case he claims to have obtained it from a druggist, or, in case he claims to have procured it from a physician or veterinary surgeon, to produce the testimony of the physician or veterinary surgeon from whom he procured it; provided the testimony of such parties can be procured, either by having them present in person, or by deposition; before the prima facie case made out by the state as aforesaid shall be deemed to have been overcome.

§ 4. SEARCH WARRANT. SEIZURE.] If any person shall make an affidavit before any person entitled to administer an oath setting forth that any of the substances, the sale, furnishing, giving

away, prescribing or having in possession of which are herein forbidden, are being kept or are present upon certain premises, particularly describing such premises, and further stating the name of the person or persons keeping said substances, or having them under their control, if known to the affiant, and if not known, stating that fact, and said affidavit setting forth the foregoing facts shall be filed with any justice of the peace, police magistrate, or other magistrate having jurisdiction together with the affidavit of the state's attorney or his assistant that to the best of his knowledge, information and belief the facts set forth in such affidavit are true and he verily believes that such substance is kept in violation of law, or for the purpose of being sold, given away or furnished in violation of law, said magistrate shall issue a search warrant directed to the proper officer, commanding him to search the premises described in the above affidavit, and to seize all substances, the sale, furnishing, giving away, prescribing or keeping of which are herein prohibited; and take the same into his custody to abide the further order of the Court. The Officer shall thereupon proceed to execute the search warrant and make return thereon to said magistrate. If the return of said officer shall show that he has found or seized any such substances or drugs as are herein described and referred to, the magistrate shall appoint a day for hearing, not more than ten days from the date of such seizure or finding, of which hearing notice shall be given to the person or persons from whose custody or in whose premises said substances or drugs were taken. If at a hearing it shall be found by the magistrate that the drugs or substances so found or seized were kept in violation of this act, the Court shall order the destruction thereof by the sheriff of the county, at such time as the said magistrate shall fix, save that when a criminal action has been or is about to be commenced for a violation of the provisions of this Act, in which said drugs or substances may be used as evidence, such destruction shall not take place until after the final determination of said criminal action. If the affidavit for a search warrant is made in good faith, the person making it shall not be held civilly liable for damages by reason of such making.

§ 5. PRIVILEGE.] No person shall be excused from testifying touching any offense committed by another against any of the provisions of this Act by reason of his testimony tending to criminate himself. (Witness.) But the testimony given by such person shall in no case be used against him.

§ 6. PUNISHMENT FOR VIOLATIONS OF THE ACT.] Any person violating any of the provisions of this Act, shall upon conviction be punished by a fine of not to exceed \$1,000.00 nor less than \$100.00, or by imprisonment in the State Penitentiary not more than three years and not less than one year, or by imprisonment in the county jail not more than one year, or by both such fine and imprisonment, and if such person be a licensed physician, dentist, veterinarian or druggist, his license may be declared forfeited.

§ 7. REPEAL.] All Acts and parts of acts in conflict with this Act, and especially Section 2943 of the Compiled Laws of North Dakota for 1913, as amended by Chapter 154 of the Laws of North Dakota for 1915, are hereby repealed.

Approved March 8, 1917.

ELECTRICIANS

CHAPTER 118.

[S. B. No. 158—King.]

BOARD OF ELECTRICIANS.

An Act to Create a State Board of Electricians and Prescribing the Duties Thereof, Providing for the Classification, Examination and Licensing of Electricians and Electrical Workers, Prescribing Fees for Such Examination and License, and Providing for Inspection of Electrical Work through the Commissioner of Insurance under the Direction of the State Board.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Board of Electricians is hereby created which shall consist of three members appointed by the Governor for periods of two, four and six years, respectively, and the Commissioner of Insurance, who shall be ex-officio and Secretary of the Board. The three members appointed shall consist of one Master Electrician engaged in active work, one Journeyman Electrician and one Electrical Engineer of known ability. Vacancies shall be filled in the same manner and from the same class to which the retiring member belonged. The Board shall select from its members a Chairman and Treasurer, prescribe rules for the management of its affairs and adopt a seal. Each member shall receive Ten Dollars (\$10.00) per day for actual services rendered and actual expenses incurred in the discharge of his duties, except that in no case shall such compensation exceed \$100.00 for each or any member, in any one fiscal year. The board will meet at the Capitol on or about the first Monday in January and July of each year for the purpose of conducting examination and considering such other matters as may be brought before them, or at any time upon ten day's notice from the secretary.

§ 2. There shall be Master, Journeyman and special electricians, and in the last class shall be persons employed to operate electric light and power apparatus and keep the same in repair. Every person not already a licensed electrician who shall hereinafter engage in the occupation of or do any operating, installing or repairing of electrical wires or apparatus shall apply to the board for a license. The Board shall examine the applicant and if he be