

CHAPTER 618

OFFENSES RELATING TO NARCOTICS

<p>Sec. 618.01 Definitions 618.02 Acts prohibited 618.03 License required to manufacture or wholesale 618.04 Qualifications for licensee 618.05 Who may purchase 618.06 Sales by retail druggists 618.07 Professional use of narcotic drugs 618.08 Preparations exempted; conditions of exemption 618.09 Records required 618.10 Labels 618.11 Kept in original container 618.12 Enforcement 618.13 Persons exempted</p>	<p>Sec. 618.14 Drug addict resorts a common nuisance 618.15 Narcotic drugs shall be forfeited in certain cases 618.16 Board may suspend or revoke licenses 618.17 Records confidential 618.18 Restrictions on obtaining drugs 618.19 Burden of proof 618.20 State department of health to cooperate with police officers, 618.21 Penalties 618.22 Prosecution under federal narcotic laws 618.23 Construction 618.24 Uniformity 618.25 Citation</p>
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618.01 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subdivision 2. **Persons.** "Persons" includes any corporation, association, copartnership, or one or more individuals.

Subdivision 3. **Physician.** "Physician" means a person authorized by law to practice medicine in this state and, for the purposes of this chapter only, any other person authorized by law to treat sick and injured human beings in this state and to use narcotic drugs in connection with such treatment.

Subdivision 4. **Dentist.** "Dentist" means a person authorized by law to practice dentistry in this state.

Subdivision 5. **Veterinarian.** "Veterinarian" means a person authorized by law to practice veterinary medicine in this state.

Subdivision 6. **Manufacturer.** "Manufacturer" means a person who, by compounding, mixing, cultivating, growing, or other process, produces or prepares narcotic drugs, but does not include an apothecary who compounds narcotic drugs to be sold or dispensed on prescriptions.

Subdivision 7. **Wholesaler.** "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced or prepared, on official written orders, but not on prescriptions.

Subdivision 8. **Apothecary.** "Apothecary" means a licensed pharmacist, as defined by the laws of this state, and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this chapter shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege that is not granted to him by the pharmacy laws of this state.

Subdivision 9. **Hospital.** "Hospital" means an institution, where the sick and injured receive care and treatment, approved by the department of health of the State of Minnesota as proper to be entrusted with the custody of narcotic drugs.

Subdivision 10. **Laboratory.** "Laboratory" means a laboratory approved by the department of health as proper to be entrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific purposes.

Subdivision 11. **Sale.** "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

Subdivision 12. **Coca leaves.** "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made.

Subdivision 13. **Opium.** "Opium" includes morphine, codeine, and heroin, and any compound, manufacture, salt, derivative, mixture, or preparation of opium, but does not include apomorphine or any of its salts.

Subdivision 14. **Narcotic drugs.** "Narcotic drugs" means coca leaves, opium, isonipecaine, and every substance neither chemically nor physically distinguishable from them.

Subdivision 15. **Isonipecaine.** "Isonipecaine" means the substance identified chemically as 1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester, or any salt thereof by whatever trade name identified.

Subdivision 16. **Federal narcotics laws.** "Federal narcotics laws" means the laws of the United States relating to opium, coca leaves, and other narcotic drugs.

Subdivision 17. **Official written order.** "Official written order" means an order written on a form provided for that purpose by the United States commissioner of narcotics under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law and, if no such order form is provided, then on an official form provided for that purpose by the department of health of the state.

Subdivision 18. **Dispense.** "Dispense" includes distribute, leave with, give away, dispose of, or deliver.

Subdivision 19. **Registry number.** "Registry number" means the number assigned to each person registered under the federal narcotic laws.

[1937 c. 74 s. 1; 1945 c. 41 ss. 1, 2] (10455-4)

618.02 ACTS PROHIBITED. It shall be unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, or compound any narcotic drug, except as authorized in this chapter.

[1937 c. 74 s. 2] (10455-5)

618.03 LICENSE REQUIRED TO MANUFACTURE OR WHOLESALE. 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 health; provided, that no such license shall be required of the University of Minnesota, nor any college approved by the University of Minnesota, in the manufacturing, compounding, mixing, cultivating, growing, producing, and preparing of narcotic drugs for educational and scientific purposes only.

