



NATIONAL ASSOCIATION OF CANNABIS BUSINESSES

# Public Health Sub-Committee

Vermont Cannabis Control  
Board Report



# Public Health

## SUB-COMMITTEE MEMBERS

### NACB

- Deneka Scott
- Mark Gorman

### Advisory Committee

- Tim Wessel
- Dr. Mark Levine
- Ingrid Jonas

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### CCB

- Julie Hulburd

- Advertising & Marketing
  - *(Point of Sale flyer for retailers)*
- Packaging & Labeling, including standard cannabis symbol
  - *Dates/shelf-life*
  - *Data we could present*
- Edibles & DOH oversight

## MILESTONE

- **OCTOBER 20, 2021**  
Assist the Board in the development of:
  - Regulations regarding advertising and marketing that limit youth exposure.
  - Packaging & Labeling
  - Consideration of dispensary as food manufacturing establishment

# Key Requirements of Recommendations to CCB

- **Phase 1**

- Advertising & Marketing rules and guidelines
  - Guidelines, including warning statements for packaging/labeling/advertising
  - Licensee material approvals

- **Phase 2**

- Packaging & Labeling rules & guidelines
  - Standard cannabis symbol
  - Dates/shelf-life
  - Warning labels

- **Phase 3**

- Edibles & Department of Health oversight

# Advertising & Marketing rules and guidelines

- **Phase 1**
  - Advertising & Marketing rules and guidelines
    - Guidelines, including warning statements for packaging/labeling/advertising
    - Licensee material approvals

# Mediums Subject to Advertising Rules

Groupings for this purpose are (included) but not limited to:

- **Print** - *any advertising in a printed format including POS flyers/brochures/posters/etc, newspaper, magazine*
- **Digital** – *email, online, SEO – paid and organic (key words), sponsored ads, social media – which is both static/video*
  - *Instagram*
  - *Facebook*                      Subject to each platform’s “terms & conditions”
  - *Tik Tok*
  - *Twitter*
  - *YouTube*
- **Direct** – *direct mail (postcards, letters, leaflets) LSM/guerilla (handouts, flyers), in-person*
- **Broadcast** – *TV, radio, online channels (i.e. YouTube)*
- **Sponsorships**

# Specific Recommendations to Ensure Compliance with Advertising Rules

***Starting points/considerations/recommendations*** to the Vermont CCB of the following actions to ensure compliance by cannabis licensees:

- **Create Vermont Cannabis Advertising & Marketing Guidelines/Requirements** with (self-audit) checklist for licensees to ensure understanding of requirements in development of advertising/marketing materials (prior to submission for approvals).
  - Create a form & format to be used by licensees in submitting advertisements for review by the CCB
  - Establish a fee for advertisement review by the Board
- **Health warning label for cannabis packages**; consider additional for types of cannabis packages (i.e., edibles)
- **Specify means of assuring** that advertising audience contains no more than 15% under 21 y/o (***85% audience must be over 21***)
- **Require “age-gating” for social media sites and related advertising pages** to limit underage access to commercial cannabis messaging



# Specific Recommendations to Ensure Compliance with Advertising Rules

*(Continued: For sub-committee discussion purposes to support requirements) – starting points/considerations/recommendations to the Vermont CCB of the following actions to ensure compliance by cannabis licensees:*

- **Draft language for medicinal cannabis advertising** which alerts licensees of requirements and/or prohibited language regarding medicinal use and health claims
- **Develop possible sanctions for non-compliance with advertising rules and what the process is to rectify violations;** consider alternative actions for “repeat offenders”
- **Develop educational website for parents and guardians** to use in “talking to your kids about marijuana” (expands upon current: <https://www.healthvermont.gov/alcohol-drugs/lets-talk-cannabis/cannabis-and-youth>)
- **Draft initiatives that would clearly distinguish** between commercial messages for adult-use and for medical cannabis

