

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **Senate Bill 88**

By Senators Woelfel and Caputo

[Introduced January 11, 2023; referred  
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §16A-3-2 and §16A-3-3 of the Code of West Virginia, 1931, as  
 2 amended, all relating to permitting medical marijuana to be prescribed in edible form;  
 3 removing the restrictions that prevent medical marijuana from being prescribed in edible  
 4 form; and providing restrictions related to the shape of the edible product.

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

**ARTICLE 3. MEDICAL CANNABIS PROGRAM.**

**§16A-3-2. Lawful use of medical cannabis.**

1 Notwithstanding any provision of law to the contrary, the use or possession of medical  
 2 cannabis as set forth in this act is lawful within this state, subject to the following conditions:

3 (1) Medical cannabis may only be dispensed to:

4 (A) A patient who receives a certification from a practitioner and is in possession of a valid  
 5 identification card issued by the bureau; and

6 (B) A caregiver who is in possession of a valid identification card issued by the bureau.

7 (2) Subject to rules promulgated under this act, medical cannabis may only be dispensed  
 8 to a patient or caregiver in the following forms:

9 (A) Pill;

10 (B) Oil;

11 (C) Topical forms, including gels, creams, or ointments;

12 (D) A form medically appropriate for administration by vaporization or nebulization,  
 13 excluding dry leaf or plant form until dry leaf or plant forms become acceptable under rules  
 14 adopted by the bureau;

15 (E) Tincture;

16 (F) Liquid; ~~or~~

17 (G) Dermal patch; or

18 (H) Edible: *Provided*, That the sale of edible marijuana products including, but not limited  
 19 to, the distinct shape of a human, animal, or fruit, or any shape that may entice children shall be

20 prohibited.

21 (3) Unless otherwise provided in rules adopted by the bureau under ~~section two, article~~  
22 ~~eleven of this chapter~~ §16A-11-2 of this code, medical cannabis may not be dispensed to a patient  
23 or a caregiver in dry leaf or plant form.

24 (4) An individual may not act as a caregiver for more than five patients.

25 (5) A patient may designate up to two caregivers at any one time.

26 (6) Medical cannabis that has not been used by the patient shall be kept in the original  
27 package in which it was dispensed.

28 (7) A patient or caregiver shall possess an identification card whenever the patient or  
29 caregiver is in possession of medical cannabis.

30 (8) Products packaged by a grower/processor or sold by a dispensary shall only be  
31 identified by the name of the grower/processor, the name of the dispensary, the form and species  
32 of medical cannabis, the percentage of tetrahydrocannabinol and cannabidiol contained in the  
33 product.

**§16A-3-3. Unlawful use of medical cannabis.**

1 (a) Except as provided in ~~section two of this article~~ §16A-3-2, ~~section four of article seven~~  
2 §16A-7-4, ~~article thirteen~~ §16A-13-1 et seq. or ~~article fourteen~~ §16A-14-1 et seq. of this chapter  
3 code, the use of medical cannabis is unlawful and shall, in addition to any other penalty provided  
4 by law, be deemed a violation of the Uniform Controlled Substances Act under chapter 60A of this  
5 code.

6 (b) It shall be unlawful to:

7 (1) Smoke medical cannabis.

8 ~~(2) Except as provided under subsection (c), incorporate medical cannabis into edible~~  
9 ~~form or sell in edible form~~

10 ~~(3)~~ (2) Grow medical cannabis unless the grower/processor has received a permit from the  
11 bureau under this act.

12           (4) (3) Grow or dispense medical cannabis unless authorized as a health care medical  
13 cannabis organization under §16A-13-1 *et seq.* of this code.

14           (5) (4) Dispense medical cannabis unless the dispensary has received a permit from the  
15 bureau under this act.

16           ~~(c) *Edible medical cannabis.* — Nothing in this act shall be construed to preclude the~~  
17 ~~incorporation of medical cannabis into edible form by a patient or a caregiver in order to aid~~  
18 ~~ingestion of the medical cannabis by the patient~~

NOTE: The purpose of this bill is to remove the restriction that prevents medical marijuana from being in edible form.

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