

HB 2579

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2579

BY DELEGATES SOBONYA, R. ROMINE, UPSON,

G. FOSTER, N. FOSTER, SUMMERS, STORCH,

ARVON, C. MILLER, ROHRBACH AND ZATEZALO

[Passed April 8, 2017; in effect ninety days from passage.]

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2017 APR 26 P 8:20

FILED

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1 AN ACT to amend and reenact §60A-4-409 of the Code of West Virginia, 1931, as amended,
2 relating to the offense of transporting illegal substances into the state generally; increasing
3 penalties for illegal transportation of controlled substances into the state; clarifying that
4 causing illegal transportation of controlled substances into the state is prohibited; providing
5 for a differing penalty for an offense involving marihuana; and creating enhanced criminal
6 penalties for transporting certain controlled substances into the state based on quantity.

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 is unlawful for any
2 person to transport or cause to be transported into this state a controlled substance with the intent
3 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 ten years, or fined not more than \$15,000, or both: *Provided*, That for the
11 substance marihuana, as scheduled in subdivision (24) subsection (d), section two hundred four,
12 article two of this chapter, the penalty, upon conviction of a violation of this subsection, shall be
13 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 five
16 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 (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.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Steve Wynn
Vice-Chairman, House Committee

Ronald Reagan
Member Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Steph D. Rousin
Clerk of the House of Delegates

Clark A. Barnes
Clerk of the Senate

Robert C. Clatter
Speaker of the House of Delegates

Walter B. Cunningham
President of the Senate

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SECRETARY OF STATE

2017 APR 26 P 8:20

FILED

The within *is approved* this the *26th*
day of *April* 2017.

Jim Justice
Governor

PRESENTED TO THE GOVERNOR

APR 21 2017

Time 1:53pm