

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 2912**

**FISCAL  
NOTE**

BY DELEGATES STEELE AND SMITH

[Introduced March 04, 2021; Referred to the  
Committee on Health and Human Resources then the  
Judiciary then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter,  
2 designated §60B-1-1, §60B-1-2, §60B-1-3, §60B-1-4, §60B-1-5, §60B-1-6, §60B-1-7,  
3 §60B-2-1, §60B-2-2, §60B-2-3, §60B-2-4, §60B-2-5, §60B-2-6, §60B-2-7, §60B-2-8,  
4 §60B-2-9, §60B-2-10, §60B-2-11, §60B-2-12, §60B-2-13, §60B-2-14, §60B-2-15, §60B-  
5 2-16, §60B-2-17, §60B-3-1, §60B-3-2, §60B-3-3, §60B-3-4, §60B-3-5, §60B-3-6, §60B-3-  
6 7, §60B-3-8, §60B-3-9, §60B-3-9a, §60B-3-10, §60B-3-11, §60B-3-12, §60B-3-13, §60B-  
7 3-14, §60B-3-15, §60B-3-16, §60B-3-17, §60B-3-18, §60B-3-19, §60B-3-20, §60B-3-21,  
8 §60B-3-22, §60B-3-22a, §60B-3-23, §60B-4-1, §60B-4-2, §60B-4-3, §60B-4-4, §60B-4-5,  
9 §60B-4-6, §60B-4-7, §60B-4-8, §60B-4-9, §60B-4-10, §60B-4-11, §60B-4-12, §60B-4-13,  
10 §60B-4-14, §60B-4-15, §60B-4-16, §60B-5-1, §60B-5-2, §60B-5-3, §60B-5-4, §60B-5-5,  
11 §60B-5-6, §60B-5-7, §60B-5-8, §60B-6-1, §60B-6-2, §60B-6-3, §60B-6-4, §60B-6-5,  
12 §60B-6-6, §60B-6-7, §60B-6-8, §60B-6-9, §60B-6-10, §60B-6-11, §60B-6-12, §60B-6-13,  
13 §60B-6-14, §60B-6-15, §60B-6-16, §60B-6-17, §60B-6-18, §60B-6-19, §60B-6-20, §60B-  
14 7-1, §60B-7-2, §60B-7-3, §60B-7-4, and §60B-7-5, all relating to cannabis and cannabis  
15 product sales, growth, and consumption in this state; providing for definitions; providing  
16 for a short title; providing for restrictions on sales and manufacturing; providing for sales  
17 made through the Cannabis Commission; providing for limitations on synthetic marijuana  
18 or synthetic cannabis; establishing the West Virginia Cannabis Commission; providing for  
19 rulemaking authority; providing for the appointment of the commissioner; providing for a  
20 four-year term as commissioner, clarifying that the commissioner serves at the Governor's  
21 will and pleasure; providing for the commissioner taking the oath of office and requiring  
22 the commissioner to furnish a bond; establishing the powers and duties of the commission  
23 and commissioner; permitting the commissioner the authority to hire employees to serve  
24 at his or her will and pleasure; requiring employees furnish a bond before starting  
25 employment with the commission; providing for the commissioner's authority to grant and  
26 revoke licenses; providing for regulations relating to advertisements of cannabis or

27 cannabis products; providing for rulemaking; providing for cooperation between the  
28 commission and law enforcement, including local law enforcement; providing for the  
29 process of hearings and proceedings before the commission; providing for civil  
30 responsibility of all employees of the commission; requiring the Legislative Auditor to audit  
31 the Cannabis Commission every five years and permitting the State Auditor to audit at any  
32 time; providing for the commissioner to enter into contracts for scanner technology to verify  
33 age of cannabis or cannabis product consumers; providing for the sale of cannabis or  
34 cannabis products; providing the commissioner the ability to establish dispensaries of  
35 cannabis or cannabis products in counties subject to population requirements; providing  
36 for the commissioner to establish cannabis or cannabis product warehouses in certain  
37 economically advantageous counties in this state; providing that the commissioner hire  
38 managers for the dispensaries and warehouses; providing for rulemaking authority relating  
39 to sales of cannabis or cannabis products; providing for dispensaries to obtain inventory  
40 from warehouses to sell at retail; providing for the commission to determine the price of  
41 cannabis or cannabis products using certain price indices; providing the commissioner set  
42 retail tax rates on cannabis, cannabis products, or cannabis seeds; providing for statutory  
43 transfers of excess revenues and taxes greater than 110 percent the prior year's budget  
44 be swept into the General Revenue Fund; providing that the commission may fix uniform  
45 prices; providing for local municipal sales taxes enacted be remitted to the county where  
46 the sale took place; providing for recordkeeping requirements; providing for inventory  
47 control through the commission; providing for operating hours of dispensaries; providing  
48 for limitations on advertising or recommending brands or strains of cannabis or cannabis  
49 products; permitting the commissioner acquire equipment necessary for the sale and age  
50 verification technology relating to cannabis or cannabis products; providing for sales to  
51 other states subject to certain federal requirements; providing for the required sale in  
52 sealed packages with child-proof packaging and clear and conspicuous warning labels;

53 providing for rulemaking as to handling cannabis and cannabis products relating to sales;  
54 establishing the West Virginia Cannabis Commission Operating Fund and permitting  
55 certain expenditures; providing for the commissioner to provide security for dispensaries  
56 and warehouses in this state; providing for methods of payment to a dispensary for  
57 cannabis or cannabis products; providing for a limitation on the amount of cannabis or  
58 cannabis products that may be sold; providing for unlawful acts by purchasers; providing  
59 for conduct of purchasers when inside a dispensary in this state; providing for licenses to  
60 grow cannabis in this state; providing for qualifications for persons to obtain a license to  
61 grow cannabis in this state; providing that any licensed grower of cannabis in this state  
62 may only sell products to the commissioner; providing for separate licenses of  
63 noncontiguous farms or facilities to grow cannabis; providing for an application form for a  
64 person to apply for a license to grow cannabis; providing for 15 days before the  
65 commission shall issue a decision on a license application; providing for certain instances  
66 when a license may be refused; providing for license fees; requiring licensed growers  
67 submit reports to the commission; providing for rulemaking authority; providing for  
68 limitation on municipalities or counties from imposing a tax or fee on a licensed grower;  
69 providing for procedures for license revocation; providing for 10 days written notice to a  
70 licensee regarding a date and time for a hearing on the revocation of a license; providing  
71 that a licensee may be represented by counsel at a license revocation hearing; providing  
72 for appeal mechanisms; providing for the commission to enter into leasehold agreements  
73 to hold the land on which cannabis may be grown; providing for counties to hold an election  
74 to determine if cannabis or cannabis products should not be sold within the county;  
75 providing for the election if at least 25 percent of residents desire the election; providing  
76 for the form of the petition; providing for the notice of the election at the primary or general  
77 election within in the county; providing for discontinuance of dispensaries in a county that  
78 has elected not to permit the sale of cannabis or cannabis products; limiting such elections

79 from occurring within four years of a prior election; establishing criminal penalties;  
 80 establishing limitations on the transportation of cannabis or cannabis products in this state;  
 81 permitting search warrants to be issued when meeting certain conditions; establishing  
 82 court procedures relating to conveyances of contraband and setting a fair price for such  
 83 contraband; permitting the treatment of minors with an addiction to cannabis; establishing  
 84 employee authority to make arrests under certain conditions; permitting the commissioner  
 85 to enter into contracts with third party processors under certain conditions; requiring the  
 86 commissioner to supervise third party processors; and requiring processing of cannabis  
 87 or cannabis products to occur at the commission’s warehouses.

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

**CHAPTER 60B. CANNABIS REGULATORY ACT.**

**ARTICLE 1. PERMITTING THE SALE OF CANNABIS.**

**§60B-1-1. Purpose of chapter; declaration of legislative findings, policy and intent.**

1 (a) The purpose of this chapter is to provide for the regulation of the commercial cannabis  
 2 market.

3 (b) It is hereby found by the Legislature and declared to be the public policy of this state  
 4 to regulate and control the manufacture, sale, distribution, transportation, storage, and  
 5 consumption of cannabis and at the same time to assure the greatest degree of personal freedom  
 6 consistent with the health, safety, welfare, peace and good morals of the people of this state. To  
 7 these ends the police power of this state is pledged to the sound control and the temperate use  
 8 of cannabis. To further promote and foster the policy of the Legislature, the provisions of this  
 9 chapter and of the rules and regulations promulgated pursuant thereto shall be construed so as  
 10 to accomplish and effectuate these stated purposes.

**§60B-1-2. Applicability of chapter.**

1 A person may not sell, possess for sale, transport, process, consume, grow, or distribute

2 cannabis or cannabis products in this state except in accordance with the provisions of this  
3 chapter.

**§60B-1-3. Short title.**

1 This chapter may be cited as the “Cannabis Regulatory Act.”

**§60B-1-4. Restrictions on sale, manufacture, or consumption; exceptions.**

1 Subject to the provisions of this chapter, cannabis, in this state:

2 (1) May be sold only in sealed packages, and only by the West Virginia Cannabis  
3 Commissioner;

4 (2) May not be sold for consumption on the premises where sold;

5 (3) Shall be manufactured, grown, processed, or distributed only by persons licensed  
6 under the provisions of this chapter; and

7 (4) May not be consumed or sold for consumption in a public place.

**§60B-1-5. Sales to be made by or through West Virginia Cannabis Commissioner.**

1 (a) Cannabis may be sold at wholesale and retail in this state only by or through the West  
2 Virginia Cannabis Commissioner or retail dispensaries established by the Commissioner.

3 (b) The only authorized purchaser of cannabis at wholesale in this state shall be the West  
4 Virginia Cannabis Commission. Any other wholesale or retail sale of cannabis in this state is  
5 prohibited.

