

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2329**

BY DELEGATES ROHRBACH, SOBONYA, ELLINGTON

UPSON, LOVEJOY, FRICH, CANESTRARO, ISNER, FOSTER,

N., WARD AND MILLER, C.

[Originating in the Committee on Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §60A-4-414, relating to prohibiting the manufacture, delivery, possession with  
3 intent to manufacture or deliver, and transport into state of fentanyl; defining terms;  
4 establishing increased penalties for manufacturing, delivering, possessing with intent to  
5 manufacture or deliver, and transporting into state with intent to deliver or manufacture in  
6 which fentanyl is a controlled substance involved in the offense; and establishing criminal  
7 penalties.

*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-4-414, to read as follows:

**ARTICLE 4. OFFENSES AND PENALTIES.**

**§60A-4-414. Unlawful manufacture, delivery, transport into state, or possession of fentanyl.**

1 (a) For purposes of this section,

2 (1) "Controlled substance" shall have the same meaning as provided in subsection (e),  
3 section one hundred one, article one of this chapter.

4 (2) "Fentanyl" refers to the substance identified in subdivision (9), subsection (c), section  
5 two hundred six, article two of this chapter, and any analog or derivative thereof.

6 (b) Any person who violates the provisions of subsection (a), section four hundred one of  
7 this article or section four hundred nine of this article in which fentanyl is a controlled substance  
8 involved in the offense, either alone or mixed with another controlled substance, shall be guilty of  
9 a felony, and upon conviction thereof, shall be punished in accordance with the following:

10 (1) If the net weight of fentanyl involved in the offense is less than 5 grams, such person  
11 shall be imprisoned in a correctional facility not less than two nor more than ten years.

12 (2) If the net weight of fentanyl involved in the offense is 5 grams or more but less than 10  
13 grams, such person shall be imprisoned in a correctional facility not less than three nor more than  
14 fifteen years.

15           (3) If the net weight of fentanyl involved in the offense is 10 grams or more but less than  
16 25 grams, such person shall be imprisoned in a correctional facility not less than five nor more  
17 than twenty years.

18           (4) If the net weight of fentanyl involved in the offense is 25 grams or more but less than  
19 100 grams, such person shall be imprisoned in a correctional facility not less than ten years nor  
20 more than twenty years.

21           (5) If the net weight of fentanyl involved in the offense is 100 grams or more but less than  
22 500 grams, such person shall be imprisoned in a correctional facility not less than fifteen nor more  
23 than thirty-five years.

24           (6) If the net weight of fentanyl involved in the offense is 500 grams or more, such person  
25 shall be imprisoned in a correctional facility not less than twenty nor more than forty-five years.

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