

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 634

**FISCAL
NOTE**

By Senator Garcia

[Introduced January 27, 2026; referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §16-67-1, §16-67-2, §16-67-3, §16-67-4, §16-67-5, §16-67-6, §16-67-7, §16-
3 67-8, and §16-67-9, relating to legalizing adult consumption of cannabis; setting forth
4 legislative purpose and findings; defining terms; legalizing the possession of one ounce or
5 less for the consumption of cannabis or cannabis products by adults; providing for county
6 option elections to legalize the manufacture, display, purchase, transfer, transport, or sale
7 of cannabis; providing for lawful operation of cannabis-related facilities in counties
8 authorizing manufacture and sale of cannabis; authorizing rulemaking by the Bureau for
9 Public Health; authorizing municipalities to regulate manufacturing and sales locations;
10 providing for a licensing process for cannabis-related facilities; providing for excise and
11 local sales taxes on cannabis transactions; creating Cannabis Transfer Tax Fund to collect
12 excise tax revenues and dedicating proceeds of the fund; providing legal limitations on
13 authorization of adult use of cannabis; specifying that employers and property owners may
14 continue to prohibit or limit use of cannabis; and providing that this article shall not impact
15 the Medical Cannabis Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 67. LEGAL ADULT CONSUMPTION OF CANNABIS.

§16-67-1. Purpose and findings.

1 (a) In the interest of the efficient use of law-enforcement resources, enhancing revenue for
2 public purposes, and individual freedom, the Legislature finds and declares that the use of
3 cannabis should be legal for persons 21 years of age or older.

4 (b) In the interest of the health and public safety of the state's citizenry, the Legislature
5 further finds and declares that cannabis should be regulated in a manner similar to alcohol so that:

6 (1) Individuals shall be required to show proof of age before purchasing cannabis;

7 (2) The sale, distribution, and transfer of cannabis to minors and other individuals under
8 the age of 21 remains unlawful;

9 (3) Driving under the influence of cannabis remains unlawful;

10 (4) Legitimate, taxpaying businesspeople, and not criminal actors, shall conduct sales of
11 cannabis; and

12 (5) Cannabis sold in this state shall be labeled and subject to additional regulations to
13 ensure that consumers are informed and protected.

14 (c) The Legislature finds and declares that it is necessary to ensure consistency and
15 fairness in the application of this article throughout the state and that the matters addressed by this
16 article are, except as specified herein, matters of statewide concern.

§16-67-2.

Definitions.

1 As used in this article, unless the context otherwise requires,

2 (1) "Bureau" means the Bureau for Public Health within the Department of Health;

3 (2) "Cannabis" means all parts of the plant of the genus cannabis whether growing or not,
4 the seeds thereof, the resin extracted from any part of the plant, and every compound,
5 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including
6 marijuana concentrate. Cannabis does not include industrial hemp, nor does it include fiber
7 produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant
8 which is incapable of germination, or the weight of any other ingredient combined with cannabis to
9 prepare topical or oral administrations, food, drink, or other product;

10 (3) "Cannabis accessories" means any equipment, products, or materials of any kind
11 which are used, intended for use, or designed for use in planting, propagating, cultivating, growing,
12 harvesting, composting, manufacturing, compounding, converting, producing, processing,
13 preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis,
14 or for ingesting, inhaling, or otherwise introducing cannabis into the human body;

15 (4) "Cannabis cultivation facility" means an entity licensed to cultivate, prepare, and
16 package cannabis and sell cannabis to retail cannabis stores, to cannabis product manufacturing
17 facilities, and to other cannabis cultivation facilities, but not to consumers;

(5) "Cannabis establishment" means a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a retail cannabis store;

(6) "Cannabis product manufacturing facility" means an entity licensed to purchase cannabis, to manufacture, prepare, and package cannabis products, and to sell cannabis and cannabis products to other cannabis product manufacturing facilities and to retail cannabis stores, but not directly to consumers;

(7) "Cannabis products" means concentrated cannabis products and cannabis products that are comprised of cannabis and other ingredients and are intended for use or consumption, including, but not limited to, edible products, ointments, and tinctures;

(8) "Cannabis testing facility" means an entity licensed to analyze and certify the safety and potency of cannabis;

