

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### House Bill 2174

FISCAL  
NOTE

2015 Carryover

(BY DELEGATES MARCUM, R. PHILLIPS, HICKS, LYNCH,  
BUTLER, FAIRCLOTH, J. NELSON, REYNOLDS AND  
ELDRIDGE)

[Introduced January 13, 2016; referred to the  
Committee on 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 criminal incarceration penalties for the transportation of controlled  
 3 substances into the state.

*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 is guilty of a felony and, upon conviction, ~~may~~ shall be imprisoned in ~~the~~ a state correctional facility  
 7 for not less than ~~one year~~ eighteen months nor more than fifteen years, or fined not more than  
 8 \$25,000, or both fined and imprisoned;

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

13 (3) A substance classified in Schedule IV ~~shall be~~ is guilty of a felony and, upon conviction,  
 14 ~~may~~ shall be imprisoned in ~~the~~ a state correctional facility for not less than ~~one year~~ eighteen

15 months nor more than three years, or fined not more than \$10,000 or both fined and imprisoned;

16 (4) A substance classified in Schedule V ~~shall be~~ is guilty of a misdemeanor and, upon  
17 conviction, may be confined in jail for not less than ~~six months nor more than~~ one year, or fined  
18 not more than \$5,000, or both fined and confined. *Provided*, That for offenses relating to any  
19 substance classified as Schedule V in article ten of this chapter, the penalties established in ~~said~~  
20 that article apply.

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

NOTE: The purpose of this bill is to increase criminal incarceration penalties for the transportation of controlled substances into the state.

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