

REGULATION OF ADULT-USE CANNABIS ADVERTISING IN MARYLAND



UNIVERSITY of MARYLAND
FRANCIS KING CAREY
SCHOOL OF LAW
LEGAL RESOURCE CENTER
FOR PUBLIC HEALTH POLICY

OVERVIEW

Following the statewide legalization of adult-use cannabis in 2023, the state of Maryland has developed a regulatory framework to govern the production, sale, and consumption of cannabis products. One essential element of this framework is the regulation of cannabis product advertising.

Advertising regulations are primarily focused on mitigating the impact of cannabis advertising on young people, individuals who are prohibited from purchasing adult-use cannabis because they are under the age of 21. Exposure to cannabis advertisements has been shown to significantly increase the likelihood of cannabis consumption in adolescents between the ages of 15 and 19.¹ Increased cannabis use by teenagers is linked to negative health and behavioral outcomes, such as:

- **Decreased attention span**
- **Impaired development**
- **Anxiety**
- **Depression**
- **Heightened risk of abuse or dependence in adulthood**²

The other important objective of advertising regulation is to ensure that the information conveyed about cannabis products is not misleading, particularly about any alleged health effects of the products.

To protect these two interests, Maryland regulates both the form and the content of cannabis advertisements. These rules apply to all businesses licensed or registered by the Maryland Cannabis Administration (MCA) to operate in the cannabis industry, including dispensaries, growers, and processors. Media and location restrictions limit what types of cannabis advertisements can be used and under what conditions, and content restrictions regulate the messaging used in the advertisement.

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MEDIA/LOCATION RESTRICTIONS

Broadcast Media, Print Advertisements, and Event Sponsorships

Advertisements may appear on a broadcast medium, such as television or radio, or in a print publication, such as a newspaper or magazine, if the advertising business has reliable data indicating that at least 85 percent of the audience that the advertisement will reach is expected to be individuals that are 21 or older. Similarly, a cannabis business may not sponsor an event unless the business has reliable data indicating the expected audience will be at least 85 percent age 21 or older.³

Online Advertisements

Cannabis websites must include age-screening elements that limit access to those 21 or older. Age-screens are interfaces that ask a user to input their date of birth and verify their age before allowing them to view content. Websites that are appropriate for medical cannabis patients under the age of 21 must have a mechanism to ensure each user is a qualified medical cannabis patient. Social media ads must have a notification that an individual must be at least 21 years old to view the advertisement.⁴

Outdoor Advertisements

Outdoor advertising, including billboards, signs, and posters, is prohibited except for signage on the premises of the cannabis business itself identifying the business to the public.⁵ This regulation is particularly important, as outdoor advertisements are necessarily visible to any passersby, including young people. Studies have shown that adolescents exposed to billboards and other outdoor advertising are seven times more likely than their peers to engage in cannabis use.⁶



CONTENT RESTRICTIONS

Content restrictions limit what the advertisements say or depict about the product being promoted. Restrictions on content can be further divided into two categories: requirements and prohibitions. **Requirements** are elements that are affirmatively mandated by the state to be included in ads, and **prohibitions** are elements that are not permitted to be included.

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REQUIREMENTS

Maryland requires particular elements to be included when the ad contains a claim regarding a medical or therapeutic benefit. The claim must be supported by reliable scientific evidence, defined by the MCA as two or more blinded, well-controlled clinical trials, and the ad must include information on the side effects and risks of cannabis.⁷

PROHIBITIONS

In general, a cannabis advertisement may not target individuals under the age of 21. Specifically, advertisements may not include:

- Cartoon characters;
- Mascots;
- People consuming cannabis;
- Obscene elements;
- Promotion of cannabis as an intoxicant; or
- Other elements commonly used to market products to minors.⁸



ENFORCEMENT

Because of the potential negative health effects of cannabis advertising, particularly on young people, advertising is a public health priority. Violations of these regulations are fined at an escalating scale for each subsequent violation. A first violation subjects the business to a \$1,000 fine, with subsequent offenses within a 24-month period scaling up to a maximum \$50,000 per violation.⁹ Individuals can contact the MCA to report an incident, adverse event, or other potential violation by visiting cannabis.maryland.gov and clicking on the "About Us" tab. From there, contact information for the various MCA units can be found, as well as a complaint form.

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For legal advice, please consult specific legal counsel.

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¹ Pamela J. Trangenstein et al., *Cannabis Marketing and Problematic Cannabis Use Among Adolescents*, 82 J. Stud. on Alcohol & Drugs 288, 291-292 (2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8864622/>.

² *Cannabis and Teens*, CDC (Feb. 15, 2024), https://www.cdc.gov/cannabis/health-effects/cannabis-and-teens.html?CDC_AAref_Val=https://www.cdc.gov/marijuana/health-effects/teens.html.

³ Md. Code Ann., Alcoholic Beverages & Cannabis § 36-903(a)(1)(iv) (2024) (available at <https://mgaleg.maryland.gov/mgaweb/site/laws/statutetext?article=gab§ion=36-903&enactments=false>).

⁴ *Id.* § 36-903(b).

⁵ *Id.* § 36-903(a).

⁶ Trangenstein, *supra* note i, at 291-292.

⁷ Alcoholic Beverages & Cannabis § 36-902 (available at <https://mgaleg.maryland.gov/mgaweb/site/Laws/StatuteText?article=gab§ion=36-902&enactments=False&archived=False>); Advertising Restrictions, Maryland Cannabis Administration, [https://cannabis.maryland.gov/Documents/2024 Laws and Regulations/7.15.24%20Advertising%20Restrictions%20.pdf](https://cannabis.maryland.gov/Documents/2024%20Laws%20and%20Regulations/7.15.24%20Advertising%20Restrictions%20.pdf).

⁸ Alcoholic Beverages & Cannabis § 36-903(a)(1)(iii) (available at [https://govt.westlaw.com/mdc/Document/N631FD32008A911EF8BA6CE6A4409C872?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)&bhcp=1](https://govt.westlaw.com/mdc/Document/N631FD32008A911EF8BA6CE6A4409C872?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)&bhcp=1)).

⁹ Md. Code Regs. 14.17.14.06.