**§60B-1-6. Definitions.**

1 For the purposes of this chapter:

2 “Cannabis” means all parts of the plant “Cannabis sativa L.”, whether growing or not; the  
3 seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture,  
4 salt, immediate derivative, mixture, or preparation of the plant, its seeds or resin, naturally  
5 occurring tetrahydrocannabinol, being a plant also known as marijuana, or marihuana. It does not  
6 include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the  
7 seeds of the plant, any other compound, manufacture, salt, immediate derivative, mixture, or

8 preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake, or the  
9 sterilized seed of the plant which is incapable of germination.

10 “Cannabis product” means any product manufactured by the West Virginia Cannabis  
11 Commissioner for sale in dispensaries that has as an ingredient, cannabis, such as a  
12 confectionary, oil, salve, cooking ingredient, cake, or other ingestible or topical product as defined  
13 by the commission.

14 “Grower” means a person that is authorized by the Commission to engage in the growth,  
15 production, or manufacture of cannabis.

16 “Processor” means a person that is authorized by the commission to engage in the  
17 processing of raw cannabis into a form acceptable to the commission for sale to the public.

18 “Dispensary” means a retail location operated by the West Virginia Cannabis Commission  
19 that sells cannabis or cannabis products to the public pursuant to rules established by the  
20 commission.

21 (6) “Commissioner” or “Commission” means the West Virginia Cannabis Commissioner.

22 “Department” means the organization through which the commission exercises powers  
23 imposed upon it by this chapter.

24 “Intoxicated” means a person’s faculties are impaired by cannabis or other substances to  
25 the point where physical or mental control or both are markedly diminished.

26 “Manager” means an individual who is the applicant’s or licensee’s on-premises employee,  
27 member, partner, shareholder, director, or officer who meets the licensure requirements of this  
28 chapter and rules promulgated thereunder who actively manages, conducts, and carries on the  
29 day-to-day operations of the applicant or licensee with full and apparent authority or actual  
30 authority to act on behalf of the applicant or licensee. These duties include, but are not limited to,  
31 coordinating staffing, reviewing, and approving payroll, ordering and paying for inventory,  
32 maintaining all documents and records in a manner consistent with the rules as set forth by the  
33 commission, and managing security staff, security systems, and video and other security

34 equipment; and any further acts or actions involved in managing the affairs of the business, on  
35 behalf of owners, partners, members, shareholders, officers, or directors.

36 “Original package” means any closed or sealed container or receptacle that has a clear  
37 and conspicuous warning label indicating that the product is only for adults at least 21 years of  
38 age and that is designed to prevent children from being able to open or access the contents of  
39 the container used for holding cannabis as that container or receptacle was received by the  
40 dispensary from the Commission or the Commission’s designated processor licensee.

41 “Person” means an individual, firm, partnership, limited partnership, corporation, or  
42 voluntary association.

43 “Synthetic Marijuana or Cannabis” means any other synthetic chemical compound that is  
44 a Cannabinoid receptor type 1 agonist as demonstrated by binding studies and functional assays  
45 that is not listed in Schedules II, III, IV, and V, is not a federal Food and Drug Administration  
46 approved drug, or used within legitimate, approved medical research.

47 “Public place” means any place, building, or conveyance to which the public has, or is  
48 permitted to have access, including restaurants, soda fountains, hotel dining rooms, lobbies, and  
49 corridors of hotels, and any highway, street, lane, park, or place of public resort or amusement.

50 “Sale” means any transfer, exchange, or barter in any manner or by any means, for a  
51 consideration, and shall include all sales made by a principal, proprietor, manager, agent, or  
52 employee, including a gift for no exchange of value received.

53 “Selling” includes solicitation or receipt of orders, possession for sale, and possession with  
54 intent to sell.

55 “State Cannabis Dispensary” means a store established and operated by the commission  
56 under this chapter for the sale of cannabis in the original package for consumption off the  
57 premises.

**§60B-1-7. Synthetic Marijuana or Synthetic Cannabis.**

1 Synthetic Marijuana or Synthetic Cannabis is not authorized for manufacture, processing,



2 or sale as defined by this chapter, and is subject to the provisions of chapter 60A of this code.

**ARTICLE 2. WEST VIRGINIA CANNABIS COMMISSION.**

**§60B-2-1. Office created; rulemaking authority.**

1 To accomplish the purposes of this chapter, there is hereby created the office of West  
2 Virginia Cannabis Commissioner. The commissioner may propose rules for legislative approval  
3 in accordance with §29A-3-1 et seq., of this code to carry out the purposes of this chapter.

**§60B-2-2. Appointment of commissioner.**

1 The commissioner shall be appointed by the Governor, with the advice and consent of the  
2 Senate, and shall devote his or her entire time to the duties of his or her office. The commissioner  
3 may hire personnel on an at-will and pleasure employment basis, and the employees may not be  
4 subject to civil service provisions.

**§60B-2-3. Term of office; vacancy.**

1 The commissioner shall be appointed for a term of four years and any appointment to fill  
2 a vacancy shall be for the unexpired term. Notwithstanding the term of appointment, the  
3 commissioner shall serve at the will and pleasure of the Governor.

**§60B-2-4. Oath and bond.**

1 Before entering upon the duties of the office, the commissioner shall take and subscribe  
2 to the oath prescribed by section 5, article IV, of the Constitution of this state, and shall give bond  
3 in the penalty of \$25,000, to be approved by the Governor and conditioned upon the faithful  
4 performance of the duties of the office and the accounting for and payment into the Treasury of  
5 all moneys coming into the commissioner’s custody by virtue of the office. The bond and oath  
6 shall be filed with the Secretary of State.

**§60B-2-5. Powers and duties.**

1 The commissioner, in order to carry out the purposes of this chapter, may:  
2 (1) Exercise general supervision of, and make rules and regulations for, the management  
3 of his or her agency;

4           (2) Sign and execute in the name of the commissioner, or his or her designee, any contract  
5 or agreement authorized by this chapter;

6           (3) Supervise the fiscal affairs and responsibilities of the agency;

7           (4) Acquire title to and purchase real estate of a sufficient size and scale to warehouse  
8 cannabis in accordance with this chapter, in Mineral County, Marshall County, Braxton County,  
9 Summers County, and Wayne County, for a sale price not to exceed \$3,500,000 per location;

10           (5) Sell, in part or in whole, the real estate acquired in subdivision (4) of this subsection,  
11 as described above, for a sale price of at least the appraised fair market value and upon terms  
12 the commissioner determines to be in the best interest of the State of West Virginia;

13           (6) Make improvements on the real estate acquired and described in subdivision (4) of this  
14 subsection so as to carry out the provisions in this chapter;

15           (7) Keep a complete and accurate record of all proceedings, record and file all bonds and  
16 contracts taken or entered into, and assume responsibility for the custody and preservation of all  
17 papers and documents pertaining to the commissioner;

18           (8) Purchase or lease as provided by law all equipment necessary for the conduct of the  
19 agency;

20           (9) Report to the Governor, the Speaker of the House of Delegates, and the President of  
21 the Senate annually all information relative to the operation and functions of the agency. The  
22 commissioner shall make such other reports and recommendations as may be required by the  
23 Governor;

24           (10) Exercise any other power that may be necessary or proper for the orderly conduct of  
25 the business and the effective discharge of the duties of the commissioner; and

26           (11) Invoke any legal or equitable remedies for the enforcement of the orders of the  
27 commissioner or the provisions of this chapter.

**§60B-2-6. Assistants and employees.**

1           The commissioner shall hire employees as may be necessary to the efficient operation of

2 the department and fix their salaries. All employees hired serve at the will and pleasure of the  
3 commissioner.

**§60B-2-7. Bonds of employees.**

1 The commission shall require every employee who collects fees or handles funds, or who  
2 has custody of equipment, supplies, and other property belonging to the state, to take the oath  
3 prescribed by section 5, article IV of the state Constitution; and the commission shall require to  
4 be furnished by every employee, or shall itself obtain, a bond, insurance policy, indemnity  
5 contract, or other contract, protecting and indemnifying the state against any and all loss or  
6 damage that may be occasioned by the failure of the employee faithfully to perform the duties  
7 pertaining to his or her employment, and to account for, pay over and deliver to the proper officer  
8 or agent of the commission or state all moneys and other property which may come into his or  
9 her custody or under his or her control by virtue of his or her employment. The bond, insurance  
10 policy, indemnity contract, or other contract, shall be in a form, and in a sum, and with security,  
11 as may be prescribed or approved by the commission, and may cover any one employee or any  
12 number of employees. The premiums for all such bonds, insurance policies, indemnity contracts,  
13 or other contracts, shall be paid by the commission.

**§60B-2-8. Authority to grant and revoke licenses.**

1 The commission may grant, and revoke licenses as provided in §60B-4-1 et seq. of this  
2 code.

**§60B-2-9. Regulation of advertising.**

1 The commission shall prescribe rules governing the advertising of cannabis in this state.  
2 The rules may only allow for advertising on the outside of a premises that notifies the public that  
3 a dispensary is operating at the premises in accordance with this chapter. All advertising that  
4 encourages intemperance, induces minors to purchase, or tends to deceive or misrepresent is  
5 prohibited. The commission may authorize advertising and signage inside of the premises of a  
6 dispensary that notifies purchasers of different strains, levels of THC, or other qualities of a

7 particular cannabis product to inform a consumer of the qualities of a specific product, but may  
8 not authorize advertising or signage inside of a premises that encourages intemperance, induces  
9 minors to purchase, or tends to deceive or misrepresent. The commission shall print on package  
10 labeling, when practicable, the city and county where a particular cannabis product is grown, and  
11 by what method the product was grown, be it either outdoors, indoors, hydroponically, or  
12 otherwise.

