

Delegate Sobonya, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Com. Sub. for House Bill No. 2579, Increasing the penalties for transporting controlled substances.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the Senate to Engrossed Committee Substitute for House Bill 2579 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate striking out everything following the enacting clause and inserting new language, and agree to the same as follows:

That §60A-4-409 of the Code of West Virginia, 1931, as amended, be amended and 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 or cause to be transported into this state a controlled substance with the
3 intent to deliver the same 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 nor more than fifteen years, or fined not more than \$25,000, or both;

8 (2) Any other controlled substance classified in Schedule I, II or III shall be guilty of a
9 felony and, upon conviction, may be imprisoned in the state correctional facility for not less than
10 one year nor more than ~~five~~ ten years, or fined not more than \$15,000, or both: *Provided*, That for
11 the substance marihuana, as scheduled in subdivision (24) subsection (d), section two hundred
12 four, article two of this chapter, the penalty, upon conviction of a violation of this subsection, shall
13 be that set forth in subdivision (3) of this subsection.

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

17 (4) A substance classified in Schedule V shall be 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) Notwithstanding the provisions of subsection (b) of this section, any person violating
22 or causing a violation of subsection (a) of this section involving one kilogram or more of heroin,
23 five kilograms or more of cocaine or cocaine base, one hundred grams or more of phencyclidine,
24 ten grams or more of lysergic acid diethylamide, or fifty grams or more of methamphetamine or
25 five hundred grams of a substance or material containing a measurable amount of
26 methamphetamine, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a
27 state correctional facility for a determinate sentence of not less than two nor more than thirty
28 years.

29 (d) Notwithstanding the provisions of subsection (b) of this section, any person violating
30 or causing a violation of subsection (a) of this section involving one hundred but fewer than 1000
31 grams of heroin, not less than five hundred but fewer than 5,000 grams of cocaine or cocaine
32 base, not less than ten but fewer than ninety-nine grams of phencyclidine, not less than one but
33 fewer than ten grams of lysergic acid diethylamide, or not less than five but fewer than fifty grams

34 of methamphetamine or not less than fifty grams but fewer than five hundred grams of a substance
35 or material containing a measurable amount of methamphetamine, is guilty of a felony and, upon
36 conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence
37 of not less than two nor more than twenty years.

38 (e) Notwithstanding the provisions of subsection (b) of this section, any person violating
39 or attempting to violate the provisions of subsection (a) of this section involving not less than ten
40 grams nor more than one hundred grams of heroin, not less than fifty grams nor more than five
41 hundred grams of cocaine or cocaine base, not less than two grams nor more than ten grams of
42 phencyclidine, not less than two hundred micrograms nor more than one gram of lysergic acid
43 diethylamide, or not less than four hundred ninety nine milligrams nor more than five grams of
44 methamphetamine or not less than twenty grams nor more than fifty grams of a substance or
45 material containing a measurable amount of methamphetamine is guilty of a felony and, upon
46 conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence
47 of not less than two nor more than fifteen years.

48 ~~(e)~~(f) The offense established by this section shall be in addition to and a separate and
49 distinct offense from any other offense set forth in this code.

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title to read as follows:

“Eng. Com. Sub. for House Bill 2579--A Bill to amend and reenact §60A-4-409 of the Code of West Virginia, 1931, as amended, relating to the offense of transporting illegal substances into the state generally; increasing penalties for illegal transportation of controlled substances into the state; clarifying that causing illegal transportation of controlled substances into the state is prohibited; providing for a differing penalty for an offense involving marihuana; and creating enhanced criminal penalties for transporting certain controlled substances into the state based on quantity.”

Respectfully submitted,

Ryan J. Weld,

Chair.

Kelli Sobonya,

Chair.

Mark R. Maynard,

Ray Hollen,

Glenn Jeffries,

Conferees on the part of the Senate.

Rodney Miller,

*Conferees on the part of the House of
Delegates.*