

or reservation of wages under authority thereof prior to the effective date of this act.

Effective date.

SECTION 3. This act shall become effective November first of the current year and section one thereof shall apply only to attachments by trustee process made on or after said effective date.
Approved July 12, 1935.

Chap. 411 AN ACT RELATIVE TO THE METHOD OF PAYMENT OF SALARIES OF MEMBERS OF THE COMMISSION ON PUBLIC UTILITIES AND OF CERTAIN SALARIES AND EXPENSES INCURRED BY THE DEPARTMENT OF PUBLIC UTILITIES IN THE PERFORMANCE OF CERTAIN OF ITS FUNCTIONS.

Be it enacted, etc., as follows:

G. L. (Ter. Ed.), 25, §§ 11 and 12, repealed.

SECTION 1. Sections eleven and twelve of chapter twenty-five of the General Laws, as appearing in the Tercentenary Edition, are hereby repealed.

Effective date.

SECTION 2. This act shall take effect on the first day of December in the current year and shall not affect the assessment and collection of items designated by any appropriation act of said year for the purposes stated in said section eleven.
Approved July 12, 1935.

Chap. 412 AN ACT MAKING UNIFORM CERTAIN PHASES OF THE LAWS RELATING TO THE SALE AND DISTRIBUTION OF NARCOTIC DRUGS.

Be it enacted, etc., as follows:

G. L. (Ter. Ed.), 94, § 197, amended.

SECTION 1. Section one hundred and ninety-seven of chapter ninety-four of the General Laws, as appearing in the Tercentenary Edition, is hereby amended by striking out the paragraph contained in the tenth to the fifteenth lines and inserting in place thereof the following: — "Narcotic drug", coca leaves, cocaine, alpha or beta eucaine, or any synthetic substitute for them or any salts, compound or derivative thereof except decocainized coca leaves and preparations thereof, opium, morphine, heroin, codeine, or any preparation thereof or any salt, compound or derivative of the same; and, subject to section two hundred and six, cannabis, including (a) the dried flowering or fruiting tops of the pistillate plant *cannabis sativa* L., from which the resin has not been extracted, (b) the resin extracted from such tops, and (c) every compound, manufacture, salt, derivative, mixture, or preparation of such resin, or of such tops from which the resin has not been extracted.

Narcotic drugs, definition.

G. L. (Ter. Ed.), 94, § 198, amended.

SECTION 2. Section one hundred and ninety-eight of said chapter ninety-four, as so appearing, is hereby amended by striking out, in the first and second lines, the words "one hundred and ninety-nine and two hundred" and inserting in place thereof the words: — one hundred and ninety-seven to two hundred and six, inclusive, — and by striking out,

in the third and fourth lines, the words "manufacturer or jobber in drugs, wholesale druggist" and in the forty-ninth and fiftieth lines the words "manufacturer or jobber of drugs, or wholesale druggist" and inserting in place thereof, in each instance, the words: — licensee under sections one hundred and ninety-eight A and one hundred and ninety-eight B, — so as to read as follows: — *Section 198.* Except as otherwise provided in sections one hundred and ninety-seven to two hundred and six, inclusive, no person shall sell, furnish, give or deliver any narcotic drug except upon the written order of a licensee under sections one hundred and ninety-eight A and one hundred and ninety-eight B, registered pharmacist actively engaged in business as such, physician, dentist or veterinarian registered under the laws of the state where he resides, or an incorporated hospital, college or scientific institution through its superintendent or official in immediate charge, or upon the written prescription of a physician, dentist or veterinarian registered as above provided, such order bearing his legal signature, the date of the signature, his office address, the registry number given him under the act of congress approved December seventeenth, nineteen hundred and fourteen, and the name, age and address of the patient for whom it is prescribed. The prescription, when filled, shall show the date of filling and the legal signature of the person filling it, written across the face of the prescription, and the prescription shall be retained on file for at least two years by the druggist filling it. No prescription shall be filled except in the manner indicated therein and at the time when it is received, and the full quantity of each substance prescribed shall be given. No order or prescription shall be either received for filling or filled more than five days after its date of issue as indicated thereon. Each pharmacist who fills a prescription for a narcotic drug shall securely attach to the container thereof a label giving the name and address of the store where the prescription is filled, the date of filling, the name of the person for whom it is prescribed, the name of the physician, dentist or veterinarian who issued it; and the narcotic drug so delivered shall always be kept in its container until used. No prescription shall be refilled, nor shall a copy of the same be made except for the purpose of record by the druggist filling the same, such record to be open at all times to inspection by the officers of the department of public health, the board of registration in pharmacy, the board of registration in medicine, authorized agents of said department and boards, and by the police authorities and police officers of towns; provided, that sections one hundred and ninety-seven to two hundred and thirteen, inclusive, shall not apply to prescriptions, nor to the sale, distribution, giving, dispensing or possession of preparations or remedies, if such prescriptions do not call for, or such preparations and remedies do not contain, more than two grains of opium or more than one quarter of a

