

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 33

**FISCAL
NOTE**

BY SENATORS PLYMALE, BEACH, TAKUBO AND WOELFEL

[Introduced January 13, 2016;

Referred to the Committee on the Judiciary.]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. OFFENSES AND PENALTIES.

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

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

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

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

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

13 (3) A substance classified in Schedule IV ~~shall be~~ that is not addressed in and regulated
 14 by the provisions of article ten of this chapter is guilty of a felony and, upon conviction, may be
 15 imprisoned in ~~the~~ a state correctional facility for not less than one year nor more than three years,

16 or fined not more than \$10,000, or both; and

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

21 (c) The offense established by this section ~~shall be~~ is in addition to and a separate and
22 distinct 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.