

**WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 2648**

BY DELEGATE FOSTER

[Passed March 6, 2023; in effect from passage.]

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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HB 2648

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1 AN ACT to amend and reenact §64-5-1 *et seq.* of the Code of West Virginia, 1931, as amended,  
2 and to amend and reenact §64-12-2 of said code; all relating to generally authorizing the  
3 Department of Health and Human Resources to promulgate legislative rules; authorizing  
4 or rejecting the rules as filed and as modified by the Legislative Rule-Making Review  
5 Committee, and as amended by the Legislature, and directing the Department of Health  
6 and Human Resources to amend a current legislative rule; relating to directing the  
7 Department of Health and Human Resources to promulgate a legislative rule relating to  
8 food establishments; relating to authorizing the Department of Health and Human  
9 Resources to promulgate a legislative rule relating to procedures pertaining to the  
10 Dangerousness Assessment Advisory Board; relating to authorizing the Department of  
11 Health and Human Resources to promulgate a legislative rule relating to standards for  
12 local boards of health; relating to authorizing the Department of Health and Human  
13 Resources to promulgate a legislative rule relating to medical examiner requirements for  
14 postmortem inquiries; relating to authorizing the Department of Health and Human  
15 Resources to promulgate a legislative rule relating to Medical Cannabis Program - grower  
16 and processors; relating to authorizing the Department of Health and Human Resources  
17 to promulgate a legislative rule relating to Medical Cannabis Program – dispensaries;  
18 relating to authorizing the Department of Health and Human Resources to promulgate a  
19 legislative rule relating to financial disclosures; relating to authorizing the Department of  
20 Health and Human Resources to promulgate a legislative rule relating to the Uniform Bill  
21 Database; relating to authorizing the Department of Health and Human Resources to  
22 promulgate a legislative rule relating to development of methodologies to examine needs  
23 for substance use disorder treatment facilities within the state; relating to authorizing the  
24 Department of Health and Human Resources to promulgate a legislative rule relating to  
25 the Core Behavioral Health Crisis Services System; relating to authorizing the Department  
26 of Health and Human Resources to promulgate a legislative rule relating to child care

27 centers licensing; relating to authorizing the Department of Health and Human Resources  
28 to promulgate a legislative rule relating to minimum licensing requirements for residential  
29 child care and treatment facilities for children and transitioning adults and vulnerable and  
30 transitioning youth group homes and programs in West Virginia; relating to authorizing the  
31 Department of Health and Human Resources to promulgate a legislative rule relating to  
32 family child care facility licensing requirements; relating to authorizing the Department of  
33 Health and Human Resources to promulgate a legislative rule relating to informal and  
34 relative family child care home registration requirements; relating to authorizing the  
35 Department of Health and Human Resources to promulgate a legislative rule relating to  
36 informal and relative family child care home registration requirements; relating to  
37 authorizing the Department of Health and Human Resources to promulgate a legislative  
38 rule relating to out-of-school-time child care center licensing requirements; relating to  
39 authorizing the Department of Health and Human Resources to promulgate a legislative  
40 rule relating to goals for foster children; relating to authorizing the Department of Health  
41 and Human Resources to promulgate a legislative rule relating to deemed head start child  
42 care center licenses; relating to rejecting the rule proposed by the Department of Health  
43 and Human Resources and the Insurance Commissioner relating to All-Payers Claims  
44 Database - Submission Manual; and relating to repealing the Department of Health and  
45 Human Resources and the Insurance Commissioner a legislative rule relating to All-Payer  
46 Claims Database – Data Submission Requirements.

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

**ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN  
RESOURCES TO PROMULGATE LEGISLATIVE RULES.**

**§64-5-1. Department of Health and Human Resources.**

1 (a) The legislature directs the Department of Health and Human Resources to amend the  
2 legislative rule filed in the State Register on April 30, 2021, authorized under the authority of §16-  
3 1-4 of this code, relating to the Department of Health and Human Resources (Food  
4 Establishments, 64 CSR 17), with the amendment set forth below:

5 On page 2, by striking out all of subdivision 3.1.h. and inserting in lieu thereof a new  
6 subdivision 3.1.h. to read as follows:

7 3.1.h. Chapter 6, section 6-501.115 is not applicable if the following conditions are met:

8 3.1.h.1. The dog is prohibited from entering any areas where food is being prepared

9 3.1.h.2. The dog owner will be asked to leave, if a dog creates a nuisance;

10 3.1.h.3. The establishment is licensed as a private club, restaurant, coffee shop, brew pub,  
11 or micro distillery;

12 3.1.h.4. The establishment has liability insurance for dog-related incidents;

13 3.1.h.5. Dog accidents are cleaned and sanitized. Dog waste stations are available. A  
14 written procedure shall be established and posted concerning dog accident cleanup; and

15 3.1.h.6. Signage is present indicating that the establishment is dog friendly.