(9) "Consumer" means a person 21 years of age or older who purchases cannabis or cannabis products for personal use by persons 21 years of age or older, but not for resale to others;

(10) "Department" means the Department of Revenue;

(11) "Hemp" or "industrial hemp" has the meaning provided in §19-12E-3 of this code;

(12) "Retail cannabis store" means an entity licensed to purchase cannabis from cannabis cultivation facilities and cannabis products from cannabis product manufacturing facilities and to sell cannabis and cannabis products to consumers; and

(13) "Unreasonably impracticable" means that the measures necessary to comply with the requirements of this article require such a high investment of risk, money, time, or any other resource or asset that the operation of a cannabis establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

§16-67-3. Personal use of cannabis.

Notwithstanding any other provision of this code to the contrary, the following acts are not unlawful and are not an offense under state law or a basis for seizure or forfeiture of assets under

3 state law for persons 21 years of age or older:

4 (1) Possession of one ounce or less of cannabis;

5 (2) Consumption of cannabis: *Provided*, That this article does not permit consumption of
6 cannabis that is conducted openly and publicly or in a manner that endangers others, and shall not
7 prevent the prohibition of use on public property;

8 (3) Following authorization by a county referendum authorized by §16-67-4 of this code,
9 the manufacture, display, purchase, transport, or sale of up to one ounce of cannabis in an
10 approved county to persons 21 years or older; or

11 (4) Assistance provided to another person who is 21 years of age or older in any of the acts
12 described in this section.

§16-67-4. County option election on allowing manufacture and sale of cannabis.

1 (a) The county commission of any county may conduct a county option election on the
2 question of whether the manufacture and sale of cannabis to persons 21 years of age or older is
3 allowed in the county as provided in this article, upon approval as provided in this section. The
4 option election on this question may be placed on the ballot in each county at any primary or
5 general election. The county commission of the county shall give notice to the public of the election
6 by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of
7 §59-3-1 *et seq.* of this code, and the publication area for publication is the county in which the
8 election is to be held. The date of the last publication of the notice shall fall on a date within the
9 period of the 14 consecutive days next preceding the election. On the local option election ballot
10 shall be printed the following:

11 "Shall the manufacture and sale of cannabis for consumption by persons 21 years or older
12 be lawful in _____ County?

13 If approved by the voters of _____ County, this would authorize licenses to be issued for
14 the regulated manufacture and sale of cannabis in _____ County for lawful consumption to

persons 21 years or older, and the collection of a special sales tax of five percent on all retail cannabis sales to be utilized for the benefit of _____ County and its municipalities.

☐ Yes ☐ No

“(Mark the square next to your choice)”.

(b) The ballots shall be counted, returns made and canvassed as in general elections and the results certified by the commissioners of election to the county commission. The county commission shall, without delay, certify the result of the election. Upon receipt of the results of the election, if a majority of the votes are marked "Yes" all applicable licensees shall be permitted for the manufacture and sale of cannabis in the county. If a majority of the votes are marked "No" the manufacture and sales of cannabis shall remain unlawful.

§16-67-5. Lawful operation of cannabis-related facilities.

Notwithstanding any other provision of this code to the contrary, in counties where the voters have, by county option election conducted pursuant to §16-67-4 of this code, authorized the lawful manufacture and sale of cannabis, the following acts are not unlawful and are not an offense under state law or a basis for seizure or forfeiture of assets under state law for persons 21 years of age or older:

(1) Manufacture, possession, or purchase of cannabis accessories or the sale of cannabis accessories to a person who is 21 years of age or older;

(2) Possessing, displaying, or transporting cannabis or cannabis products; purchase of cannabis from a cannabis cultivation facility; purchase of cannabis or cannabis products from a cannabis product manufacturing facility; or sale of cannabis or cannabis products to consumers, if the person conducting the activities described in this paragraph has obtained a current, valid license to operate a retail cannabis store or is acting in his or her capacity as an owner, employee, or agent of a licensed retail cannabis store;

(3) Cultivating, harvesting, processing, packaging, transporting, displaying, or possessing cannabis; delivery or transfer of cannabis to a cannabis testing facility; selling cannabis to a

cannabis cultivation facility, a cannabis product manufacturing facility, or a retail cannabis store; or the purchase of cannabis from a cannabis cultivation facility, if the person conducting the activities described in this subdivision has obtained a current, valid license to operate a cannabis cultivation facility or is acting in his or her capacity as an owner, employee, or agent of a licensed cannabis cultivation facility;

