

# WEST VIRGINIA CODE: §60A-4-409

## **§60A-4-409. Prohibited acts - Transportation of controlled substances into state; penalties.**

(a) Except as otherwise authorized by the provisions of this code, it is unlawful for any person to transport or cause to be transported into this state a controlled substance with the intent to deliver the same or with the intent to manufacture a controlled substance.

(b) Any person who violates this section with respect to:

(1) A controlled substance classified in Schedule I or II, which is a narcotic drug, shall be guilty of a felony and, upon conviction thereof, may be imprisoned in the state correctional facility for not less than one year nor more than 15 years, or fined not more than \$25,000, or both: *Provided*, That any person who violates this section knowing that the controlled substance classified in Schedule II is fentanyl, either alone or in combination with any other substance shall be fined not more than \$50,000 or imprisoned in a state correctional facility for a definite term of not less than 10 nor more than 20 years, or both fined and imprisoned.

(2) Any other controlled substance classified in Schedule I, II or III shall be guilty of a felony and, upon conviction thereof, may be imprisoned in the state correctional facility for not less than one year nor more than 10 years, or fined not more than \$15,000, or both: *Provided*, That for the substance marijuana, as scheduled in subdivision (24) subsection (d), §60A-2-204 of this code, the penalty, upon conviction of a violation of this subsection, shall be that set forth in subdivision (3) of this subsection.

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

(4) A substance classified in Schedule V shall be guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for not less than six months nor more than one year, or fined not more than \$5,000, or both: *Provided*, That for offenses relating to any substance classified as Schedule V in §60A-10-1 *et seq.* of this code, the penalties established in said article apply.

(c) Notwithstanding the provisions of subsection (b) of this section, any person violating or causing a violation of subsection (a) of this section involving one kilogram or more of heroin, five kilograms or more of cocaine or cocaine base, 100 grams or more of phencyclidine, 10 grams or more of lysergic acid diethylamide, or 50 grams or more of methamphetamine or 500 grams of a substance or material containing a measurable amount of methamphetamine, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than 30 years.

(d) Notwithstanding the provisions of subsection (b) of this section, any person violating or causing a violation of subsection (a) of this section involving 100 but fewer than 1,000 grams of heroin, not less than 500 but fewer than 5,000 grams of cocaine or cocaine base, not less than ten but fewer than 99 grams of phencyclidine, not less than one but fewer than 10 grams of lysergic acid diethylamide, or not less than five but fewer than 50 grams of methamphetamine or not less than 50 grams but fewer than 500 grams of a substance or material containing a measurable amount of methamphetamine, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than 20 years.

(e) Notwithstanding the provisions of subsection (b) of this section, any person violating or attempting to violate the provisions of subsection (a) of this section involving not less than 10 grams nor more than 100 grams of heroin, not less than 50 grams nor more than 500 grams of cocaine or cocaine base, not less than two grams nor more than 10 grams of phencyclidine, not less than 200 micrograms nor more than one gram of lysergic acid diethylamide, or not less than 499 milligrams nor more than five grams of methamphetamine or not less than 20 grams nor more than 50 grams of a substance or material containing a measurable amount of methamphetamine is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than 15 years.

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