Sale of,
regulated.

grain of morphine, or more than one eighth of a grain of heroin or more than one grain of codeine, in one fluid ounce, or, if a solid or semi-solid preparation, in the avoirdupois ounce; nor shall they apply to liniments, ointments or other preparations which are prepared for external use only, except liniments, ointments and other preparations containing cocaine or alpha or beta eucaine; provided, that such preparations, remedies or prescriptions are sold, distributed, given, dispensed or held in possession in good faith as medicines and not for the purpose of evading any provision of the last named sections, and provided that the possession of any narcotic drug, except in the form of prescriptions and preparations or remedies especially exempted in this section, by any one not being a licensee under sections one hundred and ninety-eight A and one hundred and ninety-eight B, registered pharmacist actively engaged in business as such, or a physician, dentist or veterinarian registered as above provided, or superintendent or official in charge of an incorporated hospital, college or scientific institution shall, except as provided in section two hundred and five, be presumptive evidence of an intent to violate sections one hundred and ninety-eight to two hundred and ten, inclusive. This section shall not apply to a person having in his possession any of the above mentioned articles by virtue of a legal prescription legally issued under any provision of sections one hundred and ninety-eight to two hundred and ten, inclusive, and not obtained by any false representation made to the physician, dentist or veterinarian issuing it, or to the pharmacist who filled it; nor shall such sections apply to decocainized coca leaves or preparations made therefrom or to other preparations of coca leaves which do not contain cocaine.

G. L. (Ter. Ed.), 94, new sections 198A and 198B, added.
License to manufacture.

SECTION 3. Said chapter ninety-four is hereby further amended by inserting after section one hundred and ninety-eight, as amended by section two of this act, the two following new sections:— *Section 198A.* No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the department of public health. This section shall not apply to retail pharmacists registered under the provisions of chapter one hundred and twelve.

Licenses, how issued.

Section 198B. The department of public health may annually issue licenses as required by the preceding section, but no such license shall be issued unless and until the applicant therefor has furnished proof satisfactory to the department of public health: (a) that the applicant is a citizen of the United States and of good moral character or, if the applicant is an association or corporation, that the managing officers thereof are of good moral character, and citizens of the United States, and (b) that the applicant is equipped as to land, buildings and paraphernalia properly to carry on the business described in his application.

No license shall be granted to any person who has within five years been convicted of a violation which said department finds to have been wilful of any law of the United States, or of any state, relating to opium, coca leaves or other narcotic drugs, or to any person who is a narcotic drug addict. Said department may suspend or revoke any license for cause. Said department may make rules and regulations adequately to carry into effect the duties herein imposed upon it. A fee of ten dollars shall be charged for issuing each such license.

