

# SENATE . . . . No. 317

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## The Commonwealth of Massachusetts.

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SENATE, March 22, 1910.

The committee on Public Health, to whom was referred the recommendations for legislation to be contained in the annual report of the State Board of Health (House, No. 708), report (in part) the accompanying bill.

For the committee,

W. PRENTISS PARKER.

## The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Ten.

### AN ACT

Relative to the Sale of Cocaine.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. It shall be unlawful for any person,  
2 firm or corporation to manufacture any so-called  
3 catarrh powder or catarrh cure, or any patent or  
4 proprietary preparation containing cocaine, or any  
5 of its salts, or alpha or beta eucaine, or any of  
6 their salts, or any synthetic substitute for the  
7 aforesaid.

1 SECTION 2. It shall be unlawful for any person,  
2 firm or corporation to sell or to expose or offer for  
3 sale or to give, deliver or exchange any cocaine,  
4 or any alpha or beta eucaine, or any synthetic sub-  
5 stitute for the aforesaid, or any preparation con-  
6 taining the same, or any salts or compounds  
7 thereof, except upon the written prescription of a  
8 physician, dentist or veterinary surgeon registered  
9 under the laws of the state in which he resides;  
10 the original of which prescription shall be retained

11 by the druggist filling the same for a period of at  
12 least two years and shall not again be filled, except  
13 upon the written order of the original prescriber,  
14 and shall at all times be open to inspection by  
15 the officers of the state board of health, the mem-  
16 bers of the state board of registration in pharmacy  
17 and its authorized agents, and by the police au-  
18 thorities and officers of cities and towns. But no  
19 practitioner of veterinary medicine shall prescribe  
20 any of the above mentioned substances for the  
21 use of any human being.

1 SECTION 3. It shall be unlawful for any physi-  
2 cian or dentist to prescribe, sell or give away any  
3 cocaine or its salts, or any alpha or beta eucaine  
4 or their salts, or any synthetic substitute for the  
5 aforesaid, or any preparation containing the same,  
6 or any salts or compounds thereof, to any person  
7 known to such physician or dentist to be an habit-  
8 ual user of those drugs.

1 SECTION 4. Any manufacturer or jobber of any  
2 or all of the items mentioned in section two of  
3 this act, any wholesale druggist, or any registered  
4 pharmacist may sell any item mentioned in said  
5 section two to any such manufacturer, jobber,  
6 wholesale druggist or to any pharmacist, any phy-  
7 sician, any veterinarian or any dentist registered  
8 under the laws of the state in which he resides, or  
9 any incorporated hospital, but only upon a written  
10 order duly signed by such manufacturer, jobber,  
11 wholesale druggist, registered pharmacist, reg-  
12 istered physician, registered veterinarian, regis-  
13 tered dentist, or the superintendent of such incor-

14 porated hospital, which order shall show the item  
15 or items ordered and the date of delivery; and  
16 which order shall be kept on file in the laboratory,  
17 warehouse, pharmacy or store from which it was  
18 filled by the proprietor thereof or his successor for  
19 a period of not less than two years from the date  
20 of delivery, and shall at all times be open to in-  
21 spection by the officers of the state board of health,  
22 the members of the state board of registration in  
23 pharmacy and its authorized agents, and by the  
24 police authorities and officers of cities and towns;  
25 and such order shall not contain any items not  
26 mentioned in section two of this act.

1 SECTION 5. Whoever violates any provision of the  
2 foregoing sections of this act shall be punished by a  
3 fine of not less than fifty nor more than one thou-  
4 sand dollars, or by imprisonment for not more than  
5 one year in a county jail or house of correction, or  
6 by both such fine and imprisonment.

1 SECTION 6. Whoever, not being a registered phy-  
2 sician, registered dentist, or registered veterinary  
3 surgeon, or manufacturer or wholesale or retail  
4 dealer in drugs shall have in his or her possession  
5 any cocaine, alpha or beta eucaine, or any synthetic  
6 substitute for the aforesaid, or any preparation  
7 containing the same, or any salts or compounds  
8 thereof, except by reason of a prescription of a  
9 registered physician, registered dentist or regis-  
10 tered veterinary surgeon, shall be guilty of a mis-  
11 demeanor and upon conviction thereof shall be  
12 sentenced to pay a fine of not more than one hun-  
13 dred dollars or undergo an imprisonment of not

14 more than six months, or both or either at the  
15 discretion of the court. The provisions of this  
16 section shall not apply to any person, firm or cor-  
17 poration while transporting any of the above men-  
18 tioned articles, from or to any manufacturer or  
19 jobber, wholesale druggist, registered pharmacist,  
20 registered physician, registered veterinarian, reg-  
21 istered dentist or incorporated hospital; or to per-  
22 sons who may have the above mentioned articles  
23 in their possession in connection with the enforce-  
24 ment of the provisions of this act or of the trial of  
25 cases arising thereunder.

