

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2565

FISCAL
NOTE

BY DELEGATES MARCUM, PHILLIPS, SOBONYA, SUMMERS,
DEAN, STORCH, ELDRIDGE, FRICH, WESTFALL AND ISNER

[Introduced February 20, 2017; referred
to the 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.