

1 H.806

2 Introduced by Representative McGill of Bridport

3 Referred to Committee on

4 Date:

5 Subject: Alcoholic beverages, cannabis, and tobacco; cannabis; cannabis

6 establishments; general provisions; advertising

7 Statement of purpose of bill as introduced: This bill proposes to revise

8 restrictions on advertising by licensed cannabis establishments.

9 An act relating to cannabis advertising

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. FINDINGS AND INTENT

12 (a) The First Amendment to the U.S. Constitution and Chapter I, Article 13

13 of the Vermont Constitution guarantee the fundamental right to freedom of

14 speech, which includes the right to commercial speech.

15 (b) The U.S. Supreme Court established a four-part test for determining

16 whether restrictions on commercial speech are permissible: “(1) whether the

17 speech at issue concerns lawful activity and is not misleading and (2) whether

18 the asserted governmental interest is substantial; and, if so, (3) whether the

19 regulation directly advances the governmental interest asserted and (4) whether

1 it is not more extensive than is necessary to serve that interest.” *Greater New*
2 *Orleans Broadcasting Ass’n., Inc. v. United States*, 527 U.S. 173 (1999).

3 (c) Vermont’s existing restrictions on advertising by licensed cannabis
4 establishments require administrative agency preapproval of all verbal and
5 written communications to customers, including social media posts and direct
6 email marketing; operate as a de facto statewide ban on outdoor advertising in
7 any place accessible by the general public; and restrict the advertisement of
8 noncannabis goods by licensed cannabis establishments, which are not
9 applicable to other lawful sellers of those goods.

10 (d) The State of Vermont has a substantial interest in promoting a vibrant
11 regulated adult-use cannabis market in which licensed cannabis establishments
12 are able to displace unregulated sellers of cannabis after more than 80 years of
13 failed prohibition policies rejected by the State in 2019 Acts and Resolves No.
14 64.

15 (e) Accordingly, it is the intent of the General Assembly to amend Title 7
16 to impose constitutionally permissible restrictions on false or misleading
17 advertising by licensed cannabis establishments and on advertising that is
18 designed to be or has the effect of being particularly appealing to minors,
19 without infringing upon the fundamental speech rights that are protected by
20 both the U.S. and the Vermont Constitutions.

1 Sec. 2. 7 V.S.A. § 861 is amended to read:

2 § 861. DEFINITIONS

3 As used in this chapter:

4 * * *

5 (2) “Advertisement” means any broadly disseminated written or verbal
6 statement, illustration, or depiction concerning cannabis or cannabis products
7 that would reasonably have the effect of inducing sales of cannabis or cannabis
8 products, including any written, printed, graphic, or other material; billboard,
9 sign, or other outdoor display; other periodical literature, publication, or in a
10 radio or television broadcast; the internet; or in any other media. The term
11 does not include:

12 * * *

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

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

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

16 * * *

17 (3) represents that the use of cannabis has curative effects treats or cures

18 a disease;

19 * * *

5 (d) All advertisements placed in any third-party medium shall contain a
6 short-form health warnings warning adopted by rule by the Board in
7 consultation with the Department of Health.

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

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

14 ②) In the event of a violation of this section, the Board may require a
15 cannabis establishment to make changes to its advertisements that are
16 necessary to protect the public health, safety, and welfare or consistent with
17 dispensing information for the product under review.

18 Sec. 4. 7 V.S.A. § 866 is amended to read:

19 § 866. YOUTH

* * *

1 (d) In accordance with section 864 of this title, advertising by a cannabis
2 establishment shall not depict a person under 21 years of age consuming
3 cannabis or cannabis products or be designed to be or have the effect of being
4 particularly appealing to persons under 21 years of age. Cannabis
5 establishments shall not ~~advertise their products via~~ place a paid advertisement
6 in any third-party medium unless the licensee can show that not more than 15
7 30 percent of the audience is reasonably expected to be under 21 years of age.

8 Sec. 5. EFFECTIVE DATE

9 This act shall take effect on July 1, 2026.