1 SECTION 7. If a person makes complaint under  
2 oath to a police, district, municipal court, trial jus-  
3 tice or justice of the peace authorized to issue war-  
4 rants in criminal cases that he or she has reason  
5 to believe or does believe that cocaine or alpha or  
6 beta eucaine, or any synthetic substitute for the  
7 aforesaid, or any preparation containing the same,  
8 or any salts or compounds thereof are kept or  
9 deposited by a person named therein, in a store,  
10 shop, warehouse, building, vehicle, steamboat,  
11 vessel or place, other than by a manufacturer or  
12 jobber, wholesale druggist, registered pharmacist,  
13 registered physician, registered veterinarian, reg-  
14 istered dentist, employees of incorporated hospitals  
15 or those who are entitled by law to have possession  
16 of any of the above mentioned articles, such court  
17 or justice, if it appears that there is probable cause  
18 to believe said complaint to be true, shall issue a  
19 search warrant to a sheriff, deputy sheriff, city  
20 marshal, chief of police, deputy marshal, police  
21 officer or constable commanding him to search the

22 premises in which it is alleged that such cocaine,  
23 alpha or beta eucaine, or any synthetic substitute  
24 for the aforesaid, or any preparation containing  
25 the same, or any salts or compounds thereof are  
26 kept or deposited, and to seize such cocaine, alpha  
27 or beta eucaine, or any synthetic substitute for  
28 the aforesaid, or any preparation containing the  
29 same, or any salts or compounds thereof and  
30 securely keep the same until final action, and to  
31 arrest the person or persons in whose possession it  
32 is found together with all persons present and to  
33 return the warrant with his doings thereon as soon  
34 as may be to a court or trial justice having juris-  
35 diction in the place in which such cocaine, alpha  
36 or beta eucaine, or any synthetic substitute for  
37 the aforesaid, or any preparation containing the  
38 same, or any salts or compounds thereof are alleged  
39 to be kept or deposited.

1 SECTION 8. If, after such notice as the court or  
2 trial justice shall order, it appears that the cocaine,  
3 alpha or beta eucaine, or any synthetic substitute  
4 for the aforesaid, or any preparation containing  
5 the same, or any salts or compounds thereof,  
6 seized according to the provisions of section seven  
7 of this act, was, at the time of making the com-  
8 plaint, in the possession of the person alleged  
9 therein in violation of law, the court or trial jus-  
10 tice shall render judgment that such and so much of  
11 the cocaine, alpha or beta eucaine, or any synthetic  
12 substitute for the aforesaid, or any preparation  
13 containing the same, or any salts or compounds  
14 thereof, so seized as was so unlawfully kept, shall  
15 be forfeited to the commonwealth, and shall, by the

16 authority of the written order of the court or trial  
17 justice, be forwarded by common carrier to the  
18 state board of health, who upon receipt of the same  
19 shall notify said court or justice thereof. Said  
20 board shall sell the same, and after paying the cost  
21 of the transportation of the said cocaine, alpha or  
22 beta eucaine, or any synthetic substitute for the  
23 aforesaid, or any preparation containing the same,  
24 or any salts or compounds thereof, it shall pay  
25 over the net proceeds to the treasurer and receiver  
26 general.

1 SECTION 9. It shall be the duty of the state board  
2 of health to cause the prosecution of all persons  
3 violating the provisions of this act, but no prose-  
4 cutions shall be brought against any wholesale or  
5 retail druggist for the sale or for the gift or the  
6 exchange of any patent or proprietary prepara-  
7 tion containing cocaine or alpha or beta eucaine, or  
8 any synthetic substitute for the aforesaid, unless  
9 the said board has, prior to such sale, gift or ex-  
10 change, given public notice in some trade journal  
11 that the gift, sale or exchange of the said patent  
12 or proprietary preparations, naming them, would  
13 be contrary to law.

1 SECTION 10. The repeal of a law by this act shall  
2 not affect any action, suit or prosecution pending  
3 at the time of the repeal for an offence committed  
4 or for the recovery of a penalty or forfeiture in-  
5 curred under any of the laws repealed.

1 SECTION 11. Section three and section five of  
2 chapter three hundred and eighty-six of the acts of

3 the year nineteen hundred and six, and section four  
4 of the same chapter, as amended by section two of  
5 chapter three hundred and seventy-five of the acts  
6 of the year nineteen hundred and nine, and chapter  
7 three hundred and seven of the acts of the year  
8 nineteen hundred and eight, as amended in section  
9 two by section one of chapter three hundred and  
10 seventy-five of the acts of the year nineteen hun-  
11 dred and nine, are hereby repealed.