**§60B-2-10. Rules and regulations.**

1 The commission may propose rules for legislative approval in accordance with §29A-3-1  
2 et seq. of this code to give effect to the powers vested in it by this chapter. The commission shall  
3 create a website made available to the public to accomplish the purposes of this section. All other  
4 records and entries necessary to show the official conduct of the commission shall be preserved  
5 and shall be public records and open for inspection during business hours.

**§60B-2-11. Powers and duties exercised by employees.**

1 All powers and duties vested in the commission, except the power to sign contracts, may  
2 be exercised by employees of the commission under its direction; but the commission shall be  
3 responsible for their acts.

**§60B-2-12. Law enforcement cooperation.**

1 In addition to the assistance of law enforcement provided under §15-2-12 of this code, the  
2 commissioner may obtain assistance in the enforcement of §60B-1-1 et seq. of this code from  
3 county or municipal law-enforcement agencies by making a written request therefor. The  
4 assistance authorized by this section is limited only to accompanying the commissioner and his  
5 or her agents and may not be unreasonably withheld. Any law-enforcement officer acting pursuant  
6 to this section may act upon crimes committed in his or her presence: *Provided*, That any officer  
7 so acting shall be within his or her geographic jurisdiction, and nothing in this section authorizes  
8 any officer to act outside of the scope of his or her geographic jurisdiction.

**§60B-2-13. Hearings and proceedings.**

1 In all hearings and proceedings before the commission, the evidence of witnesses and the  
2 production of documentary evidence may be required. Summons may be issued by it for  
3 appearance at any designated place of hearing. In case of disobedience to a summons or other  
4 process, the commission, or any party to the proceedings before the commission may invoke the  
5 aid of any circuit court in requiring the evidence and testimony of witnesses and the production of  
6 papers, bonds, and documents. Upon proper showing, the court shall issue an order requiring  
7 witnesses to appear before the commission, produce all books and papers, and give evidence  
8 touching the matter in question. Any person failing to obey the order may be punished by the  
9 court as for contempt. A claim that evidence may tend to incriminate the person giving the  
10 evidence may not excuse him or her from testifying, but he or she may not be prosecuted for any  
11 offense concerning which he or she is compelled to testify. A transcript shall be made of every  
12 proceeding and hearing held before the commission, and a copy of the transcript shall be made  
13 available to all persons that are a party to the proceeding. The commissioner shall charge a fee  
14 for reproduction of the transcript that is commensurate with the cost of transcribing the  
15 proceeding. The commissioner may hire a professional stenographer as an employee of the  
16 commission or on a contract basis.

**§60B-2-14. Legal services.**

1 The Attorney General and the prosecuting attorneys of the several counties shall render  
2 to the commission such legal services as it may require of them in the discharge of its duties  
3 under the provisions of this chapter without additional compensation.

**§60B-2-15. Civil responsibility.**

1 The members and employees of the commission may not be civilly responsible for any act  
2 done or omitted in good faith in the discharge of duties imposed upon them by this chapter.

**§60B-2-16. Audit.**

1 At least every five years, the Legislative Auditor shall audit the affairs of the West Virginia  
2 Cannabis Commission and report the results of the audit to the Legislature. The commission shall

3 also be subject to audit by the West Virginia State Auditor at any time, with or without good cause  
4 shown for the basis of the audit.

**§60B-2-17. Authority to utilize scanner technology in sales; authority to execute contracts relating thereto.**

1 (a) The commissioner may, pursuant to §60B-2-11 of this code, authorize and establish  
2 standards for the use of scanner technology for the verification of age of purchasers of cannabis  
3 as defined by this chapter. Any scanner technology may not be used for the collection of personal  
4 identifiable information of any purchaser, which includes, but is not limited to, driver's license  
5 number, Social Security number, residential address, or other descriptive information contained  
6 on the license, other than the age of the purchaser.

7 (b) In addition to the commissioner's powers set forth in §60B-2-11 of this code, the  
8 commissioner may sign and execute in the name of the office of Cannabis Commissioner one or  
9 more contracts or agreements pertaining to the sale or licensing and promotion of proprietary  
10 scanner technology by the commissioner, or his or her designated contractual partner, to any  
11 interested person, upon terms the commissioner believes to be in the best interests of this state,  
12 and to amend, extend, or terminate any contract or agreement: *Provided*, That all contracts are  
13 subject to the review process contained in §5A-3-13 of this code.

14 (c) "Scanner technology" includes any device that uses technology intended to control the  
15 access of minors to cannabis and which is capable of:

16 (1) Capturing the information from a bar code or magnetic strip on a driver's license or  
17 identification card issued by the Division of Motor Vehicles;

18 (2) Producing a declaration of age in print form and storing a record of the event in  
19 memory;

20 (3) Producing an audible, visual and printed result;

21 (4) Reporting a history of the events, including the ability to transfer the data for archiving  
22 and database development purposes; and

23 (5) Storing at least 1,000 events at any time before data is transferred.

24 (d) Moneys derived from the sale, licensing, and promotion of the proprietary scanner  
25 technology shall be deposited in a special account in the state Treasury to be known as the  
26 “Scanner Technology Fund,” being the same Scanner Technology Fund established in §60-2-22  
27 of this code, and subject to the same provisions thereof.

### **ARTICLE 3. SALE OF CANNABIS.**

#### **§60B-3-1. Sales at retail and wholesale.**

1 (a) The sale of cannabis at wholesale and retail in this state shall be a state monopoly.  
2 Cannabis shall be sold at retail only through the state stores, known as dispensaries.

3 (b) The commissioner may purchase cannabis at wholesale from persons licensed to grow  
4 cannabis as provided in this chapter.

#### **§60B-3-2. Establishment of dispensaries; location.**

1 (a) The commission shall establish state dispensaries at places throughout the state to  
2 serve adequately and reasonably the demand for the sale at retail of cannabis, subject only to the  
3 limitations imposed by §60B-5-1 of this code. It may discontinue a store or agency when in its  
4 opinion it is advisable to do so.

5 (b) A dispensary may not be located within 1000 feet of a school, church, playground, or  
6 park.

7 (c) The commission may establish state dispensaries in a number up to one dispensary  
8 per 10,000 residents per county. If a county has less than 10,000 residents, the commission may  
9 establish at least one dispensary in the county. The commission shall establish the dispensaries  
10 in a manner and location as to adequately serve the dispersed population of a county, taking such  
11 other factors into consideration as the commission may consider just and proper.

12 (d) Dispensaries shall be operated by the commission, and the commission shall establish  
13 rules and guidelines for the orderly and safe operation of state dispensaries.

14 (e) Under no circumstances may the commission, commissioner, an employee of the

15 commission, any agency of the state, any employee of the state, any political subdivision of the  
16 state, any employee of a political subdivision of the state, or any person keep a record, registry,  
17 or other file, document, or recording of the identity of any person purchasing cannabis or cannabis  
18 products from a dispensary. Any identifying information collected for purposes of a sale such as  
19 credit card information, bank information, purchase orders, or age information collected for  
20 compliance with this chapter shall be destroyed once the purpose of retention of the information  
21 is fulfilled, and under no circumstances may the information be turned over to any person or entity  
22 whatsoever. Information described in this section may not be produced pursuant to a request  
23 under Chapter 29B of this code.

**§60B-3-3. Warehouses.**

1 (a) The commission shall establish and manage warehouses for the storage and  
2 processing of all cannabis in the state, and shall divide the store of cannabis between warehouses  
3 selected and purchased by the commission located in Mineral, Marshall, Braxton, Wayne, and  
4 Summers counties.

5 (b) All processing activities shall take place in the state warehouses managed by the  
6 commission, and shall operate by rules promulgated by the commission. The commission shall  
7 propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code governing  
8 employment practices, and contracting with third-parties for work to take place at the warehouses  
9 and the physical security of all cannabis stored in the warehouses in the state.

**§60B-3-4. Managers and employees of dispensaries.**

1 The commission shall hire a qualified manager and employees for each state dispensary.  
2 The manager shall be responsible to the commission for the conduct and operation of the store.

**§60B-3-5. Rules and regulations to govern dispensaries.**

1 The commission shall propose rules for legislative approval in accordance with §29A-3-1  
2 et seq. of this code to govern the conduct of state dispensaries.

**§60B-3-6. Dispensaries to procure inventory; sales at retail.**



1 A state dispensary shall procure inventory of cannabis for sale at retail only from the  
2 commission, and shall be directed from the regional warehouse most near the dispensary.

**§60B-3-7. Commission to set price; tax rates applicable.**

1 (a) Wholesale Price Setting. - The commission shall set the wholesale price at which the  
2 commission will purchase cannabis from grower licensees based upon an average of the un-  
3 taxed average price based upon an average of no less than three industry recognized cannabis  
4 price indexes covering cannabis prices in the Continental United States that are determined  
5 credible by the commission. The commission shall publish the wholesale purchase price rate daily  
6 and make the daily rate available to the general public on its website.

7 (b) Retail Price Setting. - The commission shall set the retail price at which the commission  
8 will sell cannabis in state dispensaries to the public based upon the wholesale price, plus the  
9 commission's operational costs in acquiring, storing, processing, delivering, and selling cannabis,  
10 and personnel costs, including the provision of employee benefit plans, after which the  
11 commission shall add a markup of 20 percent for the final retail price.

12 (c) Retail Rates for Differing Products. - The commission shall set rates for different  
13 grades, qualities, strains, or growth methods of cannabis at the commission's discretion, all in  
14 compliance with subsection (b) of this section.

15 (d) Seed Price and Tax Rate. - The commission shall set the price at which the commission  
16 shall sell seeds to grower licensees under this chapter at a rate of not more than 20 percent over  
17 the cost of acquisition of the seeds by the commission. A tax of \$0.06 per seed, over and above  
18 the sale price, shall be applicable to all sales of seeds by the commission to grower licensees.