[1937 c. 74 s. 3] (10455-6)

618.04 QUALIFICATIONS FOR LICENSEE. No license shall be issued under section 618.03 unless and until the applicant therefor has furnished proof satisfactory to the department of health:

(1) That the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character;

(2) 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 any wilful violation 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.

The department of health of the State of Minnesota may suspend or revoke any such license for cause.

[1937 c. 74 s. 4] (10455-7)

618.05 WHO MAY PURCHASE. Subdivision 1. **Persons occupied in aid of health.** A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders:

(1) To a manufacturer, wholesaler, or apothecary;

(2) To a physician, dentist, or veterinarian;

(3) To a person in charge of a hospital, but only for use in that hospital;

(4) To a person in charge of a laboratory, but only for use in that laboratory for scientific purposes.

Subdivision 2. **Persons in official capacity.** A duly licensed manufacturer or wholesaler may sell narcotic drugs to any of the following persons:

(1) On a special written order accompanied by a certificate of exemption, as required by the federal narcotic laws, to a person in the employ of the United States government or of any state, territorial, district, county, municipal, or insular government, purchasing, receiving, possessing, or dispensing narcotic drugs by reason of his official duties;

(2) To a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, for the actual medical needs of persons on board such ship or aircraft, when not in port; provided, such narcotic drugs shall be sold to the master of such ship or person in charge of such aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States public health service;

(3) To a person in a foreign country if the provisions of the federal narcotic laws are complied with.

Subdivision 3. Mechanics of sale. An official written order for any narcotic drug shall be signed in duplicate by the person giving the order, or by his duly authorized agent; the original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein; in event of the acceptance of such order by such person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this chapter. It shall be deemed a compliance with this subdivision if the parties to the transaction have complied with the federal narcotic laws respecting the requirements governing the use of order forms.

Subdivision 4. Possession or control, when lawful. Possession of or control of narcotic drugs obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment or duty of the possessor.

Subdivision 5. Dispensed within scope of authority. A person in charge of a hospital or of a laboratory, or in the employ of this state or of any other state, or of any political subdivision thereof, and a master or other proper officer of a ship or an aircraft, who obtains narcotic drugs under the provisions of this section or otherwise, shall not administer, nor dispense, nor otherwise use such drugs, within this state, except within the scope of his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this chapter.

[1937 c. 74 s. 5] (10455-8)

618.06 SALES BY RETAIL DRUGGISTS. An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist, or veterinarian, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal narcotic laws of the person prescribing, if he is required by those laws to be so registered; if the prescription be for an animal, it shall state the species of animal for which the drug is prescribed; the person filling the prescription shall write the date of filling and his own signature on the face of the prescription; the prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this chapter; the prescription shall not be refilled.

The legal owner of any stock of narcotic drugs in a pharmacy, upon discontinuance of dealing in such drugs, may sell the stock to a manufacturer, wholesaler, or apothecary, but only on an official written order.

An apothecary, only upon an official written order, may sell to a physician, dentist, or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than 20 per cent of the complete solution, to be used for medicinal purposes.

[1937 c. 74 s. 6] (10455-9)

618.07 PROFESSIONAL USE OF NARCOTIC DRUGS. A physician or a dentist, in good faith and in the course of his professional practice only, may prescribe, administer, and dispense narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision.

A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision.

[1937 c. 74 s. 7] (10455-10)

MINNESOTA STATUTES 1945

3975

OFFENSES RELATING TO NARCOTICS 618.09

618.08 PREPARATIONS EXEMPTED; CONDITIONS OF EXEMPTION. Except as otherwise in this chapter specifically provided, this chapter shall not apply to the following cases:

Administering, dispensing, or selling at retail of any medicinal preparation that contains in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce, not more than one grain of codeine or of any of its salts.

The exemptions authorized by this section shall be subject to the following conditions:

(1) That the medicinal preparation administered, dispensed, or sold, shall contain in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone;

(2) That such preparation shall be administered, dispensed, and sold in good faith as a medicine and not for the purpose of evading the provisions of this chapter;

(3) No person shall administer, dispense, or sell, under the exemption of this section, any preparation included within this section, when he knows, or can by reasonable diligence ascertain, that such administering, dispensing, or selling will provide the person to whom or for whose use such preparation is administered, dispensed, or sold within any 48 consecutive hours, with more than six grains of codeine or any of its salts.

Nothing in this section shall be construed to limit the quantity of codeine or of any of its salts that may be prescribed, administered, dispensed, or sold to any person or for the use of any person or animal when it is prescribed, administered, dispensed, or sold in compliance with the general provisions of this chapter.

