

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4005

By Delegate Kirby

[Introduced February 13, 2024; Referred to the
Committee on Health and Human Resources then the
Judiciary]

1 A BILL to amend and reenact §16A-3-2 and §16A-3-3 of the Code of West Virginia, 1931, as
2 amended, both relating to removing the prohibition against selling medical cannabis in
3 edible form.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. MEDICAL CANNABIS PROGRAM.

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

1 (a) 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.

18 (H) In edible form as a chocolate, candy, or any other edible form to aid in ingestion.

19 (3) Unless otherwise provided in rules adopted by the bureau under §16A-11-2 of this
20 code, medical cannabis may not be dispensed to a patient or a caregiver in dry leaf or plant form.

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

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

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

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

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

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

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

5 (b) It shall be unlawful to:

6 (1) Smoke medical cannabis.

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

9 ~~(3)~~(2) Grow medical cannabis unless the grower/processor has received a permit from the
10 bureau under this act.

11 ~~(4)~~(3) Grow or dispense medical cannabis unless authorized as a health care medical
12 cannabis organization under §16A-13-1 *et seq.*

13 ~~(5)~~(4) Dispense medical cannabis unless the dispensary has received a permit from the
14 bureau under this act.

15 (c) *Edible medical cannabis.* — Nothing in this act shall be construed to preclude the

- 16 incorporation of medical cannabis into edible form by a patient or a caregiver in order to aid
- 17 ingestion of the medical cannabis by the patient.

NOTE: The purpose of this bill is to remove the prohibition against selling cannabis 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.