WEST virginia legislature

2025 regular session

Committee Substitute

for

Senate Bill 325

By Senator Woodrum

[Reported March 5, 2025, from the Committee on the Judiciary]

A BILL to amend and reenact §64-5-1 *et seq.* and §64-5A-1 *et seq.* of the Code of West Virginia, 1931, as amended; and to amend the code by adding a new article, designated §64-5B-1, relating to authorizing certain agencies of the Department of Health, Department of Human Services, and the Office of Inspector General to promulgate legislative rules; authorizing the rules as filed and as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; directing certain agencies of the Department of Health to amend current legislative rules; authorizing the Department of Health to promulgate a legislative rule relating to public water systems; authorizing the Department of Health to promulgate a legislative rule relating to statewide trauma and emergency care system; authorizing the Department of Health to promulgate a legislative rule relating to fatality and mortality review team; authorizing the Department of Health to promulgate a legislative rule relating to vital statistics; authorizing the Department of Health to promulgate a legislative rule relating to emergency medical services; authorizing the Department of Health to promulgate a legislative rule relating to the Primary Care Support Program; authorizing the Department of Health to promulgate a legislative rule relating to the general provisions of the Medical Cannabis Program; authorizing the Department of Health to promulgate a legislative rule relating to growers and processors of the Medical Cannabis Program; authorizing the Department of Health to promulgate a legislative rule relating to laboratories of the Medical Cannabis Program; authorizing the Department of Health to promulgate a legislative rule relating to dispensaries of the Medical Cannabis Program; authorizing the Department of Health to promulgate a legislative rule relating to the Safe Harbor Letter for the Medical Cannabis Program; authorizing the Department of Health to promulgate a legislative rule relating to critical access hospitals; directing the Department of Health to amend a legislative rule relating to sewage treatment and collection system design standards; authorizing the Department of Human Services to promulgate a legislative rule relating to the Recovery Residence Certification and Accreditation Program; authorizing the Department of Human Services to promulgate a legislative rule relating to the pilot program for drug screening of applicants for cash assistance; authorizing the Office of Inspector General to promulgate a legislative rule relating to hospital licensure; and authorizing the Office of Inspector General to promulgate a legislative rule relating to Behavioral Health Centers Licensure.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. Authorization for Department of health to promulgate legislative rules.

§64-5-1. Department of Health.

(a) The legislative rule filed in the State Register on August 27, 2024, authorized under the authority of §16-1-4 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 11, 2024, relating to the Department of Health (public water systems, [64 CSR 03](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-03)), is authorized.

(b) The legislative rule filed in the State Register on August 30, 2024, authorized under the authority of §16-4C-23 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 25, 2024, relating to the Department of Health (statewide trauma and emergency care system, [64 CSR 27](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-27)), is authorized.

(c) The legislative rule filed in the State Register on September 3, 2024, authorized under the authority of §16-1-4 of this code, relating to the Department of Health (fatality and mortality review team, [64 CSR 29](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-29)), is authorized.

(d) The legislative rule filed in the State Register on September 3, 2024, authorized under the authority of §16-5-3 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 25, 2024, relating to the Department of Health (vital statistics, [64 CSR 32](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-32)), is authorized.

(e) The legislative rule filed in the State Register on August 27, 2024, authorized under the authority of §16-4C-23 of this code, relating to the Department of Health (emergency medical services, [64 CSR 48](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-48)), is authorized.

(f) The legislative rule filed in the State Register on August 27, 2024, authorized under the authority of §16-2H-2 of this code, relating to the Department of Health (Primary Care Support Program, [64 CSR 70](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-70)), is authorized.

(g) The legislative rule filed in the State Register on August 27, 2024, authorized under the authority of §16A-3-1 of this code, modified by the Department of Health to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 25, 2024, relating to the Department of Health (general provisions of the Medical Cannabis Program, [64 CSR 109](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-109)), is authorized.

(h) The legislative rule filed in the State Register on August 30, 2024, authorized under the authority of §16A-3-1 of this code, relating to the Department of Health (grower and processors of the Medical Cannabis Program, [64 CSR 110](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-110)), is authorized.