(4) Packaging, processing, transporting, manufacturing, displaying, or possessing cannabis or cannabis products; delivery or transfer of cannabis or cannabis products to a cannabis testing facility; selling cannabis or cannabis products to a retail cannabis store or a cannabis product manufacturing facility; the purchase of cannabis from a cannabis cultivation facility; or the purchase of cannabis or cannabis products from a cannabis product manufacturing facility, if the person conducting the activities described in this subdivision has obtained a current, valid license to operate a cannabis product manufacturing facility or is acting in his or her capacity as an owner, employee, or agent of a licensed cannabis product manufacturing facility;

(5) Possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring, or delivering cannabis or cannabis products if the person conducting the activities described in this subdivision has obtained a current, valid license to operate a cannabis testing facility or is acting in his or her capacity as an owner, employee, or agent of a licensed cannabis testing facility; or

(6) Leasing or otherwise allowing the use of property owned, occupied, or controlled by any person, corporation, or other entity for any of the activities conducted lawfully in accordance with this section.

§16-67-6. Regulation of cannabis.

(a) Not later than July 1, 2026, the Bureau for Public Health shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code necessary for implementation of this article. The rules may not prohibit the operation of cannabis establishments or otherwise make their operation unreasonably impracticable, and shall include:

5 (1) Procedures for the issuance, renewal, suspension, and revocation of a license to
6 operate a cannabis establishment;

7 (2) A schedule of application, licensing, and renewal fees: *Provided*, That application fees
8 may not exceed \$5,000, with this upper limit adjusted annually for inflation, unless the bureau
9 determines a greater fee is necessary to carry out its responsibilities under this article: *Provided*,
10 *however*, That an entity that is licensed to cultivate or sell cannabis or to manufacture cannabis
11 products for medical purposes at the time this article takes effect and that chooses to apply for a
12 separate cannabis establishment license may not be required to pay an application fee greater
13 than \$500 to apply for a license to operate a cannabis establishment in accordance with the
14 provisions of this article;

15 (3) Qualifications for licensure that are directly and demonstrably related to the operation
16 of a cannabis establishment;

17 (4) Security requirements for cannabis establishments;

18 (5) Requirements to prevent the sale or diversion of cannabis and cannabis products to
19 persons under the age of 21;

20 (6) Labeling requirements for cannabis and cannabis products sold or distributed by a
21 cannabis establishment;

22 (7) Health and safety regulations and standards for the manufacture of cannabis products
23 and the cultivation of cannabis;

24 (8) Restrictions on the advertising and display of cannabis and cannabis products; and

25 (9) Civil penalties for the failure to comply with rules promulgated pursuant to this section.

26 (b) In order to ensure that individual privacy is protected, notwithstanding the provisions of
27 subsection (a) of this section, the bureau may not require a consumer to provide a retail cannabis
28 store with personal information other than government-issued identification to determine the
29 consumer's age, and a retail cannabis store may not be required to acquire and record personal

information about consumers other than information typically acquired in a financial transaction conducted at a retail liquor store.

(c) A municipality may enact ordinances, not in conflict with this article or with legislative rules promulgated pursuant to this section, governing the hours of operation, locations, manner of operations, and number of cannabis establishment operations that shall be permitted in the municipality.

(d) Each application for an annual license to operate a cannabis establishment shall be submitted to the bureau. The bureau shall:

(1) Begin accepting and processing applications by October 1, 2026;

(2) Immediately forward a copy of each application and half of the license application fee to the county and municipality in which the applicant desires to operate the cannabis establishment;

(3) Issue an annual license to the applicant between 45 and 90 days after receipt of an application unless the bureau has not received the fee or the bureau is notified by the relevant municipality that the applicant is not in compliance with its ordinances in effect at the time of application: *Provided*, That where a municipality has enacted a numerical limit on the number of cannabis establishments and a greater number of applicants seek licenses, the bureau shall solicit and consider input from the municipality as to its preference or preferences for licensure; and

(4) Upon denial of an application, notify the applicant in writing of the specific reason(s) for denial.

§16-67-7. Cannabis excise tax and sales tax; distribution.