19 (e) Tax Rate on Retail Sales. - The commission shall collect a sales tax on all retail sales,  
20 over and above the retail price set in subsections (b) and (c) of this section of 20 percent of the  
21 sale price. This tax shall be in addition to any general sales tax applicable on the sale, but may  
22 not be calculated upon the sales price inclusive of any general sales tax.

**§60B-3-8. Excess revenue and taxes to General Revenue.**

1 The commission shall, when possible, operate on the revenues and taxes collected by the  
 2 commission. The commission may retain 110 percent of the prior year's operating budget for  
 3 operating in the following year. Any excess revenue, fees, and taxes collected above 110 percent  
 4 of the prior year's operating budget shall be paid into the general revenue of the state.

5 The commissioner shall make a report to the Legislature annually on the fiscal condition  
 6 of the commission and shall make such requests as may be necessary to the Legislature for  
 7 necessary increases in the commission's operational budget. The commissioner shall provide  
 8 such information as may be necessary or requested by the Legislature to aid and assist in its  
 9 decision to allocate the commission's operational budget. The commissioner shall provide a  
 10 summary report to the Legislature prior to July 1 of each year showing, at a minimum, the last five  
 11 years (if available) of gross revenues, ongoing expenses, and one-time expenses on an annual  
 12 basis.

**§60B-3-9. Uniform prices; posting and distribution of price lists; continuation of price increase on cannabis or cannabis products.**

1 (a) The commissioner shall, from time to time, fix uniform prices for each variety of  
 2 cannabis and cannabis products offered for sale in dispensaries. Cannabis shall be sold in  
 3 dispensaries only at the uniform prices fixed by the commissioner.

4 (b) The commissioner shall prepare price lists showing the price of each variety of  
 5 cannabis and cannabis products. Price lists shall be posted prominently in each dispensary and  
 6 shall be available for distribution and inspection in every dispensary.

**§60B-3-9a. Tax on purchases of cannabis inside corporate limits of municipalities.**

1 For any dispensary located within a municipality that has enacted a tax pursuant to §8-1-  
 2 5a of this code, the commissioner shall collect, and remit the tax to the municipality in which the  
 3 dispensary is located.

**§60B-3-10. Records and accounts for dispensaries; reports and audits.**

1 The commission shall install a uniform system of records and accounts for state

2 dispensaries. It shall require a daily report of sales and stock inventory, and shall audit the  
3 accounts and check the stock inventory of each store and agency at least once in every 30 days.

**§60B-3-11. Stock or inventory control.**

1 The commission shall prescribe a method of stock or inventory control that will show the  
2 amount of each variety cannabis and cannabis products on hand in each dispensary and  
3 warehouse at any time.

**§60B-3-12. Days and hours dispensaries may open.**

1 The commission shall fix the days on which dispensaries shall be open and the hours of  
2 opening and closing, and the hours during which cannabis may be purchased.

**§60B-3-13. Advertising or recommendation of brands prohibited.**

1 A dispensary may not display or distribute any advertising matter, nor shall a person  
2 employed in a dispensary recommend any type, variety, or strain of cannabis or cannabis product.

**§60B-3-14. Acquisition of equipment and other property; analysis of cannabis.**

1 (a) The commission shall acquire by purchase or lease equipment, materials, supplies  
2 and other property necessary for the operation of dispensaries in the manner required for the  
3 purchase or lease of property by other state departments. This requirement may not apply to the  
4 purchases of cannabis for sale or to the leasing of premises for dispensaries or warehouses.

5 (b) The commission shall require a sworn statement with the delivery of cannabis or  
6 cannabis products purchased by it that the goods are as represented, and do not contain any  
7 impure or deleterious matter. The commission shall by frequent chemical analysis determine that  
8 cannabis and cannabis products offered for sale in dispensaries are pure, unadulterated, and not  
9 misrepresented.

**§60B-3-15. Sale to other states, corporations, agencies outside of the state.**

1 (a) Until such time that the United States federal government repeals the prohibition of the  
2 manufacture, processing, and sale of cannabis, the commissioner may not engage in sales to  
3 other states, governments, corporations, or agencies outside of the state.

4 (b) Upon repeal of the federal prohibition, the commissioner may engage in such sales as  
5 in the commissioner's judgment are commercially advantageous. The commissioner may engage  
6 in negotiations and contract for the sales as the market may warrant.

7 (c) In engaging in extra-jurisdictional sales, the commissioner shall maintain a sufficient  
8 supply to meet 110 percent of the prior year's demand for in-state sales. The commissioner may  
9 engage in sales under this section of any cannabis or cannabis products in excess of 110 percent  
10 of the prior year's demand for in-state sales on a basis that is in accordance with the laws of the  
11 receiving jurisdiction and the laws of the United States of America.

**§60B-3-16. Sale in sealed packages; manufacturer's label.**

1 Cannabis and cannabis products may be sold only in sealed packages, bearing such seals  
2 and labels as the commission may require, including child-proof packaging and clear and  
3 conspicuous warning labels stating that consumption is restricted for any person under 21 years  
4 of age.

**§60B-3-17. Regulations as to handling and depositing of moneys collected; monthly remittances; penalty.**

1 (a) The commissioner, with the approval of the State Treasurer, shall prescribe regulations  
2 for the handling and depositing of all moneys collected by the commissioner. All receipts accruing  
3 to and available for the General Revenue Fund in excess of the requirements of the operating  
4 fund and the license fee and additional sales tax imposed by the provisions of this chapter shall  
5 be remitted by the commissioner to the State Treasury monthly within 15 days next after the end  
6 of each calendar month.

7 (b) If the commissioner fails to remit the moneys to the state Treasury within the time  
8 specified in accordance with the provisions of this section, he or she is guilty of a misdemeanor  
9 and, upon conviction thereof, shall be fined \$1,000.

**§60B-3-18. Operating fund.**

1 (a) The operating fund to be known as the West Virginia Cannabis Commission Operating

2 Fund of the commissioner, is hereby created in the State Treasury, and shall be a revolving fund  
3 from which all operation and administration expenses of the commissioner shall be paid.

4 (b) All moneys collected by the commissioner shall be credited to the operating fund until  
5 that fund reaches an amount sufficient for the current and routine requirements of the office of the  
6 West Virginia Cannabis Commissioner.

**§60B-3-19 Commissioner authorized to provide security; employment requirements.**

1 The commissioner may purchase weapons and security equipment sufficient to safeguard  
2 and provide security for all premises, dispensaries, and warehouses the commissioner is charged  
3 with administrating. The commissioner shall employ individuals with appropriate law-enforcement  
4 credentials for the carrying of firearms and to carry out the enforcement and security powers of  
5 the commissioner. The commissioner may enact physical fitness and marksmanship  
6 requirements for personnel charged with the security of the commission's facilities and  
7 enforcement powers under this chapter.

**§60B-3-20. Sales, method of payment.**

1 The sale of cannabis and cannabis products in dispensaries may be for any mode of  
2 payment authorized by the rules of the commission, to include cash, bank card, or credit card.  
3 The commission shall cause to be issued by check or electronic funds transfer payments issued  
4 by the State Treasurer to grower licensees for cannabis purchased.

**§60B-3-21. Limitation on amount to be sold.**

1 Not more than two pounds of cannabis may be sold to a person at one time without the  
2 approval of the commissioner or his representative, and sales in case lots may be made in the  
3 discretion of the commissioner.

**§60B-3-22. Sales to certain persons prohibited.**

1 (a) Cannabis and Cannabis Products as defined in §60B-1-6 of this code may not be sold  
2 to a person who is:

3 (1) Less than 21 years of age;

4 (2) Visibly or noticeably intoxicated from the influence of nonintoxicating beer,  
5 nonintoxicating craft beer, wine, liquor, or other drugs;

6 (3) Mentally incompetent.

7 (b) It shall be a defense to a violation of subdivision (1), subsection (a) of this section if  
8 the seller shows that the purchaser:

9 (1) Produced government issued identification which showed his or her age to be at least  
10 21 years of age for purchase and which bore a physical description of the person named on the  
11 writing which reasonably described the purchaser; or

12 (2) Produced evidence of other facts that reasonably indicated at the time of sale that the  
13 purchaser was at least 21 years of age.

**§60B-3-22a. Unlawful acts by persons.**

1 (a) Any person under the age of 21 years who, for the purpose of purchasing cannabis or  
2 cannabis products from dispensary, misrepresents his or her age, or who for that purpose  
3 presents or offers any written evidence of age which is false, fraudulent, or not actually his or her  
4 own, or who illegally attempts to purchase cannabis from a dispensary, is guilty of a misdemeanor  
5 and, upon conviction thereof, shall be fined in an amount not to exceed \$500.

6 (b) Any person who knowingly buys for, gives to, or furnishes to anyone under the age of  
7 21 to whom they are not related by blood or marriage, any cannabis or cannabis product from  
8 whatever source, is guilty of a misdemeanor and, shall, upon conviction thereof, be fined in an  
9 amount not to exceed \$500 or confined in jail for a period not to exceed 30 days, or both fined  
10 and confined.

**§60B-3-23. Conduct of purchasers upon premises of state store.**

1 A person, while on the premises of a dispensary, may not:

2 (1) Break the seal upon any package of cannabis or cannabis products;

3 (2) Consume cannabis;

4 (3) Loiter;

5 (4) Be in a visible or noticeable intoxicated state, whether from the consumption of  
6 nonintoxicating beer, nonintoxicating craft beer, wine, liquor, or other drugs;

7 (5) Engage in disruptive behavior;

8 (6) Wear any face covering that would cause the person’s face to be obscured from  
9 identification;

10 (7) Be under the age of 21, or bring a person under the age of 21 upon the premise; or

11 (8) Engage in commercial solicitation.

**ARTICLE 4. LICENSES TO GROW CANNABIS.**

**§60B-4-1. Grant and revocation of licenses; issuance or renewal for calendar year.**

1 (a) The commission may grant and revoke licenses for growers in accordance with the  
2 provisions of this article. Licenses shall be issued and renewed for the period of the calendar year.

