

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 552**

(By Senators Plymale, Tucker, D. Hall, Palumbo and Nohe)

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[Originating in the Committee on the Judiciary;  
reported February 19, 2014.]

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A BILL to amend and reenact §60A-4-409 of the Code of West Virginia, 1931, as amended, relating to increasing the penalty for illegally transporting Schedule I and II narcotic controlled substances into the state by making the penalty a determinate sentence of not more than fifteen years; and exempting from coverage of the statute certain methamphetamine precursors.

*Be it enacted by the Legislature of West Virginia:*

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  
2 this code, it ~~shall be~~ is unlawful for any person to transport  
3 ~~into this state~~ a controlled substance into this state with the  
4 intent to ~~deliver the same or with the intent to manufacture a~~  
5 ~~controlled substance~~ that it be delivered to another.

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

7 (1) A controlled substance classified in Schedule I or II,  
8 which is a narcotic drug, ~~shall be~~ is guilty of a felony and,  
9 upon conviction, may be imprisoned in the state correctional  
10 facility for ~~not less than one year nor a determinate sentence~~  
11 of not more than fifteen years, or fined not more than  
12 \$25,000, or both;

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

18 (3) A substance classified in Schedule IV ~~shall be~~ that is  
19 not addressed in and regulated by the provisions of article  
20 four of this chapter is guilty of a felony and, upon conviction,  
21 may be imprisoned in the state correctional facility for not  
22 less than one year nor more than three years, or fined not  
23 more than \$10,000, or both; or

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

31 (c) The offense established by this section ~~shall be~~ is in  
32 addition to and a separate and distinct offense from any other  
33 offense set forth in this code.