(a) An excise tax shall be levied upon all cannabis sold or otherwise transferred by a cannabis cultivation facility to a cannabis product manufacturing facility or to a retail cannabis store at a rate of 15 percent of the sales price. The excise tax shall be deposited in the Cannabis Transfer Tax Fund created by this section and allocated pursuant to the provisions of this section.

(b) There is hereby established in the State Treasury a special revenue account which shall be designated and known as the "Cannabis Transfer Tax Fund". All revenues received from

licensees pursuant to subsection (a) of this section shall be deposited with the State Treasurer and placed in the Cannabis Transfer Tax Fund. The fund shall be an interest-bearing account with interest to be credited to and deposited in the fund. The department shall establish procedures for the collection of all taxes levied and may promulgate legislative rules, pursuant to §29A-3-1 *et seq.* of this code, necessary to administer collection and enforcement of tax collections, on a monthly basis, as follows:

(1) Fifty percent of the revenue shall be deposited into the Public Employees Insurance Agency Reserve Fund created by §11B-2-15 of this code;

(2) Twenty-five percent of the revenue shall be deposited into the Fight Substance Abuse Fund created by §60A-9-8 of this code;

(3) Twenty-five percent of the revenue shall be devoted to the Family Drug Treatment Court program administered by the Supreme Court of Appeals of West Virginia pursuant to §62-15B-1 *et seq.* of this code; and

(4) All proceeds from license fees and any administrative penalties shall be allocated to the Department of Health.

(c) A local sales tax shall be assessed on all cannabis-derived products of six percent and shall be collected at the point of sale by the licensed retail cannabis store. The county shall receive all proceeds of the local sales tax within 30 days of collection, and the tax shall be distributed as follows:

(1) The county shall retain 50 percent of the tax; and

(2) The municipalities of the county shall receive 50 percent of the tax, to be divided among the municipalities on a per capita basis as determined by the most recent decennial United States census of population.

(d) Sales of cannabis-derived products authorized for sale pursuant to this article are not otherwise subject to the consumers sales and service tax as provided in §11-15-1 *et seq.* and §11-15B-1 *et seq.* of this code, or any other state taxes not provided pursuant to this section: *Provided,*

33 That the calculation of the fractional percentage of the tax for parts of a dollar shall be determined
34 by §11-15-3 of this code.

§16-67-8. Limitations on authorization of use.

1 Nothing in this article shall be construed to:

2 (1) Require an employer to permit or accommodate the use, consumption, possession,
3 transfer, display, transportation, sale, or growing of cannabis in the workplace or otherwise affect
4 the ability of employers to have policies restricting the use of cannabis by employees;

5 (2) Permit driving under the influence of cannabis or driving while impaired by cannabis or
6 otherwise supersede any other provision of this code related to driving under the influence of
7 cannabis or driving while impaired by cannabis;

8 (3) Prevent the imposition of new penalties for driving under the influence of or while
9 impaired by cannabis;

10 (4) Permit the transfer of cannabis, with or without remuneration, to a person under the age
11 of 21 or to otherwise allow a person under the age of 21 to purchase, possess, use, transport,
12 grow, or consume cannabis; or

13 (5) Prohibit a person, employer, school, hospital, detention facility, corporation, or any
14 other entity who occupies, owns, or controls property from prohibiting or otherwise regulating the
15 possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of
16 cannabis on or in that property.

§16-67-9. Medical cannabis provisions unaffected.

1 Nothing in this article:

2 (1) Limits any privileges or rights of a medical cannabis patient, primary caregiver, or
3 licensed entity as provided by Chapter 16A of this code;

4 (2) Permits a medical cannabis center to distribute cannabis to a person who is not a
5 medical cannabis patient;

6 (3) Permits a licensed medical cannabis center to operate on the same premises as a retail

- 7 cannabis store; or
8 (4) Discharges the bureau of its statutory and constitutional duties to regulate medical
9 cannabis pursuant to Chapter 16A of this code.

NOTE: The purpose of this bill is to legalize the personal use and possession of cannabis by adults in the state. The bill provides for a county option election to allow for the manufacture and sale of cannabis on a county-by-county basis; provides for regulation by the Bureau for Public Health; authorizes excise and local sales taxes on cannabis transactions; prohibits underage use; and preserves the ability of employers and property owners to prohibit or limit use or possession.

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