3 (b) The commission may not limit the number of grower licenses available for issue in any  
4 manner. It is the intent of this chapter that all qualified persons eligible to hold a license shall be  
5 issued a license. In any action under this article regarding the denial or revocation of a grower’s  
6 license, the commission, and courts of this state, if the matter is appealed as provided for in this  
7 article, shall interpret this provision liberally to be as inclusive as possible in allowing for the grant  
8 of a grower’s license.

9 (c) In any action under this article to deny or revoke a grower’s license, it is the burden of  
10 the commission to prove to the trier of fact, by clear and convincing evidence, that the proposed  
11 licensee or licensee is disqualified from holding a license due to prohibited conditions set forth in  
12 this article, and the grant of a license, or continued provision of a license would be against public  
13 policy, present a danger to the public, or would undermine the health, safety, and welfare of the  
14 general citizenry of this state.

**§60B-4-2. Licenses for growers.**

1 The commission may grant licenses growers of cannabis. Separate licenses shall be  
2 issued to the following classes of manufacturing establishments:

3 (1) Growers which grow in excess of 100 acres of cannabis shall be classified and licensed  
4 as Class A growers;

5 (2) Growers which grow less than 100 acres of cannabis shall be classified and licensed  
6 as Class B growers;

7 (3) Indoor Facility Growers shall be classified and licensed as Class C growers.

**§60B-4-3. To whom licensed grower may sell.**

1 A person who is licensed to grow cannabis in this state may sell cannabis in this state only  
2 to the West Virginia Cannabis Commissioner. The commissioner may not limit the number of  
3 licenses that may be issued.

**§60B-4-4. Separate license for non-contiguous farms or facilities not required.**

1 A grower licensee that operates a non-contiguous farm or farms, or separate facilities in  
2 different locations for the growth of cannabis may not be required to obtain separate licenses for  
3 each location, but shall be issued a Class A or Class B license based upon the cumulative acreage  
4 the licensee operates. Nothing in this chapter prevents a person from being licensed as both a  
5 Class A and Class B grower if the person meets all applicable requirements and pays applicable  
6 licensing fees.

**§60B-4-5. Time to file application and pay fee.**

1 A person desiring to apply for a grower’s license shall file a formal application, in writing,  
2 with the commission and shall pay the license fee. The commissioner may create and utilize an  
3 electronic form.

**§60B-4-6. License granted or refused within 15 days; refund of fee.**

1 (a) Within 15 days after the filing of formal application for a license the commission shall  
2 either grant or refuse the license.

3 (b) If the commission refuses to grant the license, the commission shall notify the applicant  
4 of the reason for the denial of the application, and the applicant shall be given 30 days to rectify  
5 the reason for denial by submission of a supplement to the application.



6 (c) If after 30 days provided in subsection (b) of this section have passed and the  
7 commission still refuses to grant the application, the commission shall refund the license fee.

8 (d) The applicant may appeal a decision denying the grant of a license in the circuit court  
9 in which the grower applicant is located.

**§60B-4-7. When license to be refused.**

1 The commission shall refuse the license if:

2 (1) The applicant is a convicted felon;

3 (2) The place to be utilized for growing cannabis by the applicant is not a suitable place,  
4 in that it is an outdoor farm located within 1000 feet of a school, church, playground or park, or  
5 that it is an indoor farm or facility that is not proper for use as an agricultural facility; or

6 (3) The applicant has a conviction, even a misdemeanor conviction, for a crime of  
7 dishonesty.

**§60B-4-8. Annual payment of license fee; effect of failure to pay.**

1 A person possessing a license issued under the provisions of this chapter shall pay the  
2 fee annually on or before July 1 , of each year. If the license fee is not paid on that day, the license  
3 shall be automatically suspended, unless the commission shall, for good cause, grant an  
4 extension in writing for not more than 10 days. If a licensee fails to obtain an extension, the  
5 licensee shall pay a \$100 reactivation fee in addition to any other license renewal fees. After 30  
6 days of failure to renew a license the person’s license shall be automatically revoked and the  
7 person may not continue to grow cannabis for the state. The annual payment of a license may  
8 not be prorated for mid-year or first-year applicants.

**§60B-4-9. Amount of license fees.**

1 A person to whom a license is issued under the provisions of this chapter shall pay  
2 annually to the commissioner a license fee as follows, for:

3 (1) Class A License, \$5,000 plus \$100 dollars per acre over 100 acres;

4 (2) Class B License, \$50 per acre;

5 (3) Class C License, \$1,500.

6 Nothing in this section prohibits a person from being licensed for multiple classifications  
7 so long as the person meets the requirements for the license and pays applicable fees.

**§60B-4-10. Records and monthly reports required of licensee.**

1 (a) The commission shall prescribe records to be kept by licensees and shall require  
2 regular reports at least every 30 days of the amounts and kinds of cannabis grown under the  
3 authority of a license issued according to the provisions of this article.

4 (b) Records which the licensee is required to keep shall be open at all reasonable times  
5 to inspection by the commission or its agents. The commission may inspect the premises of a  
6 licensee at any time, with or without notice provided to the licensee.

**§60B-4-11. Rules, regulations and reports necessary for effective administration.**

1 The commission may propose rules for legislative approval in accordance with §29A-3-1  
2 et seq. of this code requiring the reporting of such information by licensees as may be necessary  
3 for the effective administration of the provisions of this chapter.

**§60B-4-12. Limitation on municipal corporation taxation.**

1 A municipal corporation may not impose a fee or a special tax as a condition upon the  
2 exercise of a license issued under the provisions of this chapter.

**§60B-4-13. When license revoked.**

1 The commissioner may revoke a license issued under this article upon a finding that:

2 (1) The licensee ceases to meet the requirements of §60B-4-7 of this code;

3 (2) The place occupied by the licensee ceases to meet the requirements of §60B-4-7 of  
4 this code;

5 (3) The licensee has violated a provision of this chapter or a regulation made by the  
6 commissioner under the authority of this chapter; or

7 (4) The licensee has failed to comply with the spirit and intent of this chapter by  
8 encouraging intemperance, the unlawful consumption of cannabis, or otherwise.

**§60B-4-14. Notice of and hearing on revocation; disposition of inventory.**

1        Before revoking a license issued under the authority of this chapter, the commission shall  
2 give at least 10 days written notice to the licensee. The notice shall state the reason for revocation  
3 and shall designate a time and place when the licensee may show cause why the license should  
4 not be revoked. Notice shall be sent by registered mail to the address for which the license was  
5 issued. The licensee may, at the time designated for the hearing, produce evidence, and be  
6 represented by counsel. On the final revocation of a license or licenses the commission shall  
7 immediately take possession of the inventory consisting of cannabis and cannabis products  
8 possessed by the licensee, and pay to the licensee the amount payable in accordance with §60B-  
9 3-7 of this code, less the amount necessary to defray the costs incurred by the commission in the  
10 revocation proceedings.

**§60B-4-15. Appeal.**

1        A decision of the commission granting or revoking, or refusing to grant or to revoke a  
2 license authorized by this chapter shall be subject to judicial review upon the appeal of a licensee  
3 and applicant for a license, a resident of the community on his or her own behalf or on behalf of  
4 the community, or an interested party who is dissatisfied with the decision of the commission in  
5 granting, refusing to grant, revoking, or refusing to revoke a license authorized by this chapter,  
6 but in any such judicial review only the legality of the decision of the commission under the  
7 Constitution and laws of this state and the United States shall be determined.

**§60B-4-16. Leasehold with grower established; employment; dissolution.**

1        (a) A grower licensee, upon being accepted by the commission and the commission  
2 offering a license to the grower, shall be presented a sealed offer letter from the commission  
3 extending an offer from the commissioner for the commission to lease, on a month-to-month  
4 basis, the land or facility described in the grower licensee's application for a fee of \$10 per fiscal  
5 year. The grower licensee shall be provided with a form by the commissioner to either accept or  
6 deny the lease. If the grower accepts the lease, the commissioner shall pay to the grower licensee

7 the \$10 lease payment within 30 days of receipt of acceptance of the lease. The lease shall be  
8 terminable by the grower licensee upon provision of 30 days' written notice. The lease shall be  
9 terminable by the commissioner after the completion of proceedings under §60B-4-19 and §60B-  
10 4-20 of this code.

11 (b) The commission shall extend to the grower licensee, upon acceptance of the lease, an  
12 agency agreement, the agreement making the grower licensee the exclusive agent to provide  
13 growing services on the leasehold described to the commission. The commissioner shall create  
14 a formal agency agreement for use between the commission and grower licensees to fulfill the  
15 purposes of this section. The agency agreement shall be terminable by the grower licensee upon  
16 provision of 30 days' written notice. The agency agreement shall be terminable by the  
17 commissioner after the completion of proceedings under §60B-4-19 and §60B-4-20 of this code.

18 (c) Upon termination of the leasehold and agency agreement by the grower licensee or  
19 commissioner, the commissioner shall receive, and the grower licensee shall give the  
20 commissioner, for value as determined by this chapter, all cannabis or cannabis products in the  
21 possession or control of the grower licensee.

## **ARTICLE 5. LOCAL GOVERNMENT DECISIONS RELATING TO THE SALE OF CANNABIS.**

### **§60B-5-1. Election in county to prohibit cannabis.**

1 (a) The establishment and sale of cannabis by the commissioner is authorized in every  
2 jurisdiction of this state upon the effective date of this legislation.

3 (b) A county may in a regularly scheduled election, determine whether the sale of cannabis  
4 or cannabis products pursuant to this chapter shall be prohibited within that county.

5 (c) A local option election shall be held in conjunction with a regular primary or general  
6 election, and not during a special election.

