

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

Introduced

### House Bill 2814

FISCAL  
NOTE

BY DELEGATES STEELE, FOSTER, PACK, CANESTRARO

AND PORTERFIELD

[Introduced February 1, 2019; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §60A-4-417, relating to making it a felony to transport certain drugs into the  
3 state with intent to deliver; prescribing criminal penalties; and making an exception.

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

#### **ARTICLE 4. OFFENSES AND PENALTIES.**

##### **§60A-4-417. Transportation of certain drugs into the state; prohibition; criminal penalties.**

1 (a) Any person who transports Schedule I, II or III drugs or substances identified in §60A-  
2 4-4, §60A-4-6, and §60A-4-8 of this code into West Virginia with intent to deliver is guilty of a  
3 felony and, upon conviction, shall be imprisoned in a state correctional facility for a determinate  
4 sentence of not less than two nor more than 15 years: *Provided*, That the provisions of this  
5 subsection are inapplicable to felony violations of §60A-4-1 of this code prohibiting the  
6 manufacture, delivery or possession with intent to manufacture or deliver marijuana.

7 (b) Notwithstanding the provisions of subsection (a) of this section, any person who  
8 transports into West Virginia with intent to deliver one kilogram or more of heroin, five kilograms  
9 or more of cocaine or cocaine base, 100 grams or more of phencyclidine, 10 grams or more of  
10 lysergic acid diethylamide, or 50 grams or more of methamphetamine or 500 grams of a  
11 substance or material containing a measurable amount of methamphetamine is guilty of a felony  
12 and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate  
13 sentence of not less than six nor more than 15 years.

14 (c) Notwithstanding the provisions of subsection (a) of this section, any person who  
15 transports into West Virginia with intent to deliver not less than 100 but fewer than 1,000 grams  
16 of heroin, not less than 500 but fewer than 5,000 grams of cocaine or cocaine base, not less than  
17 10 but fewer than 100 grams of phencyclidine, not less than one but fewer than 10 grams of  
18 lysergic acid diethylamide, or not less than five but fewer than 50 grams of methamphetamine or  
19 not less than 50 grams but fewer than 500 grams of a substance or material containing a  
20 measurable amount of methamphetamine is guilty of a felony and, upon conviction thereof, shall

21 be imprisoned in a state correctional facility for a determinate sentence of not less than four nor  
22 more than 15 years.

23 (d) Notwithstanding the provisions of subsection (a) of this section, any person who  
24 transports into West Virginia with intent to deliver not less than 10 grams nor more than 100 grams  
25 of heroin, not less than 50 grams nor more than 500 grams of cocaine or cocaine base, not less  
26 than two grams nor more than 10 grams of phencyclidine, not less than 200 micrograms nor more  
27 than one gram of lysergic acid diethylamide, or not less than 499 milligrams nor more than five  
28 grams of methamphetamine or not less than 20 grams nor more than 50 grams of a substance or  
29 material containing a measurable amount of methamphetamine is guilty of a felony and, upon  
30 conviction, shall be imprisoned in a state correctional facility for a determinate sentence of not  
31 less than two nor more than 15 years.

32 (e) The trier of fact shall determine the quantity of the controlled substance attributable to  
33 the defendant beyond a reasonable doubt based on evidence adduced at trial.

34 (f) Offenses in this section proscribing conduct involving lesser quantities are lesser  
35 included offenses of offenses proscribing conduct involving larger quantities.

NOTE: The purpose of this bill is to make it a felony to transport certain drugs into the state with intent to deliver. The bill prescribes criminal penalties. The bill makes an exception.

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