WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2080

BY DELEGATES PUSHKIN AND PYLES

[Introduced January 9, 2019; 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, all relating to authorizing possession and smoking of medical cannabis by

3   approved persons.

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~~ <u>chapter</u> is lawful within this state, subject to the following

3   conditions:

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

5   (A) A patient who receives a certification from a practitioner and is in possession of a valid

6   identification card issued by the bureau; and

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

8   (2) Subject to rules promulgated under this ~~act~~ <u>chapter,</u> medical cannabis may only be

9   dispensed to a patient or caregiver in the following forms:

10   (A) Pill;

11   (B) Oil;

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

13   (D) A form medically appropriate for administration by vaporization or nebulization,

14   excluding dry leaf or plant form until dry leaf or plant forms become acceptable under rules

15   adopted by the bureau;

16   (E) Tincture;

17   (F) Liquid; ~~or~~

18   (G) Dermal patch; <u>or</u>

19   <u>(H) Flowers of the plant.</u>

20   (3) Unless otherwise provided in rules adopted by the bureau under §16A-11-2 of this

21   code, medical cannabis may not be dispensed to a patient or a caregiver in dry leaf or plant form.

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

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

24   (6) Medical cannabis that has not been used by the patient shall be kept in the original

25   package in which it was dispensed.

26   (7) A patient or caregiver shall possess an identification card whenever the patient or

27   caregiver is in possession of medical cannabis.

28   (8) Products packaged by a grower/processor or sold by a dispensary shall only be

29   identified by the name of the grower/processor, the name of the dispensary, the form and species

30   of medical cannabis, the percentage of tetrahydrocannabinol and cannabinol contained in the

31   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.*, or §16A-14-1 *et seq.* of

2   this code, the use of medical cannabis is unlawful and ~~shall~~ is, in addition to any other penalty

3   provided by law, ~~be deemed~~ a violation of the Uniform Controlled Substances Act under §60A-1-

4   101 through §60A-11-6 of this code.

5   (b) It ~~shall be~~ is unlawful to:

6   ~~(1) Smoke medical cannabis~~

7   ~~(2)~~ (1) Except as provided under §16A-3-3(c) of this code, incorporate medical cannabis

8   into edible form or sell in edible form.

9   ~~(3)~~ (2) Grow medical cannabis unless the grower/processor has received a permit from

10   the bureau under this ~~act~~ chapter.

11   ~~(4)~~ (3) Grow or dispense medical cannabis unless authorized as a health care medical

12   cannabis organization under §60A-13-1 *et seq.* of this code.

13   ~~(5)~~ (4) Dispense medical cannabis unless the dispensary has received a permit from the

14   bureau under this ~~act~~ chapter.

15   (c) *Edible medical cannabis.* — Nothing in this ~~act shall be construed to preclude~~ <u>chapter</u>

16   <u>precludes</u> the incorporation of medical cannabis into edible form by a patient or a caregiver in

17   order to aid ingestion of the medical cannabis by the patient.

NOTE: The purpose of this bill is to allow the possession and smoking of the medical marijuana by authorized persons.

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