(i) The legislative rule filed in the State Register on August 30, 2024, authorized under the authority of §16A-3-1 of this code, relating to the Department of Health (laboratories of the Medical Cannabis Program, [64 CSR 111](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-111)), is authorized.

(j) The legislative rule filed in the State Register on August 27, 2024, authorized under the authority of §16A-3-1 of this code, relating to the Department of Health (dispensaries of the Medical Cannabis Program, [64 CSR 112](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-112)), is authorized.

(k) The legislative rule filed in the State Register on August 29, 2024, authorized under the authority of §16A-3-1 of this code, relating to the Department of Health (Safe Harbor Letter for the Medical Cannabis Program, [64 CSR 113](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-113)), is authorized.

(l) The legislative rule filed in the State Register on December 5, 2023, authorized under the authority of §16B-3-14 of this code, relating to the Department of Health (critical access hospitals, [65 CSR 09](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=65-09)), is authorized with the amendments set forth below:

On page 1, subsection 1.1., by striking out "W. Va. Code §16-5B-14(d)" and inserting in lieu thereof "W. Va. Code §16B-3-14";

On page 1, subsection 1.2., by striking out "W. Va. Code §16-5B-14(d)" and inserting in lieu thereof "W. Va. Code §16B-3-14";

On page 2, subsection 2.2., by striking out the words “and Human Resources”;

And,

On page 2, subdivision 3.2.3., after the words “Medical Treatment &” by inserting the word “Labor”.

(m) The Legislature directs the Department of Health to amend the legislative rule filed in the State Register on April 4, 2022, authorized under the authority of §16-1-4 of this code, relating to the Department of Health (sewage treatment and collection system design standards, 64 CSR 47), authorized with the amendment set forth below:

On pages 69 through 72, by striking out Table 64-47-B and inserting in lieu thereof a new Table 64-47-B to read as follows:

