

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 552**

4 (By Senators Plymale, Tucker, D. Hall and Palumbo)

5 _____
6 [Originating in the Committee on the Judiciary;

7 reported February 19, 2014.]
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9

10 A BILL to amend and reenact §60A-4-409 of the Code of West
11 Virginia, 1931, as amended, relating to increasing the penalty
12 for illegally transporting Schedule I and II narcotic
13 controlled substances into the state by making the penalty a
14 determinate sentence of not more than fifteen years; and
15 exempting from coverage of the statute certain methamphetamine
16 precursors.

17 *Be it enacted by the Legislature of West Virginia:*

18 That §60A-4-409 of the Code of West Virginia, 1931, as
19 amended, be amended and reenacted to read as follows:

20 **ARTICLE 4. OFFENSES AND PENALTIES.**

21 **§60A-4-409. Prohibited acts. -- Transportation of controlled**
22 **substances into state; penalties.**

23 (a) Except as otherwise authorized by the provisions of this
24 code, it ~~shall be~~ is unlawful for any person to transport ~~into this~~
25 ~~state~~ a controlled substance into this state with the intent ~~to~~

1 ~~deliver the same or with the intent to manufacture a controlled~~
2 ~~substance that it be delivered to another.~~

3 (b) Any person who violates this section with respect to:

4 (1) A controlled substance classified in Schedule I or II,
5 which is a narcotic drug, ~~shall be~~ is guilty of a felony and, upon
6 conviction, may be imprisoned in the state correctional facility
7 for ~~not less than one year nor~~ a determinate sentence of not more
8 than fifteen years, or fined not more than \$25,000, or both;

9 (2) Any other controlled substance classified in Schedule I,
10 II or III ~~shall be~~ is guilty of a felony and, upon conviction, may
11 be imprisoned in the state correctional facility for not less than
12 one year nor more than five years, or fined not more than \$15,000,
13 or both;

14 (3) A substance classified in Schedule IV ~~shall be~~ that is not
15 addressed in and regulated by the provisions of article four of
16 this chapter is guilty of a felony and, upon conviction, may be
17 imprisoned in the state correctional facility for not less than one
18 year nor more than three years, or fined not more than \$10,000, or
19 both; or

20 (4) A substance classified in Schedule V ~~shall be~~ is guilty of
21 a misdemeanor and, upon conviction, may be confined in jail for not
22 less than six months nor more than one year, or fined not more than
23 \$5,000, or both. ~~Provided, That for offenses relating to any~~
24 ~~substance classified as Schedule V in article ten of this chapter,~~
25 ~~the penalties established in said~~ that article apply.

26 (c) The offense established by this section ~~shall be~~ is in

1 addition to and a separate and distinct offense from any other
2 offense set forth in this code.