### **§60B-5-2. Election called on petition of 25 percent of qualified voters.**

1        (a) The county commission shall call cause to be placed upon the ballot a question of  
 2 whether the county shall prohibit the sale of cannabis or cannabis products at the next primary or  
 3 general election upon the filing of a petition signed by not less than 25 percent of the qualified  
 4 voters within the county or municipality.

5        (b) Notwithstanding the above, any question placed on the ballot shall be submitted for  
 6 inclusion on the ballot no less than 180 days prior to the election.

**§60B-5-3. Form of petition.**

1        The petition shall be in the following form:

2        **Petition for Local Option Question for next Primary or General Election**

3        We, the undersigned legally qualified voters, resident within the county  
 4 of \_\_\_\_\_, do hereby petition that a question should be put upon the ballot of the next  
 5 primary or general election be held within the county of \_\_\_\_\_ on the  
 6 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon the following question:

7        Shall the sale of cannabis or cannabis products under the West Virginia Cannabis  
 8 Commissioner be (prohibited) in (County) \_\_\_\_\_ ?

9        Name Address Date

10       (Post office or street and number)

**§60B-5-4. Notice of election; when held; election officers.**

1        The county commission shall give notice of the special local option election by publication  
 2 thereof as a Class I-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of  
 3 this code, and the publication area for the publication shall be the area in which the election is to  
 4 be held. The notice shall be so published within seven consecutive days next preceding the  
 5 election. The election shall be held not less than 180 days from the filing of the petition. The  
 6 regular election officers of the county shall open the polls and conduct the election in the same  
 7 manner provided for general elections.

**§60B-5-5. Form of ballot.**

1 On the ballot shall be printed the following:

2 Shall the sale of cannabis or cannabis products be offered for sale under the West Virginia  
3 Cannabis Commissioner be permitted in (County) \_\_\_\_\_ ?

4  Yes.

5  No.

6 (Place a cross mark in the square opposite your choice.)

**§60B-5-6. How election conducted and results certified.**

1 The ballots shall be counted, returns made and canvassed, and the results certified by the  
2 commissioners of election to the county commission of the county. The county commission or  
3 governing body shall without delay certify the result of the election to the commissioner.

**§60B-5-7. Discontinuance of dispensaries in local option territory.**

1 Within 30 days after a local option election in which a majority has voted No, the  
2 commissioner shall order the closing of all dispensaries selling cannabis and cannabis products  
3 within the county.

**§60B-5-8. When another election may be held.**

1 When a local option election has been held in a county, another such election may not be  
2 held for a period of four years.

**ARTICLE 6. PENALTIES.**

**§60B-6-1. When lawful to possess, use, or serve cannabis.**

1 The provisions of this chapter may not prevent:

2 (1) A person from keeping and possessing cannabis in his or her residence for the  
3 personal use of himself or herself, his or her family, his or her employee, or his or her guests if  
4 the cannabis has been lawfully acquired by him or her;

5 (2) A person, his or her family, or employee from giving or serving cannabis to guests in  
6 the residence, when the gift or service is not for the purpose of evading the provisions of this  
7 chapter;

**§60B-6-2. Applicability of chapter to growth for personal consumption.**

1           The provisions of this chapter relating to state monopoly may not apply to growth for  
2 personal consumption as follows:

3           (1) The person is of legal age and status to consume and possess cannabis and cannabis  
4 products:

5           (2) The person does not possess or is not growing more than three marijuana plants at  
6 one time;

7           (3) The person has taken measures to ensure that the growth of the three marijuana plants  
8 is inconspicuous;

9           (4) The person does not engage in any sale of cannabis to any person whatsoever; and

10          (5) The person does not transport cannabis outside of the state.

**§60B-6-3. Transporting cannabis in excess of five pounds.**

1           (a) The provisions of this chapter may not prevent a person from transporting in this state,  
2 in his or her possession or in his or her baggage, and not for resale, cannabis or cannabis  
3 products in a quantity not to exceed five pounds: *Provided*, That upon written permission of the  
4 commissioner, quantities of cannabis or cannabis products in excess of five pounds may be  
5 transported within this state.

6           (b) Under no circumstances may any cannabis transported within the state be sold to any  
7 person at any time.

**§60B-6-4. Specific acts forbidden.**

1           (a) A person may not:

2           (1) Manufacture, grow, process, or sell cannabis in this state without a license, except as  
3 permitted by this article;

4           (2) Aid or abet in the manufacturing, growing, processing, or sale of cannabis without a  
5 license, except as permitted by this article;

6           (3) Sell or tender, without a license, any cannabis or cannabis product other than permitted

7 by this article:

8 (4) Adulterate any cannabis or cannabis product by the addition of any drug, or other  
9 foreign or deleterious substance or liquid;

10 (5) Refill, with cannabis, any package or other container in which cannabis or cannabis  
11 products have been sold at retail in this state;

12 (6) Advertise any cannabis in this state except in accordance with the rules and regulations  
13 of the commissioner; or

14 (7) Distribute, deal in, process, or use crowns, stamps, or seals required under the  
15 authority of this chapter, except in accordance with the rules and regulations prescribed by the  
16 commissioner.

17 (b) A person who violates any provision of this section is guilty of a misdemeanor and,  
18 upon conviction thereof, shall be fined not more than \$500, or confined in jail not more than one  
19 year or both fined and confined, for the first offense. Upon conviction of a second or subsequent  
20 offense, the person is guilty of a felony, and shall be imprisoned in a state correctional facility for  
21 a determinate period not to exceed five years.

**§60B-6-5. Intoxication in public places; illegal possession of cannabis or cannabis**  
**products; arrests by sheriffs or their deputies for violation in their presence;**  
**penalties.**

1 (a) A person may not:

2 (1) Appear in a public place in an intoxicated condition from the use or consumption of  
3 cannabis or cannabis products;

4 (2) Use cannabis or cannabis products in a public place;

5 (3) Tender cannabis or cannabis products to another person in a public place; or

6 (4) Possess any cannabis or cannabis products which were manufactured or acquired in  
7 violation of the provisions of this chapter.

8 (b) Any law-enforcement officer may arrest without a warrant and take the following



9 actions against a person who, in his or her presence, violates subdivision (1), subsection (a) of  
10 this section:

11 (1) If there is some nonintoxicated person who will accept responsibility for the intoxicated  
12 person, the officer may issue the intoxicated person a citation specifying a date for appearance  
13 before a judicial officer and release him or her to the custody of the individual accepting  
14 responsibility: *Provided*, That the issuance of a citation shall be used whenever feasible;

15 (2) If it does not impose an undue burden on the officer, he or she may, after issuance of  
16 a citation, transport the individual to the individual's present residence, or arrange for the  
17 transportation;

18 (3) If the individual is incapacitated or the alternatives provided in subdivisions (1) and (2)  
19 of this subsection are not possible, the officer shall transport or arrange for transportation to the  
20 appropriate judicial officer; or

21 (4) If the individual is incapacitated and, in the law-enforcement officer's judgment, is in  
22 need of acute medical attention, that officer shall arrange for transportation by ambulance or  
23 otherwise to a hospital emergency room. The officer shall accompany the individual until he or  
24 she is discharged from the emergency room or admitted to the hospital. If the individual is released  
25 from the emergency room, the officer may proceed as described in subdivisions (1), (2), and (3)  
26 of this subsection. If the individual is admitted to the hospital, the officer shall issue a citation to  
27 the individual specifying a date for appearance before a judicial officer.

28 (c) Upon presentment before the proper judicial officer, the law-enforcement officer serves  
29 as the chief complaining witness. The judicial officer shall determine if there is probative evidence  
30 that the individual may be guilty of the charge of public intoxication. If the evidence is not  
31 presented, the charge shall be dismissed, and the individual released. If sufficient evidence is  
32 presented, the judicial officer shall issue a warrant and establish bail or issue a summons to the  
33 individual. Once a warrant or summons has been issued, the following actions may be taken:

34 (1) If the individual is no longer incapacitated, he or she may be released;

35 (2) If the individual is still incapacitated but a nonintoxicated person is available to accept  
36 responsibility for him or her, he or she may be released to the responsible person; or

37 (3) If the individual is still incapacitated and no responsible person is available, the judicial  
38 officer shall proceed under §27-5-1 et seq. and §27-6A-1 et seq. of this code.

39 (d) Any law-enforcement officer may arrest and hold in custody, without a warrant, until  
40 complaint may be made before a judicial officer and a warrant or summons issued, any person  
41 who in the presence of the law-enforcement officer violates any one or more of subdivisions (1)  
42 through (6), subsection (a) of this section: *Provided*, That the law-enforcement officer may use  
43 reasonable force to prevent harm to himself or herself, the individual arrested, or others in carrying  
44 out the provisions of this section.

45 (e) Any person who violates subdivision (1), subsection (a) of this section is guilty of a  
46 misdemeanor and, upon conviction thereof, shall be sentenced by a judicial officer in accordance  
47 with the following options:

48 (1) Upon first offense, a fine of not more than \$500. If the individual, prior to conviction,  
49 agrees to voluntarily attend a narcotics education program of not more than six hours duration at  
50 the nearest community mental health center, the judicial officer may delay sentencing until the  
51 program is completed and upon completion may dismiss the charges;

52 (2) Upon conviction for a second offense, a fine of not more than \$500 and not more than  
53 90 days in jail or completion of not less than 10 hours of narcotics counseling at the nearest  
54 community mental health center;

55 (3) Upon third and subsequent convictions, a fine of not more than \$500 and not more  
56 than one year in jail or a fine of not more than \$500 and completion of not less than 28 days of  
57 inpatient drug rehabilitation: *Provided*, That three convictions for public intoxication within the  
58 preceding six months is considered evidence of drug addiction with a strong tendency to harm  
59 oneself. For the educational counseling programs described in this subsection the community  
60 mental health center may charge each participant its usual and customary fee and shall certify in

61 writing to the referring judicial officer the completion or failure to complete the prescribed program  
62 for each individual.