SECTION 4. Section two hundred and one of said chapter ninety-four, as so appearing, is hereby amended by striking out, in the first and second lines, the words "manufacturer or jobber of drugs, wholesale druggist" and in the eleventh line the words "manufacturer or jobber in drugs, wholesale druggist" and inserting in place thereof, in each instance, the words:— licensee under sections one hundred and ninety-eight A and one hundred and ninety-eight B, — so as to read as follows:— *Section 201.* Subject to section two hundred and sixteen, any licensee under sections one hundred and ninety-eight A and one hundred and ninety-eight B, registered pharmacist actively engaged in business as such, and any physician, dentist or veterinarian registered under the laws of the state where he resides may sell a narcotic drug to any of the persons aforesaid or to any incorporated hospital, college or scientific institution, but such substances or preparations, excepting such preparations as are included within the exemptions set forth in section one hundred and ninety-eight, shall be sold only upon the written order of such hospital, college or institution, duly signed by its superintendent or official in immediate charge, or upon a written order duly signed by any licensee under sections one hundred and ninety-eight A and one hundred and ninety-eight B, registered pharmacist actively engaged in business as such, or physician, dentist or veterinarian registered as above provided, and the order shall state the articles ordered, the quantity ordered and the date. Said orders shall be kept on file in the laboratory, warehouse, pharmacy or store in which they are filled, by the proprietor thereof or his successor, for not less than two years after delivery, and shall at all times be open to inspection by the department of public health, the board of registration in pharmacy, the board of registration in medicine, authorized agents of said department and boards, and by the police authorities and police officers of towns.

SECTION 5. Section two hundred and three of said chapter ninety-four, as so appearing, is hereby amended by inserting after the word "or" in the fifth line the second time said word appears the words:— that he is licensed under sections one hundred and ninety-eight A and one hundred and ninety-eight B, or that he is a, — and by inserting after the word "is" in the sixth line the word:— a, — so as to read as follows:— *Section 203.* Whoever, for

G. L. (Ter. Ed.), 94, § 201, amended.

Sales to certain persons and institutions, regulated.

G. L. (Ter. Ed.), 94, § 203, amended.

False representations

deemed
violations.

the purpose of evading or assisting in the evasion of any provision of sections one hundred and ninety-eight to two hundred and ten, inclusive, falsely represents that he is a physician, dentist or veterinarian, or that he is a manufacturer of or jobber in drugs or wholesale druggist or that he is licensed under sections one hundred and ninety-eight A and one hundred and ninety-eight B, or that he is a pharmacist actively engaged in business as such, or that he is a superintendent or official in immediate charge of an incorporated hospital, college or scientific institution, or a person registered under the act of congress mentioned in the preceding section, or whoever, not being an authorized physician, dentist or veterinarian, makes or alters a prescription or written order for a narcotic drug, or knowingly issues or utters a prescription or written order falsely made or altered, or whoever makes any false representation or statement as to his name, age, address or any other matter, either in writing or orally, to any physician, dentist, pharmacist or veterinarian for the purpose of procuring a prescription for, or the delivery of, a narcotic drug, shall be punished as provided in section two hundred and thirteen. Each prescription or order which is altered, or is obtained by a false representation, shall be void and of no effect.

G. L. (Ter.
Ed.), 94, § 206,
amended.

SECTION 6. Section two hundred and six of said chapter ninety-four, as so appearing, is hereby amended by striking out, in the fifth line, the words "indica and cannabis sativa", — by striking out, in the seventh and eighth lines, the words "indica or more than one half grain of extract of cannabis sativa", — and by striking out, in the tenth and eleventh lines, the words "indica and cannabis sativa", — so as to read as follows: — *Section 206.* The provisions of sections one hundred and ninety-eight to two hundred and thirteen, inclusive, except such as require the ordering of narcotic drugs on an official order blank and the keeping of the same on file, and the keeping of the record relative thereto, shall apply to cannabis, except that such provisions shall not apply to prescriptions, preparations or remedies which do not contain more than one half grain of extract of cannabis in one fluid ounce, or, if a solid or semi-solid preparation, in the avoirdupois ounce, nor to liniments, ointments or other preparations containing cannabis which are prepared for external use only.

