

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 5188**

By Delegate Pushkin

[Introduced February 04, 2026; 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, 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 ~~aet~~ article 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 ~~aet~~ article, medical cannabis may only be  
 8 dispensed 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; or

18 (H) Flowers of the plant.

19 (3) Unless otherwise provided in rules adopted by the bureau under section two, article  
 20 eleven of this chapter, medical cannabis may not be dispensed to a patient or a caregiver in dry

21 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 cannabitol contained in the  
31 product.

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

1 (a) Except as provided in section two of this article, section four of article seven, article  
2 thirteen or article fourteen of this chapter, the use of medical cannabis is unlawful and ~~shall~~ is, in  
3 addition to any other penalty provided by law, ~~be deemed~~ a violation of the Uniform Controlled  
4 Substances Act under Chapter 60A of this code.

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

6 ~~(1) Smoke medical cannabis.~~

7 ~~(2)~~ (1) 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 chapter;

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

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~~ chapter  
16 precludes 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 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.