

**Senate Bill No. 552**

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

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[Introduced February 12, 2014; referred to the Committee on the  
Judiciary.]  
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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.

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

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

18 **ARTICLE 4. OFFENSES AND PENALTIES.**

19 **§60A-4-409. Prohibited acts -- Transportation of controlled**  
20 **substances into state; penalties.**

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

1 with the intent to manufacture a controlled substance.

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

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

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

13 (3) A substance classified in Schedule IV ~~shall be~~ is guilty  
14 of a felony and, upon conviction, may be imprisoned in the state  
15 correctional facility for not less than one year nor more than  
16 three years, or fined not more than \$10,000, or both;

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

23 (c) The offense established by this section ~~shall be~~ is in  
24 addition to and a separate and distinct offense from any other

1 offense set forth in this code.

NOTE: The purpose of this bill is to increase the option for sentencing where a defendant is convicted of transporting Schedule I and II narcotics into the state by removing the minimum sentence and converting the penalty from an indeterminate period of 1-15 years to a determinate sentence of up to 15 years.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.