



**To: Senate Economic Development Committee**  
**From: Jill Sudhoff-Guerin, Vermont Medical Society, Vermont Psychiatric Association, American Academy of Pediatrics VT Chapter, and the Vermont Academy of Family Physicians**

**Date: May 1, 2024**  
**RE: H.612**

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**Chair Ram Hinsdale and Senate Economic Development Committee,**

On behalf of the physician and physician assistant members of the Vermont Medical Society (VMS), the Vermont Psychiatric Association (VPA), the American Academy of Pediatrics Vermont Chapter (AAPVT) and the Vermont Academy of Family Physicians (VTAFP), we want to thank you for allowing us to provide comments relative to public health in regard to maintaining current cannabis advertising regulations.

It is unclear exactly what is meant by the cannabis industry lobbyists when they suggest lifting the “de facto advertising ban.” No legislative language has been debated in the House or the Senate on this suggestion and there has not been adequate testimony on the ramifications of removing cannabis advertising regulations. H.612, as passed the House, does include a provision that repeals the ability for the Cannabis Control Board to collect fees for the review of cannabis advertising.

The VMS urges the Committee to maintain the original intent of Vermont’s advertising protections to ensure that cannabis advertising does not promote the use of cannabis, that less than 15% of those exposed to cannabis advertising are under 21, and that consumer protection, public health and public safety take priority over creating an industry dependent on developing new users.

According to [Psychology Today](#), cannabis consumption has increased across a [range of demographics](#), including adolescents, whose excessive use increased by a [whopping 245](#) percent since 2000.

We know youth and young adults are more susceptible to advertising. [A recent study](#) said because critical reasoning abilities are not fully developed during adolescence, policymakers should “ensure regulations to restrict marketing of unhealthy commodities protects adolescents as well as younger children.” Similar to what this body is seeking to do with the Kids Code bill, Vermont’s medical and public health community wants to protect our youth and young adults from digital marketing and promotion of a product while their brain is still developing.

Vermont is not alone in the requirement that 85% of the audience of cannabis advertisements be over the age of 21. The Massachusetts’ Cannabis Control Commission currently regulates approximately 400 cannabis retailers and similar to Vermont, requires that no more than 15% of an advertising audience are under the age of 21. In that state, if the retailer is found to be in violation of these exposure limitations, they are subject to a hefty fine: [click here for MA advertising guidance](#), and New York, actually takes it

a step further, requiring 90% of their advertising audience to be over 21: [click here for the NY advertising guidance](#).

In terms of the constitutionality of the advertising regulations, Vermont does not ban cannabis advertising, but in a recent case in Mississippi that has a total ban on advertising medical cannabis a [federal judge ruled](#) “since the possession of marijuana remains illegal under federal law, it is not a “lawful activity,” and therefore does not enjoy the constitutional protections granted to some forms of commercial speech.”

### **The loosening of advertising restrictions could increase the exposure of Vermonters under the age of 21 to cannabis advertising;**

The VMS does not support loosening any advertising restrictions because essentially this is about digital and social media having access to our youth and young adults. Access to cannabis retailer websites is already widely available due to the lack of efficacy of “age-gating” requirements, which only ask an individual to click a button stating they are 21 or over. Further, many webpages are already accessible without any age gating, like [google reviews](#) of cannabis shops, allowing anyone to read reviews of cannabis products and see up to 25+ pictures of these products. Youth have also reported being able to “get anything they want” on social media apps like Snapchat.

Social media is largely difficult to regulate and primarily targets younger users. With names like “Fruity Pebbles” and “Tangerine Dream” and brightly colored edibles, we need to be more restrictive if we want to protect our youth.

As Vermont builds out its retail system for cannabis, increases the availability of cannabis statewide and normalizes cannabis use among adults, there is an increased risk of youth and young adult use rates to rise. The February 2023, Vermont Department of Health Division of Substance Use Cannabis Data Pages report shows **Vermont continues to have some of the highest rates of young adult use of cannabis in the country**, with 41% of 18–25-year-olds using cannabis in the past 30 days, 22% of those 12 and older using cannabis in the past 30 days and Vermont high-schoolers having the second-highest use rate in the nation.<sup>1</sup>

Data from Vermont prevention specialist, Dr. Andrea Villanti, shows a direct correlation with states that have legalized marijuana sales and a reduced perception of harm among youth and young adults. A CDC study from September 2020 looked at youth exposure to marijuana advertising after Oregon legalized retail sales of marijuana and found that about three-quarters of youths reported exposure to cannabis advertising, with exposure higher in youths in school districts with a closer average proximity to retail cannabis stores and persistent online exposure.<sup>2</sup>

A high level of online exposure continues in Oregon despite state-level regulations that restrict internet advertising to locations where at least 70% of the audience is 21 or older. Like tobacco advertising and alcohol advertising, cannabis advertising could work in the longer term to similarly increase the likelihood of initiation and heavier use among youths by fostering positive attitudes and expectations of cannabis use.

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<sup>1</sup> <https://www.healthvermont.gov/sites/default/files/document/DSU-CannabisDataReport2023.pdf>

<sup>2</sup> [https://www.cdc.gov/pcd/issues/2020/19\\_0206.htm](https://www.cdc.gov/pcd/issues/2020/19_0206.htm)

A [Boston University School of Public Health study](#) from October, 2019 found that in states with legal recreational cannabis markets, *one in three youth* engages with cannabis retailers on social media. The study results state that “adolescents who liked or followed cannabis marketing on social media were five times more likely to have used cannabis over the past year compared to those who did not, and adolescents who reported a favorite brand were eight times more likely.”

Pamela Trangenstein, who led the study analysis said, “When 45 percent of youth report being online almost constantly, exposure to cannabis marketing in social media may put their health and futures at risk.”

Given that age-gating has been shown in the context of e-cigarettes and cannabis to be an inadequate barrier to youth viewing internet advertising, internet/digital/social media advertising should be prohibited unless and until an entity can demonstrate an effective method of ensuring over 85% of the audience is over 21. The VMS does not support the loosening of these restrictions which will result in the targeting of a younger user, as they are the predominant consumer of social media.

#### **Licenses for public consumption and events**

Again, this proposal has not been fully vetted and there has been very little discussion or testimony on how it would be implemented, what protections would be put in place to protect non-smokers and how these consumption sites would abide by Vermont’s clean indoor air laws. These laws were largely put in place to protect the employees subject to secondhand smoke.

[A 2021 study in the American Journal of Preventive Medicine](#) found: Smoking and vaporizing cannabis create secondhand cannabis smoke (SHCS) and unhealthy indoor air quality. Although not identical, cannabis and tobacco smoke contain many of the same toxins. Cannabis joints generate 3.5 times the secondhand smoke (SHS) (measured as particulate matter less than 2.5 µm in diameter, PM<sub>2.5</sub>) as a Marlboro cigarette. Even vaping, which does not produce sidestream smoke, pollutes the air as much as a Marlboro. Smoking cannabis is associated with some similar health effects as smoking tobacco, including myocardial infarction, ischemic stroke, and chronic bronchitis. SHCS impairs vascular endothelial function (a precursor to cardiovascular disease) in rats, an established model for human vascular response. SHCS results in detectable cannabinoid levels in blood and urine among nonsmoking adults and children.

Thank you for your consideration and please contact me with any questions at [jsudhoffguerin@vtmd.org](mailto:jsudhoffguerin@vtmd.org) or 802.917.5817