63 (f) A person charged with a violation of subdivision (1), subsection (a) of this section who  
64 is a drug addict shall be found not guilty by reason of addiction and proper disposition made  
65 pursuant to §27-5-1 et seq. and §27-6A-1 et seq. of this code.

66 (g) Any person who violates subdivision (2), subsection (a) of this section is guilty of a  
67 misdemeanor and, upon conviction thereof, shall be fined not more than \$500; and upon a second  
68 or subsequent conviction thereof, shall be fined not more than \$500, or confined in jail not more  
69 than 180 days, or both fined and confined.

70 (h) Any person who violates subdivision (3), subsection (a) of this section is guilty of a  
71 misdemeanor and, upon conviction thereof, shall be fined not more than \$500, or confined in jail  
72 not more than 180 days, or both fined and confined.

73 (i) Any person who violates subdivision (5) or subdivision (6), subsection (a) of this section  
74 is guilty of a misdemeanor and, upon his or her first conviction, shall be fined not more than \$500;  
75 and upon conviction of second or subsequent offense, he or she is guilty of a felony and, upon  
76 conviction thereof, shall be confined in a state correctional facility for a determinate period of not  
77 more than five years.

**§60B-6-6. Unlawful operation of indoor or outdoor cannabis grow/farm.**

1 A person who unlawfully owns, operates, or maintains an indoor or outdoor cannabis  
2 grow/farm for the manufacture, growth, production, or processing of cannabis or cannabis  
3 products, or aids or abets in the operation or maintenance of such a grow/farm is guilty of a felony  
4 and, upon conviction thereof, shall be fined not more than \$100,000 or imprisoned in a state  
5 correctional facility for a determinate period not than less than two nor more than 10 years.

**§60B-6-7. Restrictions on importing cannabis into this state.**

1 A person may not import any cannabis into this state unless it is:

2 (1) For the purpose of sale of cannabis bearing seed to the commissioner, and only then

3 upon notice to the commissioner, and the person shall meet the commissioner or commissioner's  
4 designee to be escorted into the state to a location of the commissioner's designation for the  
5 purposes of the commissioner acquiring seed;

6 (2) Transported upon the direction of the commissioner directly to the commission's  
7 warehouses or dispensaries, and bearing a sealed letter of authority from the commissioner  
8 authorizing the person to transport cannabis or cannabis products wholly within the state.

9 Cannabis may be transported within this state pursuant to §60B-6-3 of this code.

**§60B-6-8. Penalties for violations not otherwise specified; responsibility of incarceration costs.**

1 (a) A person who violates any order, rule or regulation of the commission made under the  
2 authority of this chapter, or who violates any provisions of this chapter for which punishment has  
3 not been specifically provided, is guilty of a misdemeanor and, upon conviction thereof, shall be  
4 fined not more than \$500 or confined in jail not nor more than 90 days, or both fined and confined.

5 (b) If, by the provisions of this chapter, conflicting penalties are prescribed for an offense,  
6 this section shall control.

7 (c) The cost of any term of incarceration under this chapter payable to the regional jail  
8 authority shall be the financial responsibility of the commission. The commission shall retain fines  
9 in cases of violation of this chapter for the purpose of satisfying any financial costs payable to the  
10 regional jail authority that are the obligation of the commission.

**§60B-6-9. Places considered common and public nuisances; abatement; conspiracy.**

1 (a) A place where cannabis or cannabis products are manufactured, grown, processed,  
2 sold, stored, possessed, given away, or furnished contrary to law shall be considered a common  
3 and public nuisance. Boats, cars (including railroad and traction passenger cars operating in this  
4 state), automobiles, wagons, water and aircraft, beasts of burden, or vehicles of any kind shall be  
5 considered places within the meaning of this section and may be proceeded against under the  
6 provisions of §60B-6-13 of this code. A person who maintains, or aids or abets or knowingly is

7 associated with others in maintaining a common and public nuisance is guilty of a misdemeanor  
8 and, upon conviction thereof, shall be fined not more than \$25,000, or confined in jail not more  
9 than one year for each offense, and judgment shall be given that the nuisance be abated or closed  
10 as a place for the manufacture, sale, storage, possession, giving away, or furnishing contrary to  
11 law of cannabis or cannabis products, as the court may determine.

12 (b) If two or more persons conspire to maintain a common and public nuisance or to grow,  
13 manufacture, process, store, transport, sell, give away, or furnish cannabis or cannabis products  
14 in violation of any of the provisions of this chapter, and one or more of the persons do any act to  
15 effect the object of the conspiracy, each of the parties to the conspiracy is guilty of a misdemeanor  
16 and, upon conviction thereof, shall be fined not more than \$5,000 or confined in jail for not more  
17 than 180 days, or both fined and confined.

**§60B-6-10. Suit to abate nuisances; injunction.**

1 (a) The commission, its agents, the Attorney General, the prosecuting attorney, or a citizen  
2 of the county or municipality where a nuisance as defined in §60B-6-9 of this code is located, may  
3 maintain a suit in equity in the name of the state to abate and perpetually enjoin the same. The  
4 circuit court of the county where the nuisance lies shall have jurisdiction thereof. The injunction  
5 may be granted at the commencement of the suit and no bond shall be required. On the finding  
6 that the material allegations of the bill are true, the court or judge thereof in vacation shall order  
7 the injunction for the period of time as the court may determine proper, with the right to dissolve  
8 the injunction upon the application of the owner of the place, if a proper case is shown for the  
9 dissolution.

10 (b) The continuance of the injunction as provided in this section may be ordered, although  
11 the place complained of may not at the time of hearing be unlawfully used.

**§60B-6-11. Search warrants.**

1 (a) If there is a complaint on oath or affirmation supported by affidavit or affidavits setting  
2 forth the facts for the belief that cannabis or cannabis products are being grown, manufactured,

3 processed, sold, kept, stored or in any manner held, used or concealed in a particular house or  
4 other place in violation of law, the magistrate or circuit judge thereof in vacation, or the mayor of  
5 any city, town or village to whom the complaint is made, if satisfied that there is a probable cause  
6 for the belief, shall issue a warrant to search the house or other place for cannabis or cannabis  
7 products. The warrants, except as herein otherwise provided, shall be issued, directed, and  
8 executed in accordance with the laws of West Virginia pertaining to search warrants.

9 (b) Warrants issued under this chapter for the search of any automobile, boat, conveyance  
10 or vehicle, or for the search of any trunk, grip or other article of baggage, for cannabis or cannabis  
11 products, may be executed in any part of the state, and shall be made returnable before any  
12 magistrate or circuit judge thereof in vacation, or the mayor of any city, town or village within  
13 whose jurisdiction the automobile, boat, conveyance, vehicle, trunk, grip or other article of  
14 baggage, or any of them, were transported or attempted to be transported contrary to law.

15 (c) An officer charged with the execution of a warrant issued under this section, may,  
16 whenever it is necessary, break open and enter a house, or other place herein described.

**§60B-6-12. Forfeiture of Implements.**

1 All apparatus and material for the growth, manufacture, processing, or sale of cannabis or  
2 cannabis products, and all cannabis or cannabis products, and all containers in which cannabis  
3 or cannabis products may be found, which are kept, stored, possessed, or in any manner used in  
4 violation of the provisions of this chapter shall be considered contraband and shall be forfeited to  
5 the state.

**§60B-6-13. Contraband conveyances; forfeiture and disposition.**

1 (a) A conveyance of any kind, either on land, water, or in the air, used for transportation  
2 of cannabis or cannabis products in violation of this article, shall be considered contraband and  
3 shall be forfeited to the state and proceeded against in the manner provided for confiscation by  
4 §60B-6-14 of this code.

5 (b) Any conveyance forfeited to the state under the provisions of this section shall be

6 turned over to the commission, which may retain the same for public use in the administration  
7 and enforcement of this chapter. If it has no need for the conveyance, it may order its sale unless  
8 the department of public safety requests it, in which case the commission shall turn it over to the  
9 department.

10 (c) The net proceeds of sales made under this section shall be paid into the State Treasury  
11 in the manner prescribed for receipts from dispensaries.

**§60B-6-14. Court procedure as to contraband and forfeited articles.**

1 (a) Proceedings for confiscation of articles, conveyances or vehicles declared contraband  
2 and forfeited to the state under §60B-6-12 and §60B-6-13 of this code shall be had in the circuit  
3 court having jurisdiction, either in vacation or term time, in the county where the articles,  
4 conveyances or vehicles were seized, and the procedure shall be as follows:

5 (1) When the articles, conveyances or vehicles have been seized under or without a  
6 warrant provided for in §60B-6-12 and §60B-6-13 of this code, by an officer charged with the  
7 enforcement of this chapter, the officer shall take possession of the article, conveyance or vehicle  
8 and deliver the same and the cannabis or cannabis products so seized to the sheriff of the county  
9 in which the seizure was made, making his receipt therefor in duplicate.

10 (2) The officer making the seizure shall forthwith report in writing of the seizure to the  
11 prosecuting attorney of the county in which the seizure was made and to the commission.

12 (3) Within not less than 10 days nor more than 90 days after receiving notice of the seizure,  
13 the prosecuting attorney for the county shall file, in the name of the state, a petition against the  
14 seized property, in the clerk's office of the circuit court of the county, returnable to the circuit court  
15 having jurisdiction, which petition shall be filed by the clerk without fee and may be heard by the  
16 court or judge thereof in vacation.

17 (4) The petition shall allege the seizure, and set forth in general terms, the grounds of  
18 forfeiture of the seized property, and shall pray that the seized property be forfeited to the state  
19 and the proceeds disposed of according to law, and that all persons concerned or interested may

20 appear and show cause why the property should not be forfeited to the state.