Cannabis.

G. L. (Ter.
Ed.), 94, § 211,
amended.

SECTION 7. Section two hundred and eleven of said chapter ninety-four, as so appearing, is hereby amended by striking out, in the first and second lines, the words "manufacturer or jobber of drugs, wholesale druggist" and inserting in place thereof the words: — licensee under sections one hundred and ninety-eight A and one hundred and ninety-eight B, — so as to read as follows: — *Section 211.* Whoever, not being a licensee under sections one hundred and ninety-eight A and one hundred and ninety-eight B, registered pharmacist, registered physician, registered veterinarian, registered dentist, nurse acting under the direc-

Illegal
possession
penalized.

tion of a physician, or employee of an incorporated hospital acting under the direction of its superintendent or official in immediate charge, or a common carrier or messenger when transporting any narcotic drug between persons mentioned in this section in the same package in which the drug was delivered to him for transportation, is found in possession thereof except by reason of a physician's prescription lawfully and properly issued shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than two and one half years in the house of correction.

SECTION 8. Section two hundred and fourteen of said chapter ninety-four, as so appearing, is hereby amended by striking out, in the fourth line, the words "indica, cannabis sativa", — by striking out, in the tenth and eleventh lines, the words "manufacturer or jobber of drugs, wholesale druggist" and inserting in place thereof the words: — licensee under sections one hundred and ninety-eight A and one hundred and ninety-eight B, — by striking out, in the twenty-sixth line, the word "fifty" and inserting in place thereof the words: — one thousand, — and by striking out, in the twenty-seventh line, the words "three months" and inserting in place thereof the words: — one year, or both, — so as to read as follows: — *Section 214.* If a person makes complaint under oath to a district court, or to a trial justice or justice of the peace authorized to issue warrants in criminal cases, that he has reason to believe that opium, morphine, heroin, codeine, cannabis, peyote or any other hypnotic drug, or any salt, compound or preparation of said substances, or any cocaine, alpha or beta eucaine, or any synthetic substitute for them, or any preparation containing the same, or any salts or compounds thereof, is kept or deposited by a person named therein in a store, shop, warehouse, building, vehicle, steamboat, vessel or any place whatever, such person being other than a licensee under sections one hundred and ninety-eight A and one hundred and ninety-eight B, registered pharmacist, registered physician, registered veterinarian, registered dentist, registered nurse, employee of an incorporated hospital, or a common carrier or messenger when transporting any drug mentioned herein between parties hereinbefore mentioned, such court or justice, if it appears that there is probable cause to believe that said complaint is true, shall issue a search warrant to a sheriff, deputy sheriff, city marshal, chief of police, deputy marshal, police officer or constable, commanding him to search the premises where it is alleged that any of the above mentioned drugs is kept or deposited, and to seize and securely keep the same until final action, and to arrest the person in whose possession such drug is found, together with all persons present where such drug is found, and to return forthwith the warrant with his doings thereon, to a court or trial justice having jurisdiction in the town where said drug is alleged to be kept or de-

G. L. (Ter. Ed.), 94, § 214, amended.

Issue of search warrants.
Penalty for being present, etc.

posited. Whoever is so present where any of the aforesaid drugs is found shall be punished by a fine of not more than one thousand dollars or by imprisonment in the house of correction for one year, or both.

