

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]

1 A BILL to amend and reenact §64-5-1 *et seq.* and §64-5A-1 *et seq.* of the Code of West Virginia,
2 1931, as amended; and to amend the code by adding a new article, designated §64-5B-
3 1, relating to authorizing certain agencies of the Department of Health, Department of
4 Human Services, and the Office of Inspector General to promulgate legislative rules;
5 authorizing the rules as filed and as modified by the Legislative Rule-Making Review
6 Committee and as amended by the Legislature; directing certain agencies of the
7 Department of Health to amend current legislative rules; authorizing the Department of
8 Health to promulgate a legislative rule relating to public water systems; authorizing the
9 Department of Health to promulgate a legislative rule relating to statewide trauma and
10 emergency care system; authorizing the Department of Health to promulgate a legislative
11 rule relating to fatality and mortality review team; authorizing the Department of Health to
12 promulgate a legislative rule relating to vital statistics; authorizing the Department of
13 Health to promulgate a legislative rule relating to emergency medical services; authorizing
14 the Department of Health to promulgate a legislative rule relating to the Primary Care
15 Support Program; authorizing the Department of Health to promulgate a legislative rule
16 relating to the general provisions of the Medical Cannabis Program; authorizing the
17 Department of Health to promulgate a legislative rule relating to growers and processors
18 of the Medical Cannabis Program; authorizing the Department of Health to promulgate a
19 legislative rule relating to laboratories of the Medical Cannabis Program; authorizing the
20 Department of Health to promulgate a legislative rule relating to dispensaries of the
21 Medical Cannabis Program; authorizing the Department of Health to promulgate a
22 legislative rule relating to the Safe Harbor Letter for the Medical Cannabis Program;
23 authorizing the Department of Health to promulgate a legislative rule relating to critical
24 access hospitals; directing the Department of Health to amend a legislative rule relating
25 to sewage treatment and collection system design standards; authorizing the Department
26 of Human Services to promulgate a legislative rule relating to the Recovery Residence

27 Certification and Accreditation Program; authorizing the Department of Human Services
28 to promulgate a legislative rule relating to the pilot program for drug screening of applicants
29 for cash assistance; authorizing the Office of Inspector General to promulgate a legislative
30 rule relating to hospital licensure; and authorizing the Office of Inspector General to
31 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.

1 (a) The legislative rule filed in the State Register on August 27, 2024, authorized under
2 the authority of §16-1-4 of this code, modified by the Department of Health to meet the objections
3 of the Legislative Rule-Making Review Committee and refiled in the State Register on October
4 11, 2024, relating to the Department of Health (public water systems, 64 CSR 03), is authorized.

5 (b) The legislative rule filed in the State Register on August 30, 2024, authorized under
6 the authority of §16-4C-23 of this code, modified by the Department of Health to meet the
7 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
8 November 25, 2024, relating to the Department of Health (statewide trauma and emergency care
9 system, 64 CSR 27), is authorized.

10 (c) The legislative rule filed in the State Register on September 3, 2024, authorized under
11 the authority of §16-1-4 of this code, relating to the Department of Health (fatality and mortality
12 review team, 64 CSR 29), is authorized.

13 (d) The legislative rule filed in the State Register on September 3, 2024, authorized under
14 the authority of §16-5-3 of this code, modified by the Department of Health to meet the objections
15 of the Legislative Rule-Making Review Committee and refiled in the State Register on November
16 25, 2024, relating to the Department of Health (vital statistics, 64 CSR 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), 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), 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), 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), 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), 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), 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), 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), 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	15	.05
Each passenger	5	.02
Assembly halls		
Per seat	2	.02
Bowling alleys (no food service)		
Per alley	75	.13
Per alley with bar	225	
**Brewery		
<u>Per seat manufacture and sampling only</u>	<u>2</u>	<u>.02</u>
<u>Per seat with ABCA License for onsite consumption by the glass¹</u>	<u>5</u>	<u>.04</u>

Facility Description	Unit Sewage Design Flow (gpd)	Unit Five-Day BOD (lbs/day)
Churches		
Per member with kitchen	5	.02
Per member without kitchen	2	.01
**Cidery		
Per seat manufacture and sampling only	<u>2</u>	<u>.02</u>
Per seat with ABCA License for onsite consumption by the glass ¹	<u>5</u>	<u>.04</u>
Clinics		
Per staff	20	.03
Per patient	5	.02
Country clubs		
Per member (non-resident)	25	.05
Per member (resident)	70	.17
**Distillery		
Per seat manufacture and sampling only	<u>2</u>	<u>.02</u>
Per seat with ABCA License for onsite consumption by the glass ¹	<u>5</u>	<u>.04</u>
Domestic sewage		
Residences (per resident -a-)		
New collection system	70	.17*
Summer cottages, etc., per resident	50	.17
Apartment houses—one bedroom	140	.34
—two	210	.51
—three	280	.60
Factories (per worker)		
Heavy with café and shower	35	.04
Light with café	25	.02
Light with shower	25	.02
Light	20	.02
Hospitals		
Each patient (bedside)	300	.34
Each resident staff	100	.17
Each non-resident staff	20	.02
Hotels, boarding houses (Exclusive of restaurants, bars) per guest	50	.15
Industrial park (sanitary waste only) Per developable acre	500	.84