16 (b) The legislative rule filed in the State Register on March 8, 2022, authorized under the  
17 authority of §27-6A-2 of this code, modified by the Department of Health and Human Resources  
18 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
19 Register on October 4, 2022, relating to the Department of Health and Human Resources  
20 (procedures pertaining to the Dangerousness Assessment Advisory Board, 64 CSR 26), is  
21 authorized.

22 (c) The legislative rule filed in the State Register on July 28, 2022, authorized under the  
23 authority of §16-1-6 of this code, modified by the Department of Health and Human Resources to  
24 meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
25 Register on October 14, 2022, relating to the Department of Health and Human Resources  
26 (standards for local boards of health, 64 CSR 73), is authorized.

27 (d) The legislative rule filed in the State Register on July 25, 2022, authorized under the  
28 authority of §16-12-3 of this code, modified by the Department of Health and Human Resources  
29 to meet the objectives of the Legislative Rule-Making Review Committee and refiled in the State  
30 Register on October 14, 2022, relating to the Department of Health and Human Resources  
31 (medical examiner requirements for postmortem inquiries, 64 CSR 84), is authorized with the  
32 following amendment:

33 On page 14, by striking out all of section 13.5. and inserting in lieu thereof a new section  
34 13.5 to read as follows:

35 “13.5. This section applies only to remains of persons whose death have been pronounced  
36 within the State of West Virginia or for remains of persons whose deaths have been pronounced  
37 in another state and does not have a prior authorization for cremation issued by the state in which  
38 the death occurred.”

39 (e) The legislative rule filed in the State Register on July 22, 2022, authorized under the  
40 authority of §16A-3-1 of this code, relating to the Department of Health and Human Resources  
41 (Medical Cannabis Program - grower and processors, 64 CSR 110), is authorized with the  
42 amendment set forth below:

43 On page 12, subdivision 8.1.d., by striking out the words “not to exceed 180 days” and  
44 inserting in lieu thereof the words “not less than 180 days”.

45 (f) The legislative rule filed in the State Register on July 22, 2022, authorized under the  
46 authority of §16A-3-1 of this code, relating to the Department of Health and Human Resources  
47 (Medical Cannabis Program - dispensaries, (64 CSR 112), is authorized with the amendment set  
48 forth below:

49 On page 12, subdivision 11.1.d., by striking out the words “not to exceed 180 days” and  
50 inserting in lieu thereof the words “not less than 180 days”.

51 (g) The legislative rule filed in the State Register on August 24, 2022, authorized under  
52 the authority of §16-29B-8 of this code, relating to the Department of Health and Human  
53 Resources (financial disclosure, 65 CSR 13), is authorized.

54 (h) The legislative rule filed in the State Register on July 29, 2022, authorized under the  
55 authority of §16-29B-24 of this code, modified by the Department of Health and Human Resources  
56 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
57 Register on October 4, 2022, relating to the Department of Health and Human Resources  
58 (Uniform Bill Database, 65 CSR 34), is authorized.

59 (i) The legislative rule filed in the State Register on June 22, 2022, authorized under the  
60 authority of §16-53-3 of this code, modified by the Department of Health and Human Resources  
61 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
62 Register on October 26, 2022, relating to the Department of Health and Human Resources  
63 (development of methodologies to examine needs for substance use disorder treatment facilities  
64 within the state, 69 CSR 13), is authorized.

65 (j) The legislative rule filed in the State Register on July 27, 2022, authorized under the  
66 authority of §16-42-6 of this code, modified by the Department of Health and Human Resources  
67 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
68 Register on October 4, 2022, relating to the Department of Health and Human Resources (Core  
69 Behavioral Health Crisis Services System, 69 CSR 19), is authorized.