G. L. (Ter. Ed.), 94, § 215, amended.

SECTION 9. Section two hundred and fifteen of said chapter ninety-four, as so appearing, is hereby amended by inserting after the word "commonwealth" in the eleventh line the following:— Said department may deliver such drugs to any public hospital within the commonwealth, not operated for private gain, or may deliver such drugs to the United States commissioner of narcotics or to the United States attorney, in its discretion. Said department shall keep a full and complete record of all such drugs received and disposed of, — so as to read as follows: — *Section 215.* If after such notice as the court or trial justice orders it appears that any drug seized under the preceding section was, at the time of the making of the complaint, unlawfully in the possession of the person alleged therein, the court or trial justice shall order that such article or drug so seized be forfeited to the commonwealth and shall order such article or drug sent to the department of public health. Possession of such drug shall be prima facie evidence that such possession was in violation of law. Said department may destroy such article or drug or cause it to be destroyed or to be disposed of in any way not prohibited by law, and, after paying the cost of the transportation and disposition of the same, it shall pay over the net proceeds to the commonwealth. Said department may deliver such drugs to any public hospital within the commonwealth, not operated for private gain, or may deliver such drugs to the United States commissioner of narcotics or to the United States attorney, in its discretion. Said department shall keep a full and complete record of all such drugs received and disposed of. Section eight of chapter two hundred and seventy-six shall apply to all judgments rendered and orders made under this and the preceding section.

Articles seized to be forfeited.

G. L. (Ter. Ed.), 94, § 217, amended.

SECTION 10. Section two hundred and seventeen of said chapter ninety-four, as so appearing, is hereby amended by inserting after the word "health" in the first line the words: — , the department of public safety, the board of registration in pharmacy, all police officers and all district attorneys, — by striking out, in the third line, the words "ninety-eight, one hundred and ninety-nine and two hundred and one" and inserting in place thereof the words: — ninety-seven to two hundred and thirteen, inclusive, and whenever there appears to be a violation of said sections all such officers, officials or departments shall co-operate with all agencies charged with the enforcement of the laws of the United States pertaining to narcotic drugs, — and by striking out, in the tenth line, the words "said department" and inserting in place thereof the words: — the department of public health, — so as to read as follows: —

Section 217. The department of public health, the department of public safety, the board of registration in pharmacy, all police officers and all district attorneys shall cause the prosecution of all persons violating any provision of sections one hundred and ninety-seven to two hundred and thirteen, inclusive, and whenever there appears to be a violation of said sections all such officers, officials or departments shall co-operate with all agencies charged with the enforcement of the laws of the United States pertaining to narcotic drugs, but no prosecution shall be brought for the sale at retail or for the gift or exchange of any patent or proprietary medicine or food preparation containing any drug or preparation the sale of which is prohibited by sections one hundred and ninety-eight and two hundred and one, or against any wholesale or retail druggist for the sale, gift or exchange of any patent or proprietary preparation containing cocaine or alpha or beta eucaïne, or any synthetic substitute for them unless the department of public health, prior to such sale, gift or exchange, has given public notice in some trade journal that the gift, exchange or sale at retail of such medicine or food preparation, or the gift, sale or exchange of such patent or proprietary preparation, as the case may be, naming it in each instance, would be contrary to law.

Prosecutions
of certain
violations
regulated.

Approved July 12, 1935.

AN ACT PROVIDING FOR THE CONTROL OF THE FLOOD WATERS
OF THE HOUSATONIC RIVER IN THE CITY OF PITTSFIELD.

Chap. 413

Whereas, The deferred operation of this act would tend to defeat its purpose, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience.

Emergency
preamble.

Be it enacted, etc., as follows:

SECTION 1. The department of public works is hereby authorized and directed to provide for the control of the flood waters of the Housatonic river in the city of Pittsfield for the purpose of safeguarding and protecting the lives and property of the people of said city against perils from floods and erosion of the banks of said river, and for said purpose the department may exercise all the powers conferred upon it by chapter ninety-one of the General Laws relative to the improvement of rivers and harbors. No work shall be begun hereunder until the city of Pittsfield has assumed liability, in the manner provided by section twenty-nine of said chapter ninety-one, for all damages that may be incurred hereunder, nor until there has been paid into the treasury of the commonwealth by the county of Berkshire the sum of twenty-five hundred dollars, and by said city of Pittsfield the sum of ten thousand dollars, which, together with such sum, not exceeding twelve thousand five hundred dollars, as may hereafter be appropriated by the commonwealth, shall constitute a fund for the improve-