

**Amendment - 1st Reading/2nd House-blue - Requested by: Kerri Seekins-Crowe - (S)
Business, Labor, and Economic Affairs**

- 2023

68th Legislature 2023

Drafter: Jameson Walker, 406-444-3722

HB0351.002.001

1 HOUSE BILL NO. 351
2 INTRODUCED BY K. SEEKINS-CROWE, B. MITCHELL, A. REGIER, J. ELLSWORTH, B. BEARD, T. SMITH
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO MARIJUANA ADVERTISING;
5 PROVIDING GUIDELINES FOR MARIJUANA LICENSING; PROVIDING PROHIBITIONS IN MARIJUANA
6 LICENSING; PROVIDING RULEMAKING AUTHORITY; PROHIBITING A MARIJUANA LICENSEE FROM
7 ADVERTISING A BRAND ASSOCIATED WITH A LICENSE THROUGH CERTAIN MEDIUMS; CLARIFYING
8 PROVISIONS FOR ELECTRONIC ADVERTISING FOR A MARIJUANA LICENSEE; CLARIFYING
9 PROVISIONS FOR SPONSORSHIPS FOR A MARIJUANA LICENSEE; ~~AND AMENDING SECTION 16-12-~~
10 244 16-12-112, MCA; AND REPEALING SECTION 16-12-211, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 (Refer to Introduced Bill)

15 Strike everything after the enacting clause and insert:

16
17 NEW SECTION. Section 1. Limitations on advertising -- rulemaking. (1) A-Except as provided in
18 subsection (7), a licensee may promote its business and market its brand only through electronic advertising.
19 (2) A licensee may use the phrase "marijuana" or "cannabis" in its signage or in its electronic
20 advertising.
21 (3) A licensee's outdoor signage may not use colloquial terms for marijuana or marijuana products
22 and may not use an image or visual representation of usable marijuana, marijuana-infused products, marijuana
23 concentrates, marijuana paraphernalia, or an image that indicates the presence of a product, including but not
24 limited to smoke or edibles.
25 (4) A licensee's outdoor signage must comply with any applicable local jurisdiction sign ordinances
26 and regulations.
27 (5) A marijuana business that maintains a website must utilize appropriate measures to verify that

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1 individuals visiting the website are 21 years of age or older.

2 (6) Marijuana business social media accounts that advertise marijuana or marijuana products must
3 be private and must contain a clearly visible notice on the main page stating that only persons 21 years of age
4 or older may follow the account.

5 (7) A marijuana business may:

6 (a) donate to a charitable cause and have only its business name listed as a charitable contributor;

7 (b) sell merchandise on which a licensee's business name or logo appears.

8 ~~(7)~~(8) A marijuana business may not:

9 (a) engage in advertising or brand marketing directed towards location-based devices, including
10 but not limited to cellular phones, unless users affirmatively opt in to receiving push notifications related to
11 marijuana or marijuana-related products;

12 (b) utilize unsolicited pop-up or push-to advertising on the internet;

13 (c) advertise or promote its business or brand on television, radio, or in print, such as newspapers,
14 magazines, flyers, and mailers;

15 (d) engage in advertising or utilize signage that asserts its products are safe;

16 (e) utilize a billboard;

17 (f) use objects such as toys or inflatables, movie or cartoon characters, or any other depiction or
18 image likely to be appealing to youth, when the objects, images, or depictions indicate an intent to cause youth
19 to become interested in the purchase or consumption of marijuana products; or

20 (g) use or employ a commercial mascot outside of and in proximity to a licensed marijuana
21 business. A "commercial mascot" means a live human being, animal, or mechanical device used for attracting
22 the attention of motorists and passersby so as to make them aware of marijuana products or the presence of a
23 marijuana business. Commercial mascots include but are not limited to inflatable tube displays, persons in
24 costume or wearing, holding, or spinning a sign with a marijuana-related commercial message or image when
25 the intent is to draw attention to a marijuana business or its products.

26 ~~(8)~~(9) The prohibition in subsection ~~(7)(e)~~(8)(c) does not prohibit the use of informational pamphlets
27 for dissemination at marijuana trade conferences or the use or distribution of business cards.

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1 ~~(9)(10)~~ The prohibition in subsection ~~(7)(d)(8)(d)~~ does not prohibit a marijuana business from asserting
2 that its products have been tested by a licensed marijuana testing laboratory.

3 ~~(10)(11)~~ The department may adopt rules to clearly identify the activities that constitute advertising that
4 are prohibited under this section.

5 ~~(11)(12)~~ For purposes of this section, the term:

6 (a) "Advertise" or "advertising" means the publication, dissemination, solicitation, or circulation of
7 visual, oral, or written communication to directly induce a person to purchase or consume marijuana or
8 marijuana products. Advertising does not include branding on packaging and labeling of marijuana and
9 marijuana products for sale to registered cardholders or consumers.

10 (b) "Billboard" means a sign that directs attention to a business, commodity, service,
11 entertainment, or attraction sold, offered, or existing elsewhere than on the same premises where the sign is
12 displayed.

13

14 **Section 2.** Section 16-12-112, MCA, is amended to read:

15 "**16-12-112. Rulemaking authority -- fees.** (1) The department may adopt rules to implement and
16 administer this chapter, including:

17 (a) the manner in which the department will consider applications for licenses, permits, and
18 endorsements and renewal of licenses, permits, and endorsements;

19 (b) the acceptable forms of proof of Montana residency;

20 (c) the procedures for obtaining fingerprints for the fingerprint-based and name-based background
21 checks required under 16-12-129;

22 (d) the security and operating requirements for licensees;

23 (e) the security and operating requirements for manufacturing, including but not limited to
24 requirements for:

25 (i) safety equipment;

26 (ii) extraction methods, including solvent-based and solvent-free extraction; and

27 (iii) post-processing procedures;