21 (5) The owner of and all persons involved in any manner then indebted or liable for the  
22 purchase price of the property, and any person having a lien thereon, if they are known to the  
23 prosecuting attorney, shall be made parties defendant thereto, and shall be served with the notice  
24 issued by the clerk of the court, hereinafter provided for in the manner provided by law for serving  
25 a notice, at least 10 days before the day therein specified for the hearing on the petition, if they  
26 are residents of this state, and, if they be unknown or nonresidents, or cannot, with reasonable  
27 diligence, be found in this state, they shall be considered sufficiently served by publication of the  
28 notice as a Class I legal advertisement in compliance with §59-3-1 et seq., of this code, and the  
29 publication area for the publication shall be that county. The commission shall also publish the  
30 notice on the commission's website.

31 (6) Any person claiming to be the owner of the seized property, or to hold a lien thereon  
32 or have an interest therein, may appear at any time before final judgment of the trial court, and be  
33 made a party defendant to the petition so filed, which appearance shall be by answer, under oath,  
34 in which shall be clearly set forth the nature of the defendant's claim or interest.

35 (7) If the court or judge thereof in vacation finds that illegally acquired cannabis or cannabis  
36 products or cannabis or cannabis products being illegally transported, were not found in the  
37 conveyance or vehicle at the time of the seizure thereof, the judgment of the court shall be to  
38 entirely relieve the property from forfeiture, and no costs may be taxed against the claimant.

39 (8) If the court or judge thereof in vacation trying the issue finds or if it is admitted that the  
40 conveyance or vehicle at the time of the seizure contained illegally acquired cannabis or cannabis  
41 products or that cannabis or cannabis products were being illegally transported therein,  
42 nevertheless:

43 (A) If it appears to the satisfaction of the court that the claimant is the bona fide owner and  
44 was the owner at the time of the seizure and that he was ignorant of the illegal use thereof and  
45 the illegal use was without his or her connivance or consent, expressed or implied, the court shall



46 relieve the conveyance or vehicle from forfeiture and restore it to the claimant and no cost may  
47 be taxed against the claimant;

48 (B) If it appears to the satisfaction of the court that the claimant is the holder of a bona fide  
49 lien against the property and was the holder of the lien at the time of the seizure and that he or  
50 she was ignorant of the illegal use thereof, or the use so made of the conveyance or vehicle was  
51 without his or her connivance or consent, expressed or implied, and that the claimant has  
52 perfected his or her lien, the court shall:

53 (i) Order the conveyance or vehicle to be delivered to the lienor upon the payment of  
54 storage and cost, if the lien so established is equal to or more than the value of the conveyance  
55 or vehicle;

56 (ii) If the lien is less than the value of the conveyance or vehicle, the lienor may have the  
57 conveyance or vehicle delivered to him or her upon payment of the difference in amount as  
58 determined in the proceedings; but if the lienor does not demand delivery, order the sale of the  
59 property by the sheriff of the county, in the manner prescribed by law for sale of personal property  
60 under execution, out of the proceeds of which sale shall be paid, first, the storage, second, the  
61 cost, third, the lien, and the residue, if any, shall be paid to the commission.

62 (9) If no valid lien or claim is established against the seized property upon the trial of the  
63 petition, or, if it is determined that the owner thereof was himself or herself using the seized  
64 property at the time of the seizure or that the illegal use was with his or her knowledge or consent,  
65 expressed or implied, the property shall be completely forfeited to the State and turned over to  
66 the commission in accordance with the provisions of this chapter.

67 (10) In every case, the cannabis or cannabis products so seized shall be considered  
68 contraband and forfeited to the State as heretofore provided.

**§60B-6-15. Action to recover price of cannabis sold unlawfully.**

1 No action may be maintained to recover the price of cannabis or cannabis products sold  
2 in violation of the provisions of this chapter, except that the state or the commission may recover

3 from any person the price of any cannabis or cannabis products purchased by him or her in  
4 violation of this chapter, and from any person who may have sold cannabis or cannabis products  
5 in violation of the provisions of this chapter, the consideration received by him or her for the seller.

**§60B-6-16. Treatment of minors for addiction to cannabis.**

1 Notwithstanding any other law to the contrary, any licensed physician may examine,  
2 counsel, diagnose and treat any minor at his or her request for any addiction to or dependency  
3 upon the use of cannabis, without the knowledge or consent of the minor's parent or guardian.  
4 The physicians may not incur any civil or criminal liability in connection therewith except for  
5 negligence or willful injury.

**§60B-6-17. Authority of employees to make arrests; penalty for resisting or assaulting  
employee; enforcement of chapter.**

1 (a) An employee of the commission may arrest a person for an act committed on or about  
2 the premises of a state warehouse, dispensary, and in his or her presence, which amounts to:

3 (1) A violation of a provision of this chapter; or

4 (2) Disorderly conduct.

5 The commission shall furnish its employees with an official badge as evidence of this  
6 authority.

7 (b) A person who resists or commits an assault upon an employee of the commission  
8 while engaged in the performance of his duties hereunder is guilty of a misdemeanor and, upon  
9 conviction thereof, shall be punished by a fine of \$500, or confined in jail not less than 90 days  
10 nor more than one year, or both fined and confined.

11 (c) Members of the commission, its officers, agents, and employees may enforce the  
12 provisions of this chapter and the criminal laws of the state relating thereto with the same authority  
13 vested in sheriffs of counties and members of the department of public safety.

**§60B-6-18. Trespass upon Warehouse.**

1 Any person who trespass upon a State cannabis warehouse is guilty of a misdemeanor

2 and, upon conviction thereof, shall be fined not less than \$500, or confined in jail for not more  
 3 than one year, or both fined and confined. Any person convicted of a crime under this section  
 4 may not obtain a license under this chapter for the remainder of his or her life.

**§60B-6-19. Robbery of Dispensary or Warehouse**

1 (a) Any person or persons who commits or attempts to commit robbery of a State  
 2 dispensary or warehouse by:

3 (1) Committing violence to the person, including, but not limited to, partial strangulation or  
 4 suffocation or by striking or beating; or

5 (2) Uses the threat of deadly force by the presenting of a firearm or other deadly weapon,  
 6 is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility  
 7 for a determinate period of not less than 30 years.

8 (b) Any person who commits or attempts to commit robbery of a state dispensary or  
 9 warehouse by placing the victim in fear of bodily injury by means other than those set forth in  
 10 subsection (a) of this section or any person who commits or attempts to commit robbery by the  
 11 use of any means designed to temporarily disable the victim, including, but not limited to, the use  
 12 of a disabling chemical substance or an electronic shock device, is guilty of a felony and, upon  
 13 conviction thereof, shall be confined in a state correctional facility for a determinate period of not  
 14 less than 10 years nor more than 25 years.

15 (c) Any person convicted of a crime under this section may not obtain a license to grow  
 16 cannabis under this chapter for the remainder of his or her life.

**§60B-6-20. Deadly Force Authorized.**

1 (a) Any employee of the commission who is charged with the security of the commission's  
 2 warehouses or dispensaries may use deadly force against any person attempting to commit a  
 3 robbery against a dispensary or warehouse in violation of §60B-6-18 of this code, or any person  
 4 attempting to break and enter into a dispensary or warehouse operated by the commission.

5 (b) The commissioner shall make and conspicuously post signage at its warehouses and

6 dispensaries warning of the authorization for employees and agents of the commission to use  
7 deadly force.

**ARTICLE 7. THIRD-PARTY PROCESSORS.**

**§60B-7-1. Third-party processors authorized.**

1 To accomplish the purposes of this chapter, the commissioner may contract, on a basis  
2 the commissioner considers advantageous to the state, with third parties to process raw cannabis  
3 in the commission’s warehouses.

**§60B-7-2. Qualifications of processors.**

1 (a) The commissioner shall establish qualifications and credentials necessary for third-  
2 party processors as the commissioner considers just and proper.

3 (b) At a minimum, the commissioner shall require that:

4 (1) Processors shall undergo a background check, at their own expense;

5 (2) Processors may not have felony convictions;

6 (3) Processors may not have misdemeanor convictions for crimes of dishonesty; and

7 (4) Processors shall conform to and adhere to all guidelines, rules, and procedures  
8 established by the commissioner pursuant to this article.

**§60B-7-3. Processing work to be completed at warehouses.**

1 The commissioner shall ensure that all processing of raw cannabis into marketable  
2 cannabis and cannabis products shall take place on the premises of the state warehouses. At no  
3 time may a processor be permitted to perform processing duties outside of the warehouse  
4 facilities.

**§60B-7-4. Supervision of processing work.**

1 The commissioner’s agents and employees shall oversee work done by third-party  
2 processors. The commissioner shall ensure that all processing work is done in a clean, safe, and  
3 hygienic manner. The commissioner shall ensure that all marketable cannabis and cannabis  
4 products are sealed in packages by processors at the warehouse and prepared for shipment to

5 dispensaries.

**§60B-7-5. Commissioner not required to use third-party processors.**

1 The provisions of this article are permissive upon the commissioner, and in no way require  
2 the commissioner to utilize third-party processors. The commissioner may hire processors for  
3 completion of processing work in the warehouses as employees of the commission.

NOTE: The purpose of this bill is to permit the sale and growth of cannabis and cannabis products in this state to persons who are at least 21 years of age. The bill establishes a Cannabis Commissioner and permits the commissioner to license persons in this state to grow cannabis for the commissioner. The commissioner may establish dispensaries in this state, subject to limitations, that may sell cannabis and cannabis products to persons at least 21 years of age in this state. The bill restricts interstate transport of cannabis or cannabis products until the time that federal law permits the transportation. Any county where a dispensary is or may be situated to serve the residents of the county may elect, at its primary or general election, to either permit or prohibit the sale of cannabis or cannabis products within the county. The bill sets penalties for persons who violate the provisions of this section. The bill permits the commissioner to enter into contracts for third-party processors to process cannabis or cannabis products. The commissioner shall oversee the work of third-party processors.

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