

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 5260**

By Delegates Eldridge, Flanigan, Pritt, Dean,  
Stephens, B. Smith, Hott, Statler, Worrell, Amos, and  
Masters

[Originating in the Committee on Health and Human  
Resources; Reported on February 26, 2026]

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 generally to medical cannabis; modifying allowable forms of medical  
3 cannabis to include edible form; specifying certain requirements applicable to medical  
4 cannabis dispensed in edible form; and modifying the unlawful use of medical cannabis.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 16A. MEDICAL CANNABIS ACT.**

### **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 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 act, medical cannabis may only be dispensed  
8 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) Edible: *Provided*, That any medical cannabis product produced or dispensed in edible  
19 form in this state must comply with the requirements of subsection (b) of this section.

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

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

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

25 (6) Medical cannabis that has not been used by the patient shall be kept in the original  
26 package in which it was dispensed.

27 (7) A patient or caregiver shall possess an identification card whenever the patient or  
28 caregiver is in possession of medical cannabis.

29 (8) Products packaged by a grower/processor or sold by a dispensary shall only be  
30 identified by the name of the grower/processor, the name of the dispensary, the form and species  
31 of medical cannabis, the percentage of tetrahydrocannabinol and cannabidiol contained in the  
32 product.

33 (b) Requirements applicable to medical cannabis dispensed in edible form in West  
34 Virginia:

35 (1) Before producing edibles within this state, a processor must obtain approval from the  
36 bureau for each edible product the processor intends to produce. The request for approval of the  
37 edible product must demonstrate that the proposed edible, including its packaging and labeling,  
38 complies with this section and any applicable legislative rule promulgated by the bureau pursuant  
39 to this article. As part of the approval process, the processor must submit a picture of the proposed  
40 edible bearing the universal symbol established by the bureau, and the measurements of the  
41 edible and universal symbol.

42 (2) Edibles shall be one of the following shapes (including the three-dimensional form of  
43 each shape):

44 (A) Square;

45 (B) Circle;

46 (C) Rectangle;

47 (D) Triangle;

48 (E) Parallelogram;

49 (F) Oval; or

50 (G) Diamond.

51 (3) Edibles shall be manufactured in one of the following two forms:

52 (A) Lozenges. For purposes of this section, a "lozenge" shall mean a hard edible that is  
53 held in the mouth and slowly dissolved; or

54 (B) Gelatins. For purposes of this section, a "gelatin" is a semi-translucent edible made  
55 with water-soluble protein derived from collagen, or a plant-based alternative, including but not  
56 limited to pectin.

57 (4) Each single serving edible may not exceed 10 milligrams of tetrahydrocannabinol.  
58 Edibles may have a potency variance of no greater than 15 percent.

59 (5) A processor shall not produce any edibles that:

60 (A) Contain any color additives, whether natural or artificial;

61 (B) Contain or bear a reasonable resemblance to commercially available candy;

62 (C) Contain any additive that increases potency, toxicity, or psychoactivity of the cannabis  
63 oil used to produce the edible (e.g., nicotine, alcohol, and caffeine);

64 (D) Bear any markings, symbols, images, graphics, or words, other than the universal  
65 symbol;

66 (E) Are decorated with icing, sprinkles, or other toppings of any kind; or

67 (F) Are a primary or bright color. Edibles shall be produced in a manner to minimize color  
68 intensity and other color and visual characteristics attractive to children.

69 (6) Edibles shall be marked with the universal symbol on at least one side of each edible

70 such that the universal symbol is distinguishable and easily recognizable.

**§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, in  
3 addition to any other penalty provided by law, be deemed a violation of the Uniform Controlled  
4 Substances Act under chapter sixty-a of this code.

5 (b) It shall be unlawful to:

6 (1) Smoke medical cannabis.

7 ~~(2) Except as provided under subsection (c), incorporate medical cannabis into edible form~~  
8 ~~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.

11 ~~(4)~~ (3) Grow or dispense medical cannabis unless authorized as a health care medical  
12 cannabis organization under article thirteen of this chapter.

13 ~~(5)~~ (4) Dispense medical cannabis unless the dispensary has received a permit from the  
14 bureau under this act.

15 ~~(c) Edible medical cannabis. — Nothing in this act shall be construed to preclude the~~  
16 ~~incorporation of medical cannabis into edible form by a patient or a caregiver in order to aid~~  
17 ~~ingestion of the medical cannabis by the patient~~

NOTE: The purpose of this bill is to improve patient safety in the medical cannabis program by authorizing permitted, regulated medical cannabis processors to manufacture medical cannabis in edible form for dispensing to certified patients in the state.

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