|  |
| --- |
| **TABLE 64-47-B.- MINIMUM DESIGN LOADINGS FOR SEWAGE TREATMENT FACILITIES** |

|  | | | | | |
| --- | --- | --- | --- | --- | --- |
| **Facility Description** | | **Unit Sewage**  **Design Flow**  **(gpd)** | | **Unit**  **Five-Day BOD**  **(lbs/day)** | |
| Airports  Each employee  Each passenger | | 15  5 | | .05  .02 | |
| Assembly halls  Per seat | | 2 | | .02 | |
| Bowling alleys (no food service)  Per alley  Per alley with bar | | 75  225 | | .13 | |
| \*\*Brewery  Per seat manufacture and sampling only  Per seat with ABCA License for onsite consumption by the glass1 | | 2  5 | | .02  .04 | |
| Churches  Per member with kitchen  Per member without kitchen | | 5  2 | | .02  .01 | |
| \*\*Cidery  Per seat manufacture and sampling only  Per seat with ABCA License for onsite consumption by the glass1 | | 2  5 | | .02  .04 | |
| Clinics  Per staff  Per patient | | 20  5 | | .03  .02 | |
| Country clubs  Per member (non-resident)  Per member (resident) | | 25  70 | | .05  .17 | |
| \*\*Distillery  Per seat manufacture and sampling only  Per seat with ABCA License for onsite consumption by the glass1 | | 2  5 | | .02  .04 | |
| Domestic sewage  Residences (per resident -a-)  New collection system  Summer cottages, etc., per resident Apartment houses—one bedroom  —two  —three | | 70  50  140  210  280 | | .17\*  .17  .34  .51  .60 | |
| Factories (per worker)  Heavy with café and shower  Light with café  Light with shower  Light | | 35  25  25  20 | | .04  .02  .02  .02 | |
| Hospitals  Each patient (bedside)  Each resident staff  Each non-resident staff | | 300  100  20 | | .34  .17  .02 | |
| Hotels, boarding houses  (Exclusive of restaurants, bars)  per guest | | 50 | | .15 | |
| Industrial park (sanitary waste only)  Per developable acre | | 500 | | .84 | |
| Institutions  Per resident | | 70 | | .17 | |
| Laundry (coin operated)  Per machine | | 400 | | 1.34 | |
| Labor camps  Per person | | 50 | |  | |
| Mine bath houses  Per worker | | 15 | | .03 | |
| Mobile homes  Per mobile home | | 280 | | .68 | |
| Motels (exclusive or restaurant or bar)  Per unit | | 80 | | .15 | |
| Nursing and rest homes  Per resident  Per resident staff | | 150  70 | | .26  .17 | |
| Offices and warehouses  Per workers, no food service  Add for food service, per worker | | 20  5 | | .03  .01 | |
| Recreation  Parks, picnic areas, and beach areas  Campground, per person  Amphitheater, per person  Historical site, per person  Lodges, per person  Park residences, per person  Park washhouse, per person | | 10  25  5  5  70  70  30 | | .02  .05  .01  .01  .17  .17  .05 | |
| Restaurants  24-hour service, per seat  Ordinary, not 24-hour service, per seat  Curb service (drive-in), per car space  Fast food (single service), per seat | | 50  30  50  25 | | .17  .10  .17  .06 | |
| Schools  Elementary, each staff or student  High school, each staff or student  Boarding school | | 8  10  70 | | .02  .03  .17 | |
| Service stations  Ordinary, not 24-hour service  24-hour service | | 500  1000 | | .80  1.60 | |
| Shopping mall per l00 sq. ft. | | 15 | | .03 | |
| Shopping center Based on individual store occupancy | | | | | |
| Swimming pools  Per swimmer  Add for shower facilities, per swimmer | | 5  2 | | .01  .01 | |
| Taverns and bars, little or no food service  Per seat | | 20 | | .04 | |
| Theaters  Drive-in, per car space  Movie, per seat | | 4  2 | | .008  .004 | |
| Travel Trailer Park (b)  No water to site, per person  Water to site, per person | | 35  50 | | .075  .10 | |
| \*\*Winery  Per seat manufacture and sampling only  Per seat with ABCA License allowing on site consumption by the glass 1 | | 2  5 | | .02  .04 | |
| Disco/Dance Halls, per seat | | 5 | | .01 | |
| Beauty parlors/barber shops  Per chair  Per operator | | 150  20 | | .50  .02 | |
| Dentist  Per chair  Per staff | | 200  20 | | .10  .02 | |
| Doctor  Per patient  Per staff | | 5  20 | | .01  .02 | |
| (a) Assume four persons per residence    (b) Assume three persons per travel trailer site  \*See subsections 5.1.d.3., 5.1.d.4., 5.1.d.5.  \*\* A calculation should be based upon an average of winter (November – March) usage and summer (April – October) usage  1 Requirement of the ABCA License is that there must be food offered for sale onsite by the facility or an outside food or mobile food vendor  (NOTE 1: These factors do not apply to the design of municipal sewage systems. Refer to subsection 6.1. for design loadings for municipal sewage systems.)  (NOTE 2: If proposed facilities are not listed in the table above, and average daily water usage data is available, a peaking factor of 2.5 shall be required.)  (NOTE 3: Five-Day BOD, BOD5 or BOD5 is the scientific method used to accurately measure dissolved oxygen consumption, by comparison of dissolved oxygen in a sample at the beginning and at the end of a five-day period.) | | | | | |

ARTICLE 5A. Authorization for Department of human services to promulgate legislative rules.

§64-5A-1. Department of Human Services.

1. The legislative rule filed in the State Register on September 13, 2024, authorized under the authority of §16-59-2 of this code, modified by the Department of Human Services to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 26, 2024, relating to the Department of Human Services (Recovery Residence Certification and Accreditation Program, [69 CSR 15](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=69-15)), is authorized with the amendments set forth below:

On page 6, subsection 6.4., after the period by inserting the words "The information regarding how to make a complaint with the Office of Health Facility Licensure and Certification and regarding human trafficking, as approved and provided by the Office of Health Facility Licensure and Certification on their website, shall be posted in a common area in each recovery residence.";

On page 11, subdivision 6.20.2., by striking out the words "certifying agency" and inserting in lieu thereof the word "Director";

And,

On pages 12 through 13, by striking out all of subsection 7.1. and inserting in lieu thereof a new subsection 7.1. to read as follows:

7.1. All recovery residences shall submit the following data to the Office of Health Facility Licensure and Certification as described in this section:

