

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4392

By Delegate Burkhammer

[Introduced January 15, 2026; referred to the
Committee on Health and Human Resources]

1 A BILL to amend and reenact §16-7-2 of the Code of West Virginia, 1931, as amended, relating to
2 adulteration of pharmaceutical products; and banning certain dyes from pharmaceutical
3 products.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. PURE FOOD AND DRUGS.

§16-7-2. What constitutes adulteration.

1 Any drug or article of food shall be deemed to be adulterated within the meaning of this
2 article: for the purpose of this article:

3 (a) In the case of drugs:

4 (1) If, when sold under or by a name recognized in the United States Pharmacopoeia
5 official at that time, it differs from the standard of strength, quality, or purity laid down therein;

6 (2) If, when sold under or by a name not recognized in the United States Pharmacopoeia
7 official at the time, but which is found in some other pharmacopoeia or other standard work of
8 materia medica, it differs materially from the standard of strength, quality, or purity laid down in
9 such work;

10 (3) If its strength, quality, or purity falls below the professed standard under which it is sold;

11 (4) If it be an imitation of, or offered for sale under the name of, another article; or

12 (5) If the contents of the package as originally put up shall have been removed in whole or
13 in part, and other contents shall have been placed in such package, or if the package fails to bear a
14 statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine,
15 heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilide, or any
16 derivative or preparation of any such substance contained therein: *Provided*, That nothing in this
17 paragraph shall be construed to apply to the dispensing of prescriptions written by regular licensed
18 practicing physicians, veterinary surgeons, or dentists, and kept on file by the dispensing
19 pharmacist, nor to such drugs as are recognized in the United States Pharmacopoeia and the
20 National Formulary, which are sold under the name by which they are recognized: or

(6) If it contains any added substance or ingredients which are poisonous or injurious to the health, including FD&C Blue No. 1, FD&C Blue No. 2, FD&C Green No. 3, FD&C Red No. 3, FD&C Red No. 40, FD&C Yellow No. 5, and FD&C Yellow No. 6.

(b) In the case of food, drink, confectionery, or condiment:

(1) If any substance or substances have been mixed with it, so as to lower or depreciate or injuriously affect its quality, strength, or purity;

(2) If any inferior or cheaper substance or substances have been substituted wholly or in part for it;

(3) If any valuable or necessary constituent or ingredient has been wholly or in part abstracted from it;

(4) If it is an imitation of, or is sold under the name of, another article;

(5) If it consists wholly or in part of diseased, decomposed, putrid, infected, tainted, or rotten animal or vegetable substance, whether manufactured or not, or, in the case of milk, if it is the product of a diseased animal;

(6) If it is colored, coated, polished, or powdered, whereby damage or inferiority is concealed, or if by any means it is made to appear better or of greater value than it really is;

(7) If it contains any added substance or ingredients which are poisonous or injurious to the health, including butylated hydroxyanisole, propylparaben, FD&C Blue No. 1, FD&C Blue No. 2, FD&C Green No. 3, FD&C Red No. 3, FD&C Red No. 40, FD&C Yellow No. 5, and FD&C Yellow No. 6;

(8) If it is sold under a coined name and does not contain some ingredient suggested by such name or contains only an inconsiderable quantity; or

(9) If the package containing it or any label thereon shall bear any statement regarding it or its composition which shall be false or misleading in any particular: *Provided*, That the provisions of this article do not apply to mixtures or compounds recognized as ordinary articles or ingredients of articles of food or drink, if each and every package sold or offered for sale is distinctly labeled in

47 words of the English language as mixtures or compounds, with the name and percent of each
48 ingredient therein; the word "compound" or "mixture" shall be printed in type not smaller in either
49 height or width than one half the largest type upon any label on the package, and the formula shall
50 be printed in letters not smaller in either height or width than one fourth the largest type upon any
51 label on the package, and said compound or mixture must not contain any ingredients injurious to
52 the health.

53 ~~(40)~~ (c) The amendments made to this section during the 2025 regular session of the
54 Legislature shall be effective on January 1, 2028; _

NOTE: The purpose of this bill is to ban certain dyes from pharmaceutical products.

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