

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### House Bill 4576

FISCAL  
NOTE

BY DELEGATES SOBONYA, WELD, AZINGER, SHOTT,  
MARCUM, BYRD, HICKS, FAST, ROHRBACH AND FRICH

[Introduced February 17, 2016; Referred  
to the Select Committee on Prevention and Treatment of  
Substance Abuse then 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 the penalties for transporting controlled substances into the state;  
 3 and exempting marihuana from this provision.

*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 with the intent to deliver the same  
 3 or with the intent to manufacture a controlled substance.

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

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

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

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

15 (4) A substance classified in Schedule V shall be guilty of a misdemeanor and, upon  
 16 conviction, may be confined in jail for not less than six months nor more than one year, or fined  
 17 not more than \$5,000, or both: *Provided*, That for offenses relating to any substance classified as

18 Schedule V in article ten of this chapter, the penalties established in said article apply.

19 (c) The offense established by this section shall be in addition to and a separate and  
20 distinct offense from any other offense set forth in this code.

21 (d) Notwithstanding anything herein to the contrary, marihuana may not be considered a  
22 controlled substance for purposes of this section.

NOTE: The purpose of this bill is to increase the penalties for transportation of narcotics and certain controlled substances into the state. The bill additionally exempts marihuana from these provisions.

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

This bill was recommended for introduction by the following House members of the Joint Interim Committee on the Judiciary: Delegates Shott, Azinger, Byrd, Deem, Fleischauer, Fast, Folk, Foster, Hanshaw, Hicks, Ireland, Kessinger, McCuskey, Moore, Overington, Rowe, Shaffer, Skinner, Sobonya, Summers, Weld and B. White.