

Language in as passed by Senate version of S.54

§ 864. ADVERTISING

(a) Cannabis advertising shall not contain any statement or illustration that:

(1) is deceptive, false or misleading;

(2) promotes overconsumption;

(3) represents that the use of cannabis has curative effects;

(4) depicts a person under 21 years of age consuming cannabis; or

(5) is designed to be or has the effect of being particularly appealing to persons under 21 years of age.

(b) Cannabis establishments shall not advertise their products via flyers, television, radio, billboards, print, or Internet unless the licensee can show that no more than 30 percent of the audience is reasonably expected to be under 21 years of age.

(c) All advertising shall contain the following warnings:

(1) For use only by adults 21 years of age or older. Keep out of the reach of children.

(2) Cannabis has intoxicating effects and may impair concentration, coordination, and judgment.

Language in HGO amendment and adopted by House
on second reading of S.54

§ 864. ADVERTISING

(a) “Advertise” and “advertisement” have the same meaning as in section 831 of this title.

(b) A cannabis establishment advertisement shall not contain any statement or illustration that:

(1) is deceptive, false or misleading;

(2) promotes overconsumption;

(3) represents that the use of cannabis has curative effects;

(4) offers a prize, award, or inducement for purchasing cannabis or a cannabis product, except that price discounts are allowed;

(5) offers free samples of cannabis or cannabis products;

(6) depicts a person under 21 years of age consuming cannabis or cannabis products; or

(7) is designed to be or has the effect of being particularly appealing to persons under 21 years of age.

(c) Cannabis establishments shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age.

(d) All advertisements shall contain health warnings adopted by rule by the Board in consultation with the Department of Health.

(e) All advertisements shall be submitted to the Board on a form or in a format prescribed by the Board, prior to the dissemination of the advertisement. The Board may:

(1) require a specific disclosure be made in the advertisement in a clear and conspicuous manner if the Board determines that the advertisement would be false or misleading without such a disclosure; or

(2) require changes that are necessary to protect the public health, safety, and welfare or consistent with dispensing information for the product under review.

(f) The Board may charge and collect fees for review of advertisements.

Language in Donahue amendment offered on floor during third reading
and adopted by the House

§ 864. ADVERTISING; PROHIBITION

(a) Purpose. Although the intent of this chapter is to create under State law a legal market for the sale of cannabis that is safer than the existing illegal market for the sale of cannabis, the purpose of this section is to ban the advertising of the sale of cannabis in order to address the multiple public health and safety concerns that legalization alone does not sufficiently address or mitigate, including:

(1) limiting exposure of children to cannabis advertising;

(2) preventing expansion of the cannabis market to new users, whether children or adult, who may be influenced by advertising;

(3) preventing an increase in the number of persons who because of State legalization do not understand that the sale, cultivation, and use of cannabis remains illegal under federal law; and

(4) preventing an increase in the market and amount of cannabis sold in the State.

(b) Prohibition on advertising. To achieve the purposes of subsection (a) of this section, a licensed cannabis establishment is prohibited from advertising.

(c) For purposes of this section, advertising shall not include:

(1) any label affixed to any cannabis or cannabis product, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of these standards;

(2) any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any cannabis establishment, and that is not written by or at the direction of the licensee;

(3) any educational, instructional, or otherwise noncommercial material that is not intended to induce sales and that does not propose an economic transaction, but that merely provides information to the public in an unbiased manner; or

(4) a sign attached to the premises of a cannabis establishment that merely identifies the location of the cannabis establishment.

Language adopted by conference committee and enacted in Act 164

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Sec. 5(f) The Executive Director of the Cannabis Control Board, in consultation with the Office of the Attorney General and the Department of Health, shall develop a proposal for advertising for both the adult-use and medical cannabis programs established in this act. The proposal shall reflect the General Assembly's priorities of not promoting cannabis use, limiting exposure of cannabis advertising to persons under 21 years of age, and ensuring consumer protection and public safety. The proposal shall take into consideration constitutional protections for commercial speech that may exist regarding the cannabis market. The Board shall report its recommendations to the General Assembly on or before April 1, 2021.