[1937 c. 74 s. 8; 1941 c. 157] (10455-11)

618.09 RECORDS REQUIRED. Subdivision 1. **Physicians, dentists, veterinarians, and other authorized persons.** Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription. It shall be deemed a sufficient compliance with this subdivision if any such person using small quantities of solutions or other preparations of such drugs for local application shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients.

No record need be kept of narcotic drugs administered, dispensed, or professionally used in the treatment of any one patient, when the amount administered, dispensed, or professionally used for that purpose does not exceed, in any 48 consecutive hours, (a) four grains of opium, or (b) one-half of a grain of morphine or of any of its salts, or (c) two grains of codeine or of any of its salts, or (d) one-fourth of a grain of heroin or any of its salts, or (e) a quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs named above in the quantity stated.

Subdivision 2. **Manufacturers and wholesalers.** Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subdivision 5 of this section.

Subdivision 3. **Retail druggists.** Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subdivision 5 of this section.

Subdivision 4. **Vendors of exempted preparations.** Every person who purchases for resale, or who sells, narcotic drug preparations exempted by section 618.08, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise, in accordance with the provisions of subdivision 5 of this section.

Subdivision 5. **Form and preservation of records.** The form of records shall be prescribed by the state department of health. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture, and

MINNESOTA STATUTES 1945

618.10 OFFENSES RELATING TO NARCOTICS

3976

the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced. The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the federal narcotic laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft.

[1937 c. 74 s. 9] (10455-12)

618.10 LABELS. When a manufacturer sells or dispenses a narcotic drug, and when a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. No person, except an apothecary for the purpose of filling a prescription under this chapter, shall alter, deface, or remove any label so affixed.

When an apothecary sells or dispenses any narcotic drug on a prescription issued by a physician, dentist, or veterinarian, he shall affix to the container in which such drug is sold or dispensed a label showing his own name, address, and registry number, or the name, address, and registry number of the apothecary for whom he is lawfully acting; the name and address of the patient or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name, address, and registry number of the physician, dentist, or veterinarian by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed.

[1937 c. 74 s. 10] (10455-13)

618.11 KEPT IN ORIGINAL CONTAINER. A person to whom or for whose use any narcotic drug has been prescribed, sold, or dispensed, by a physician, dentist, apothecary, or other person authorized under the provisions of section 618.05, and the owner of any animal for which any such drug has been prescribed, sold, or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.

[1937 c. 74 s. 11] (10455-14)

618.12 ENFORCEMENT. It shall be the duty of all peace officers, police officers, sheriffs, and county attorneys to enforce the provisions of this chapter.

On complaint before any court having jurisdiction charging any person with manufacturing, selling, or keeping or having in his possession any narcotic drugs in violation of the provisions of this chapter, and particularly describing the premises or place, the court, in addition to issuing a warrant for the arrest of such person, shall upon request issue a search warrant commanding any officer to search such premises or place and to seize and hold, subject to the order of the court, all narcotic drugs found therein, any of which is apparently kept, had, or possessed, or manufactured or sold in violation of any of the provisions or part of the constitution or law of this state or of the United States relating to narcotic drugs, and to make an inventory of the same and to serve a copy thereof forthwith on the defendant or person in charge of the premises; provided, that the failure to make, file, or serve any such inventory shall not invalidate or in any way affect the legality of any search or seizure or proceeding made or had under the provisions of this chapter.

[1937 c. 74 s. 12] (10455-15)

618.13 PERSONS EXEMPTED. The provisions of this chapter restricting the possession and having control of narcotic drugs shall not apply to common carriers or to warehousemen, while engaged in lawfully transporting or storing such drugs, or to any employee of the same acting within the scope of his employment; or to public officers or their employees in the performance of their official duties requiring possession or control of narcotic drugs; or to temporary incidental possession by

MINNESOTA STATUTES 1945

3977

OFFENSES RELATING TO NARCOTICS 618.17

employees or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties.

[1937 c. 74 s. 13] (10455-16)

618.14 DRUG ADDICT RESORTS A COMMON NUISANCE. Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by narcotic drug addicts for the purpose of using narcotic drugs or which is used for the illegal keeping or selling of the same, shall be deemed a common nuisance. No person shall keep or maintain such a common nuisance.

