

S.320

Introduced by Senator Vyhovsky

Referred to Committee on

Date:

Subject: Alcoholic beverages, cannabis, and tobacco; cannabis; cannabis
establishments; general provisions; advertising

Statement of purpose of bill as introduced: This bill proposes to amend the
statutes governing cannabis establishment advertisements to define
“advertisements” as broadly disseminated statements or depictions concerning
cannabis that would reasonably have the effect of inducing sales; amend the
list of materials that are excluded from the definition of “advertisement”;
amend the prohibition of certain types of cannabis advertisements; and narrow
the cannabis advertising restrictions to apply solely to paid advertisements in
third-party media.

An act relating to cannabis advertising

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

Sec. 1. FINDINGS AND INTENT

(a) The First Amendment to the U.S. Constitution and Chapter I, Article 13
of the Vermont Constitution guarantee the fundamental right to freedom of
speech, which includes the right to commercial speech.

1 (b) The U.S. Supreme Court established a four-part test for determining
2 whether restrictions on commercial speech are permissible: “(1) whether the
3 speech at issue concerns lawful activity and is not misleading and (2) whether
4 the asserted governmental interest is substantial; and, if so, (3) whether the
5 regulation directly advances the governmental interest asserted and (4) whether
6 it is not more extensive than is necessary to serve that interest.” *Greater New*
7 *Orleans Broadcasting Ass’n., Inc. v. United States*, 527 U.S. 173 (1999)

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

15 (d) The State of Vermont has a substantial interest in promoting a vibrant
16 regulated adult-use cannabis market in which licensed cannabis establishments
17 are able to displace unregulated sellers of cannabis after more than 80 years of
18 failed prohibition policies rejected by the State in 2019 Acts and Resolves No.
19 64.

20 (e) Accordingly, it is the intent of the General Assembly to amend Title 7
21 to impose constitutionally permissible restrictions on false or misleading

1 advertising by licensed cannabis establishments and on advertising that is
2 designed to be or has the effect of being particularly appealing to minors,
3 without infringing upon the fundamental speech rights that are protected by
4 both the U.S. and the Vermont Constitutions.

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

6 § 861. DEFINITIONS

7 As used in this chapter:

8 * * *

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

16 * * *

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

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

5 (D) a sign ~~attached to the premises of a cannabis establishment~~ that
6 ~~merely~~ identifies the name, location, or operating hours of the cannabis
7 establishment, and which may include the cannabis establishment's logo, the
8 nature of the establishment's business, and directions to the establishment, but
9 which does not contain overtly promotional messaging;

10 (E) any official business directional sign placed by the Agency of
11 Transportation; or

12 (F) any statement, illustration, or depiction promoting noncannabis
13 products sold by a cannabis establishment.

14 * * *

15 Sec. 3. 7 V.S.A. § 864 is amended to read:

16 § 864. ADVERTISING

17 * * *

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

20 * * *

* * *

* * *

1 necessary to protect the public health, safety, and welfare or consistent with
2 dispensing information for the product under review.

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

4 § 866. YOUTH

5 * * *

6 (d) In accordance with section 864 of this title, advertising by a cannabis
7 establishment shall not depict a person under 21 years of age consuming
8 cannabis or cannabis products or be designed to be or have the effect of being
9 particularly appealing to persons under 21 years of age. Cannabis
10 establishments shall not ~~advertise their products via~~ place a paid advertisement
11 in any third-party medium unless the licensee can show that not more than ~~15~~
12 30 percent of the audience is reasonably expected to be under 21 years of age.

13 Sec. 5. EFFECTIVE DATE

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