

Senate Bill No. 81

(By Senators Plymale and Beach)

[Introduced January 14, 2015; referred to the Committee on the Judiciary.]

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

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

16 **ARTICLE 4. OFFENSES AND PENALTIES.**

17 **§60A-4-409. Prohibited acts -- Transportation of controlled substances into state; penalties.**

18 (a) Except as otherwise authorized by the provisions of this code, it ~~shall be~~ is unlawful for
19 any person to transport ~~into this state~~ a controlled substance into this state with the intent to ~~deliver~~
20 ~~the same or with the intent to manufacture a controlled substance~~ that it be delivered to another.

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

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

26 (2) Any other controlled substance classified in Schedule I, II or III ~~shall be~~ is guilty of a

1 felony and, upon conviction, may be imprisoned in ~~the~~ a state correctional facility for not less than
2 one year nor more than five years, or fined not more than \$15,000, or both;

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

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

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