

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 4240**

(BY DELEGATES MARCUM, PHILLIPS, HAMILTON, HICKS,  
RODIGHERO, WESTFALL, SOBONYA, R. SMITH, STORCH,  
SUMMERS AND BYRD)

[Originating in the Committee on the Judiciary,  
February 26, 2016.]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §60A-4-406b, all relating to the Uniform Controlled Substances Act; offenses  
3 and penalties; providing mandatory minimum sentences for trafficking drugs into the state  
4 and for other drug offenses; increasing period of ineligibility for parole for certain violations  
5 of possession or distribution of controlled substances and establishing applicable  
6 conditions; increasing period of ineligibility for parole for transporting certain controlled  
7 substances into the state and establishing applicable conditions; prohibiting application of  
8 alternative sentences; and increasing the penalties for transporting controlled substances  
9 into the state.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
2 section, designated §60A-4-406b; to read as follows:

**ARTICLE 4. OFFENSES AND PENALTIES.**

**§60A-4-406b. Mandatory minimum sentences for violations.**

1 (a) Notwithstanding any other provision of law to the contrary, a person is ineligible for  
2 parole for a period of ten years if that person is imprisoned in a state correctional facility for service  
3 of a sentence of incarceration and is convicted of a felony violation under the provisions of  
4 subdivision (i), subsection (a), section four hundred one of this article for distribution of a controlled  
5 substance and:

6 (1) Is in possession at the time of arrest of controlled substances classified in Schedule I  
7 or II, which is a narcotic drug, that has a street value of greater than \$1,000; and

8 (2) Has previously been convicted of a second or subsequent offense under this chapter  
9 or under any statute of the United States or of any state relating to narcotic drugs.

10 (b) Notwithstanding any other provision of law to the contrary, a person is ineligible for  
11 parole for a period of three years if that person is imprisoned in a state correctional facility for  
12 service of a sentence of incarceration and is convicted of a felony violation under the provisions

13 of subdivision (ii), subsection (a), section four hundred one of this article for distribution of a  
14 controlled substance and:

15 (1) Is in possession at time of arrest of controlled substances classified in Schedule I, II or  
16 III, that has a street value of greater than \$1,000; and

17 (2) Has previously been convicted of a second or subsequent offense under this chapter  
18 or under any statute of the United States or of any state relating to marihuana, depressant,  
19 stimulant, or hallucinogenic drugs.

20 (c) Notwithstanding any other provision of law to the contrary, a person is ineligible for  
21 parole for a period of ten years if that person is imprisoned in a state correctional facility for service  
22 of a sentence of incarceration and is convicted of a felony violation under the provisions of  
23 subdivision (1), subsection (b) section four hundred nine of this article for distribution of a  
24 controlled substance and:

25 (1) Is in possession at time of arrest of controlled substances classified in Schedule I or II  
26 which is a narcotic drug, that has a street value of greater than \$1,000; and

27 (2) Has previously been convicted of a second or subsequent offense under this chapter  
28 or under any statute of the United States or of any state relating to narcotic drugs.

29 (d) Notwithstanding any other provision of law to the contrary, a person is ineligible for  
30 parole for a period of three years if that person is imprisoned in a state correctional facility for  
31 service of a sentence of incarceration and is convicted of a felony violation under the provisions  
32 of subdivision (2), subsection (b), section four hundred nine of this article for distribution of a  
33 controlled substance and:

34 (1) Is in possession at time of arrest of controlled substances classified in Schedule I, II or  
35 III, that has a street value of greater than \$1,000; and

36 (2) Has previously been convicted of a second or subsequent offense under this chapter  
37 or under any statute of the United States or of any state relating to marihuana, depressant,  
38 stimulant, or hallucinogenic drugs.

39            (e) Those individuals subject to this section are not eligible for sentencing alternatives  
40            made available to circuit court judges under other provisions of this code.

NOTE: The purpose of this bill is to increase the penalties and mandatory minimum sentences for drug traffickers bringing drugs into the state and for distributing drugs. The enhanced penalties apply to those individuals previously been convicted of a drug offense and who are in possession of a certain threshold of drugs at the time of the arrest.

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