

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.