70 (k) The legislative rule filed in the State Register on July 27, 2022, authorized under the  
71 authority of §49-2-121 of this code, modified by the Department of Health and Human Resources  
72 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
73 Register on October 14, 2022, relating to the Department of Health and Human Resources (child  
74 care centers licensing, 78 CSR 01), is authorized.

75 (l) The legislative rule filed in the State Register on July 27, 2022, authorized under the  
76 authority of §27-17-3 of this code, relating to the Department of Health and Human Resources

77 (minimum licensing requirements for residential child care and treatment facilities for children and  
78 transitioning adults and vulnerable and transitioning youth group homes and programs in West  
79 Virginia, 78 CSR 03), is authorized.

80 (m) The legislative rule filed in the State Register on July 27, 2022, authorized under the  
81 authority of §49-2-121 of this code, relating to the Department of Health and Human Resources  
82 (family child care facility licensing requirements, 78 CSR 18), is authorized.

83 (n) The legislative rule filed in the State Register on July 27, 2022, authorized under the  
84 authority of §49-2-121 of this code, modified by the Department of Health and Human Resources  
85 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
86 Register on October 14, 2022, relating to the Department of Health and Human Resources (family  
87 child care home registration requirements, 78 CSR 19), is authorized with the amendments set  
88 forth below:

89 On page 13, subdivision 9.2.1.a, after the word, “signed” by inserting the words, “and  
90 dated”;

91 And,

92 On page 13, subdivision 9.2.1.a., after the word, “available” by inserting the words, “the  
93 date the pet it brought into the home,”.

94 (o) The legislative rule filed in the State Register on July 27, 2022, authorized under the  
95 authority of §49-2-121 of this code, modified by the Department of Health and Human Resources  
96 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State  
97 Register on October 14, 2022, relating to the Department of Health and Human Resources  
98 (informal and relative family child care home registration requirements, 78 CSR 20), is authorized.

99 (p) The legislative rule filed in the State Register on July 27, 2022, authorized under the  
100 authority of §49-2-121 of this code, modified by the Department of Health and Human Resources  
101 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State

102 Register on October 14, 2022, relating to the Department of Health and Human Resources (out-  
103 of-school-time child care center licensing requirements, 78 CSR 21), is authorized.

104 (q) The legislative rule filed in the State Register on September 20, 2022, authorized  
105 under the authority of §49-2-126 of this code, relating to the Department of Health and Human  
106 Resources (goals for foster children, 78 CSR 25), is authorized.

107 (r) The legislative rule filed in the State Register on July 27, 2022, authorized under the  
108 authority of §49-2-115A of this code, relating to the Department of Health and Human Resources  
109 (deemed head start child care center licenses, 78 CSR 28), is authorized.

**§64-5-2. Department of Health and Human Resources and the Insurance Commissioner.**

1 The legislative rule filed in the State Register on July 29, 2022, authorized under the  
2 authority of §33-4A-8 of this code, relating to the Department of Health and Human Resources  
3 and the Insurance Commissioner (All-Payers Claims Database - Submission Manual, 114A CSR  
4 03), is disapproved.

**ARTICLE 12. REPEAL OF UNAUTHORIZED AND OBSOLETE RULES.**

**§64-12-2. Department of Health and Human Resources, the Insurance Commissioner, and  
the Chair of the Department of Health and Human Resources.**

1 The legislative rule effective April 1, 2022, authorized under the authority of §33-4A-8 of  
2 this code, relating to the Secretary of the Department of Health and Human Resources, the  
3 Insurance Commissioner, and Chair of the Department of Health and Human Resources (All-  
4 Payer Claims Database – Data Submission Requirements, 114A CSR 01), is repealed.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

*Steve Harris*

.....  
Clerk of the House of Delegates

*Joe Kim*  
.....  
Clerk of the Senate

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

2023 MAR 29 P 5:23

FILED

Originated in the House of Delegates.

In effect from passage.

*Ray Haskew*  
.....  
Speaker of the House of Delegates

*By RBH*  
.....  
President of the Senate

The within is *approved* this the *29th*  
Day of *March* ....., 2023.

*James Justice*  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 22 2023

Time 2:14pm