7.1.1. The state residency or citizenship of each individual resident;

7.1.2. Whether the resident is receiving medication-assisted treatment and the name of the treatment provider, along with any and all referral, profit sharing, or any other agreements between the participant, recovery residence, or provider, or any combination thereof;

7.1.3. The specific source of all referrals the recovery residence received;

7.1.4. The number of hours the resident volunteered or worked for any business, organization, or other entity that is owned, in whole or in part, or affiliated with the recovery residence, any parent company, or employee, as a condition or part of the resident’s stay at the recovery residence, the hourly rate the resident is paid for any such work, and the total amount of payments or benefits received from the resident’s work;

7.1.5. The monthly rent the resident paid, any rent paid by a third party or outside source, and any rent reductions, including but not limited to, no rent or deferred rent, the resident received for working or volunteering, or any other reasons;

7.1.6. The length of the resident’s stay and, if known, where the resident went after leaving the residence, and reason the resident left;

7.1.7. Whether the resident is receiving any other behavioral health treatment and the name of the treatment provider, along with any and all referral, profit sharing, or any other agreements between the participant, recovery residence, or provider, or any combination thereof;

7.1.8. Retain copies of all leases or participation agreement or terms required of any participant that have been provided to new participants or signed by any participant during the reporting period, for five years after the resident leaves the recovery residence and make them available to the Office of Inspector General and Department of Human Services upon request;

7.1.9. Retain copies of any agreements for referrals, financial compensation, or any agreement between a recovery residence and a provider of treatment which have been in effect during the reporting period, for five years after the resident leaves the recovery residence and make them available to the Office of Inspector General and Department of Human Services upon request; and

7.1.10. Any other information the Director of the Office of Health Facility Licensure and Certification may require to analyze the performance of the recovery residence and determine if patient brokering, human trafficking, or other criminal activity is occurring.

(b) The legislative rule filed in the State Register on October 22, 2024, authorized under the authority of §9-3-6 of this code, relating to the Department of Human Services (pilot program for drug screening of applicants for cash assistance, [78 CSR 26](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=78-26)), is authorized.

ARTICLE 5B. Authorization for Office of Inspector General to promulgate legislative rules.

§64-5B-1. Office of Inspector General.

1. The legislative rule filed in the State Register on August 30, 2024, authorized under the authority of §16B-3-8 of this code, modified by the Office of Inspector General to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 26, 2024, relating to the Office of Inspector General (hospital licensure, [71 CSR 12](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=71-12)), is authorized with the amendments set forth below:

On page 8, subdivision 3.7.2., by striking out the words “State Air Pollution Control Commission” and inserting in lieu thereof the words “Air Quality Board”;

On page 9, paragraph 4.2.1.c., by striking out the number “11.2” and inserting in lieu thereof the number “11.9”;

On page 15, subdivision 6.3.4., by striking out the word “sir” and inserting in lieu thereof the word “air”;

On page 18, subdivision 7.2.7., after the word “authorized” by inserting the word “personnel”;

And,

On page 28, subdivision 8.6.2., by striking out the word “personal” and inserting in lieu thereof the word “personnel”.

(b) The legislative rule filed in the State Register on August 30, 2024, authorized under the authority of §27-9-1 of this code, modified by the Office of Inspector General to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 26, 2024, relating to the Office of Inspector General (Behavioral Health Centers Licensure, [71 CSR 25](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=71-25)), is authorized with the amendments set forth below:

On page 15, by striking out all of paragraph 5.1.1.o. and renumbering the remaining paragraph;

And,

On page 18, by striking out all of subdivision 6.2.2. and inserting in lieu thereof a new subdivision 6.2.2. to read as follows:

6.2.2. Staff or contracted individuals transporting consumers in their own vehicles as part of their duties shall annually sign an affidavit to the provider on or before July 1, attesting to the status of their insurance and the vehicles they will be using for transporting consumers. The affidavit shall attest to the fact that the individual is properly insured in case of an automobile accident, that the vehicles to be used have a valid inspection sticker, and that the vehicles to be used are legally registered. The provider shall retain the affidavits in its records for a period of 5 years. A firearm may not be present in any vehicle used to transport a consumer.