



Jim Justice
Governor of West Virginia

March 27, 2019

VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

RE: Enrolled House Bill No. 2412

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill No. 2412.

Enrolled House Bill No. 2412 amends §61-5B-1 to move statutes regarding prohibited acts in government procurement from Chapter 5A, Article 3 to Chapter 61, the chapter containing statutes outlining criminal acts. While the statute, when contained in Chapter 5A, applied to procurement officers contained in the WV Department of Administration's Purchasing Division, its application is not so clear when moved to Chapter 61, the criminal code. For example, the statute reads "no person purchasing or contracting for the purchase of commodities..." (§61-5B-2) could be broadly applied to anyone in a chain of people who are part of the buying and ordering process required in the purchasing of government goods.

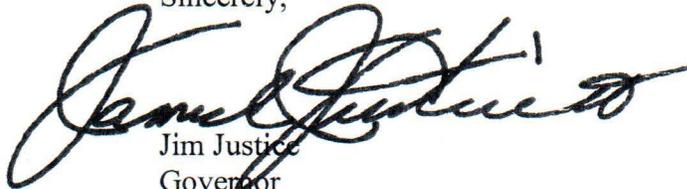
Furthermore, the statute makes it a crime for a person to accept "*anything of value*" from a "business entity offering to sell, providing or contracting to sell...commodities." 'Anything of value' is too vague a term to give notice to a person that they are about to commit a crime. Without some monetary framework for this term, it would be unenforceable for prosecutors and would result in confusion and wasted resources in the attempt to prosecute these crimes.

Creating this prohibition within the criminal chapter of the West Virginia Code requires the statute to give clear notice of who and what is in jeopardy of violation of this criminal offense. This statute does not rise to that level and cannot stand. I request that the Legislature address these issues and resubmit the bill in the future.

OFFICE OF THE GOVERNOR

For these reasons, I must disapprove and return Enrolled House Bill No. 2412.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice". The signature is fluid and cursive, with a large initial "J".

Jim Justice
Governor

cc: The Honorable Mitch Carmichael
President of the Senate
The Honorable Roger Hanshaw
Speaker of the House of Delegates