

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

### **Introduced**

## **House Bill 2329**

BY DELEGATES ROHRBACH, SOBONYA, ELLINGTON

UPSON, LOVEJOY, FRICH AND CANESTRARO

[Introduced February 10, 2017; Referred  
to the Committee on Prevention and Treatment of  
Substance Abuse then the 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 production, manufacture or possession  
3 of fentanyl; and establishing criminal 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 production, manufacture or possession of fentanyl.**

1 (a) Any person who traffics in fentanyl, or any derivative thereof, by knowingly or  
2 intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture,  
3 distribute, dispense, or by bringing into the state a net weight of more than ten grams of fentanyl  
4 or any derivative thereof or any mixture containing more than ten grams of fentanyl or any  
5 derivative thereof is guilty of a felony and, upon conviction thereof, shall be punished by a term of  
6 imprisonment in a correctional facility for not more than twenty years.

7 (b) Any person who traffics in fentanyl, or any derivative thereof, by knowingly or  
8 intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture,  
9 distribute, dispense, or by bringing into the state a net weight of ten grams or more of fentanyl, or  
10 a net weight of ten grams or more of any mixture containing more than ten grams of fentanyl or  
11 any derivative thereof, if the net weight of fentanyl or any derivative thereof, or any mixture thereof  
12 is:

13 (1) Ten grams or more but less than thirty-six grams, is guilty of a felony and, upon  
14 conviction thereof, shall be punished by a term of imprisonment in a correctional facility for not  
15 less than two not more than twenty years. No sentence imposed under this clause may be for  
16 less than two years of imprisonment.

17 (2) Thirty-six grams or more, but less than one hundred grams, is guilty of a felony and,  
18 upon conviction thereof, shall be punished by a term of imprisonment in a correctional facility for

19 not less than three nor more than twenty years. No sentence imposed under this clause may be  
20 for less than three years of imprisonment.

21 (3) One hundred grams or more, but less than two hundred grams, is guilty of a felony  
22 and, upon conviction thereof, shall be punished by a term of imprisonment in a correctional facility  
23 for not less than eight nor more than twenty years. No sentence imposed under the provisions of  
24 this clause may be for less than eight years of imprisonment.

25 (4) Two hundred grams or more, is guilty of a felony and, upon conviction thereof, shall be  
26 punished by a term of imprisonment in a correctional facility for not less than twelve nor more than  
27 twenty years. No sentence imposed under the provisions of this clause may be for less than  
28 twelve years of imprisonment.

NOTE: The purpose of this bill is to make unlawful the production, manufacture or possession of fentanyl.

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