Facility Description	Unit Sewage Design Flow (gpd)	Unit Five-Day BOD (lbs/day)
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	150	.26
Per resident staff	70	.17
Offices and warehouses Per workers, no food service	20	.03
Add for food service, per worker	5	.01
Recreation Parks, picnic areas, and beach areas	10	.02
Campground, per person	25	.05
Amphitheater, per person	5	.01
Historical site, per person	5	.01
Lodges, per person	70	.17
Park residences, per person	70	.17
Park washhouse, per person	30	.05
Restaurants 24-hour service, per seat	50	.17
Ordinary, not 24-hour service, per seat	30	.10
Curb service (drive-in), per car space	50	.17
Fast food (single service), per seat	25	.06
Schools Elementary, each staff or student	8	.02
High school, each staff or student	10	.03
Boarding school	70	.17
Service stations Ordinary, not 24-hour service	500	.80
24-hour service	1000	1.60
Shopping mall per 100 sq. ft.	15	.03
Shopping center	Based on individual store occupancy	

Facility Description	Unit Sewage Design Flow (gpd)	Unit Five-Day BOD (lbs/day)
Swimming pools		
Per swimmer	5	.01
Add for shower facilities, per swimmer	2	.01
Taverns and bars, little or no food service		
Per seat	20	.04
Theaters		
Drive-in, per car space	4	.008
Movie, per seat	2	.004
Travel Trailer Park (b)		
No water to site, per person	35	.075
Water to site, per person	50	.10
**Winery		
Per seat manufacture and sampling only	<u>2</u>	<u>.02</u>
Per seat with ABCA License allowing on site consumption by the glass ¹	<u>5</u>	<u>.04</u>
Disco/Dance Halls, per seat	5	.01
Beauty parlors/barber shops		
Per chair	150	.50
Per operator	20	.02
Dentist		
Per chair	200	.10
Per staff	20	.02
Doctor		
Per patient	5	.01
Per staff	20	.02

Facility Description	Unit Sewage Design Flow (gpd)	Unit Five-Day BOD (lbs/day)
<p>(a) Assume four persons per residence</p> <p>(b) Assume three persons per travel trailer site</p> <p>*See subsections 5.1.d.3., 5.1.d.4., 5.1.d.5.</p> <p><u>** A calculation should be based upon an average of winter (November – March) usage and summer (April – October) usage</u></p> <p><u>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</u></p> <p>(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.)</p> <p>(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.)</p> <p>(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.)</p>		

ARTICLE 5A. AUTHORIZATION FOR DEPARTMENT OF HUMAN SERVICES TO PROMULGATE LEGISLATIVE RULES.

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

1 (a) The legislative rule filed in the State Register on September 13, 2024, authorized
2 under the authority of §16-59-2 of this code, modified by the Department of Human Services to
3 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
4 Register on November 26, 2024, relating to the Department of Human Services (Recovery
5 Residence Certification and Accreditation Program, 69 CSR 15), is authorized with the
6 amendments set forth below:

7 On page 6, subsection 6.4., after the period by inserting the words "The information
8 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;

34 7.1.7. Whether the resident is receiving any other behavioral health treatment and
35 the name of the treatment provider, along with any and all referral, profit sharing, or any other
36 agreements between the participant, recovery residence, or provider, or any combination thereof;

37 7.1.8. Retain copies of all leases or participation agreement or terms required of
38 any participant that have been provided to new participants or signed by any participant during
39 the reporting period, for five years after the resident leaves the recovery residence and make
40 them available to the Office of Inspector General and Department of Human Services upon
41 request;

42 7.1.9. Retain copies of any agreements for referrals, financial compensation, or
43 any agreement between a recovery residence and a provider of treatment which have been in
44 effect during the reporting period, for five years after the resident leaves the recovery residence
45 and make them available to the Office of Inspector General and Department of Human Services
46 upon request; and

47 7.1.10. Any other information the Director of the Office of Health Facility Licensure
48 and Certification may require to analyze the performance of the recovery residence and determine
49 if patient brokering, human trafficking, or other criminal activity is occurring.

50 (b) The legislative rule filed in the State Register on October 22, 2024, authorized under
51 the authority of §9-3-6 of this code, relating to the Department of Human Services (pilot program
52 for drug screening of applicants for cash assistance, 78 CSR 26), is authorized.

**ARTICLE 5B. AUTHORIZATION FOR OFFICE OF INSPECTOR GENERAL TO
PROMULGATE LEGISLATIVE RULES.**

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

1 (a) The legislative rule filed in the State Register on August 30, 2024, authorized under
2 the authority of §16B-3-8 of this code, modified by the Office of Inspector General to meet the
3 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), 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), 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

30 affidavit shall attest to the fact that the individual is properly insured in case of an automobile
31 accident, that the vehicles to be used have a valid inspection sticker, and that the vehicles to be
32 used are legally registered. The provider shall retain the affidavits in its records for a period of 5
33 years. A firearm may not be present in any vehicle used to transport a consumer.