[1937 c. 74 s. 14] (10455-17)

618.15 NARCOTIC DRUGS SHALL BE FORFEITED IN CERTAIN CASES. All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited and disposed of as follows:

(1) Except as in this section otherwise provided, the court or magistrate having jurisdiction shall order such narcotic drugs forfeited and destroyed; a record of the place where such drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction, shall be kept and a return under oath, reporting such destruction, shall be made to the court or magistrate and to the United States commissioner of narcotics, by the officer who destroys them;

(2) Upon written application by the state department of health, the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to the state department of health, for distribution or destruction, as hereinafter provided;

(3) Upon application by any hospital within this state, not operated for private gain, the state department of health may in its discretion deliver any narcotic drugs that have come into its custody by authority of this section to the applicant for medicinal use. The state department of health may, from time to time, deliver excess stocks of such narcotic drugs to the United States commissioner of narcotics, or may destroy the same;

(4) The state department of health shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs; the persons from whom received and to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state narcotic laws.

[1937 c. 74 s. 15] (10455-18)

618.16 BOARD MAY SUSPEND OR REVOKE LICENSES. On the conviction of any person of the violation of any provision of this chapter, a copy of the judgment and sentence, and of the opinion of the court or magistrate, if any opinion be filed, shall be sent by the clerk of the court, or by the magistrate, to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business. On the conviction of any such person, such board or officer may, in its discretion, suspend or revoke the license or registration of the convicted defendant to practice his profession or to carry on his business. On the application of any person whose license or registration has been suspended or revoked, and upon proper showing and for good cause the board or officer may, in its discretion, reinstate such license or registration.

[1937 c. 74 s. 16] (10455-19)

618.17 RECORDS CONFIDENTIAL. Prescriptions, orders, and records, required by this chapter, and stocks of narcotic drugs, shall be open for inspection only to federal, state, county, and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

[1937 c. 74 s. 17] (10455-20)

618.18 RESTRICTIONS ON OBTAINING DRUGS. No person shall obtain or attempt to obtain a narcotic drug, or procure or attempt to procure the administration of a narcotic drug, (a) by fraud, deceit, misrepresentation, or subterfuge; or (b) by the forgery or alteration of a prescription or of any written order; or (c) by the concealment of a material fact; or (d) by the use of a false name or the giving of a false address;

Information communicated to a physician in an effort unlawfully to procure a narcotic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

No person shall wilfully make a false statement in any prescription, order, report, or record, required by this chapter.

No person shall, for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person.

No person shall make or utter any false or forged prescription or false or forged written order.

No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of section 618.08, in the same way as they apply to transactions under all other sections.

[1937 c. 74 s. 18] (10455-21)

618.19 BURDEN OF PROOF. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of this chapter, it shall not be necessary to negative any exception, excuse, proviso, or exemption contained in this chapter, and the burden of proof of any such exception, excuse, proviso, or exemption shall be upon the defendant.

[1937 c. 74 s. 19] (10455-22)

618.20 STATE DEPARTMENT OF HEALTH TO COOPERATE WITH POLICE OFFICERS. The state department of health shall cooperate with all peace officers within the state, and all county attorneys, to enforce the provisions of this chapter and with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to narcotic drugs.

[1937 c. 74 s. 20] (10455-23)

618.21 PENALTIES. Any person violating any provisions of this chapter shall, upon conviction, be punished by a fine of not exceeding \$1,000, or by imprisonment in a state penal institution for not exceeding five years, or by both such fine and imprisonment.

[1937 c. 74 s. 21] (10455-24)

618.22 PROSECUTION UNDER FEDERAL NARCOTIC LAWS. No person shall be prosecuted for a violation of any provisions of this chapter if such person has been acquitted or convicted under the federal narcotic laws of the same act or omission which, it is alleged, constitutes a violation of this chapter.

[1937 c. 74 s. 22] (10455-25)

618.23 CONSTRUCTION. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable; and nothing in this chapter may be construed into placing any citizen of this state in double jeopardy, either state or federal, for the same offense.

[1937 c. 74 s. 23] (10455-26)

618.24 UNIFORMITY. This chapter shall be so interpreted and construed as to effectuate its general purpose, to make uniform the laws of those states which enact it.

[1937 c. 74 s. 24] (10455-27)

618.25 CITATION. This chapter may be cited as the uniform narcotic drug act.

[1937 c. 74 s. 26] (10455-29)