

HOUSE . . . No. 1852

The Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, Feb. 29, 1912.

The committee on Public Health, to whom was referred the petition (accompanied by bill, Senate, No. 67) of J. Frank Chase and others that provision be made for the forfeiture of hypnotic drugs when seized, report the accompanying bill.

For the committee,

HAROLD H. FLOWER.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Twelve.

AN ACT

Relative to Certain Hypnotic Drugs.

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. Section one of chapter three hundred
2 and seventy-two of the acts of the year nineteen
3 hundred and eleven is hereby amended by striking
4 out the words " or those who are entitled by law
5 to have possession of any of the above mentioned
6 articles ", in the twelfth, thirteenth and fourteenth
7 lines, and inserting in place thereof the words:—
8 or a common carrier or porter when transporting
9 any drug mentioned herein, between parties here-
10 inbefore mentioned,— so as to read as follows:—
11 *Section 1.* If a person makes complaint under
12 oath to a police, district, or municipal court, or to
13 a trial justice or justice of the peace authorized
14 to issue warrants in criminal cases, that he has rea-
15 son to believe that opium, morphine, heroin,
16 codeine, cannabis indica, cannabis sativa or any
17 other hypnotic drug or any salt, compound or
18 preparation of said substances is kept or deposited
19 by a person named therein in a store, shop, ware-

20 house, building, vehicle, steamboat, vessel or place
21 other than by a manufacturer or jobber, wholesale
22 druggist, registered pharmacist, registered physi-
23 cian, registered veterinarian, registered dentist,
24 registered nurse, employees of incorporated hos-
25 pitals, or a common carrier or porter when trans-
26 porting any drug mentioned herein, between parties
27 hereinbefore mentioned, such court of justice, if it
28 appears that there is probable cause to believe that
29 said complaint is true, shall issue a search war-
30 rant to a sheriff, deputy sheriff, city marshal, chief
31 of police, deputy marshal, police officer or con-
32 stable commanding him to search the premises in
33 which it is alleged that such opium, morphine,
34 heroin, codeine, cannabis indica, cannabis sativa or
35 any other hypnotic drug or any salt or compound
36 or preparation of said substances or any prepara-
37 tion containing the same is kept or deposited, and
38 to seize and securely keep the same until final
39 action, and to arrest the person or persons in whose
40 possession it is found, together with all persons
41 present if any of the aforesaid substances is found,
42 and to return the warrant with his doings thereon,
43 as soon as may be, to a court or trial justice having
44 jurisdiction in the place in which such substance
45 is alleged to be kept or deposited.

1 SECTION 2. Section three of said chapter three
2 hundred and seventy-two is hereby amended by
3 striking out the words " or otherwise entitled by
4 law to have possession of any of the above men-
5 tioned drugs ", in the fifth and sixth lines, and
6 inserting in place thereof the words:— or a com-
7 mon carrier or porter when transporting any drug

8 mentioned herein, between parties hereinbefore
9 mentioned,—so as to read as follows:—*Section*
10 3. Whoever, not being a manufacturer or jobber
11 of drugs, wholesale druggist, registered pharma-
12 cist, registered physician, registered veterinarian,
13 registered dentist, registered nurse or an employee
14 of an incorporated hospital, or a common carrier
15 or porter when transporting any drug mentioned
16 herein, between parties hereinbefore mentioned, is
17 found in possession thereof, except by reason of a
18 physician's prescription, shall be punished by a
19 fine of not more than one hundred dollars or by
20 imprisonment for six months in the house of cor-
21 rection.

1 SECTION 3. Said chapter three hundred and
2 seventy-two is hereby further amended by adding
3 thereto the three following new sections, which are
4 to be numbered, respectively, as follows:—

5 *Section 4.* Possession of the above mentioned
6 articles shall be presumptive evidence that such
7 possession was in violation of law.

8 *Section 5.* If after such notice as the court or
9 trial justice shall order, it appears that any article
10 or drug seized under the provisions of section one
11 was, at the time of the making of the complaint, in
12 the possession of the person alleged therein in vio-
13 lation of law, the court or trial justice shall order
14 that such article or drug so seized shall be forfeited
15 to the commonwealth and shall order such article
16 or drug to be sent to the state board of health.
17 Said board may destroy the same or cause the same
18 to be destroyed or to be disposed of in any way not
19 prohibited by law, and, after paying the cost of

20 transportation of said substances and of the dispo-
21 sition thereof, said board shall pay over the net
22 proceeds to the treasurer and receiver general.

23 *Section 6.* The provisions of section eight of
24 chapter two hundred and seventeen of the Revised
25 Laws shall apply to all judgments and orders made
26 under this act.