# Limiting Youth Exposure PHSC – Considerations

- 85% of audience must be 21 or older – for all advertising/promotion
  - Age-gating requirements
    - Websites requiring age verification
    - Social media requires links to websites to promote products
  - **Develop educational website for parents and guardians** to use in “talking to your kids about marijuana” (expands upon current: <https://www.healthvermont.gov/alcohol-drugs/lets-talk-cannabis/cannabis-and-youth>)
- Place restrictions on advertising or logo development promotions, for cannabis or for the dispensary.
- Dispensaries may not use:
    - Toys
    - Inflatables
    - Movie characters
    - Cartoon characters
    - Television character/fonts/show-like appeal
    - Visuals of appealing foods in bright colors
    - Names that appeal to minors
    - Include any other display, depiction, or image designed in any manner, likely to be appealing to minors or anyone under 21 years of age



# Age-Gating Examples

All age-gating to be birthdate driven

-month/day/year

The image shows a screenshot of the Jim Beam website's age-gating form. At the top, the Jim Beam logo is displayed with the text "SINCE 1795". Below the logo, the text "WELCOME, FRIEND (OF LEGAL DRINKING AGE). COME AS A FRIEND PLEASE ENTER YOUR BIRTHDATE. LEAVE AS FAMILY" is centered. The form consists of three input fields for the birthdate: "MM", "DD", and "YYYY". Below the input fields, there is a checkbox labeled "REMEMBER" and a button labeled "ENTER SITE".

OURBON BEHIND THE BO... JIM BEAM SINCE 1795 VISIT US SWAG

**WELCOME, FRIEND**  
**(OF LEGAL DRINKING AGE).**  
COME AS A FRIEND  
PLEASE ENTER YOUR BIRTHDATE.  
LEAVE AS FAMILY

MM DD YYYY

REMEMBER

ENTER SITE

# Advertising & Marketing Checklist (self-audit) Example

Please see attached

# Packaging & Labeling rules & guidelines

- **Phase 2**
  - Packaging & Labeling rules & guidelines
    - Standard cannabis symbol
    - Dates/shelf-life
    - Warning labels

# Packaged Product Criteria for Packaging/Labeling Requirements

- **Child Resistant**
- **Certification**
  - Of child resistant packaging (CRP)
  - If CRP not required, the exit package meets FDA standards for safe packages and identifies batch & lot numbers
- **Packaging/Packaged Cannabis**
  - Child resistant
  - Edibles:
    - Demarcated into separate serving sizes
    - Identify the product as cannabis,
    - Liquid edibles – includes measuring component to indicate serving size/increments

## **Exit Packages**

- Do not appeal to minors
- Opaque bags
- Stapled (open container)
- Sealable container

## **Packaging Layers**

- Comply with CCB cannabis promotion guidelines (advertising, marketing, branding, logos)

## **Product ID**

- Batch ID
- Cultivator's license number

## **Warning Symbol**

## **Warning Statement(s)**

## **Prohibitions**

- False or misleading information
- Child appeal prevention
- Health/Medical/Disease Claims

## **Product Facts**

- Ingredients
- How/where product is made
- Allergen warnings
- Edibles: serving size and THC content (ie – THC per piece)
- Flower – THC content

## **Product Instructions**

## **Tamper Evident Packaging**

# Warning Language – DoH

*This is a cannabis product and has not been analyzed or approved by the Food and Drug Administration (FDA). For use by individuals 21 years of age and older or registered qualifying patient only. **KEEP THIS PRODUCT AWAY FROM CHILDREN AND PETS. DO NOT USE IF PREGNANT OR BREASTFEEDING.** Possession or use of this product may carry significant legal penalties in some jurisdictions and under federal law. It may not be transported outside of the state of Vermont. **The effects of edible cannabis may be delayed by two hours or more.** Cannabis may be habit forming and can impair concentration, coordination, and judgment. Persons 25 years and younger may be more likely to experience harm to the developing brain. It is against the law to drive or operate machinery when under the influence of this product. National Poison Control Center 1-800-222-1222.*

# Product Packaging – DoH

- **Product Packaging – Required Warnings**
- Must include the following statement, including capitalization, in at least ten-point Times New Roman, Helvetica or Arial and bolded font:

**KEEP OUT OF REACH OF CHILDREN**

- For cannabis products that contain multiple servings, the following statement must be printed on the exterior of the package in a font that is no smaller than ten-point Times New Roman, Helvetica or Arial and bolded font, including capitalization:

**INCLUDES MULTIPLE SERVINGS**

# Warning Symbols - DoH

All packages must use the following warning symbols



## Minimum Size

**Packing and Labeling:** 0.5" x 0.5"  
**Edible Marijuana Product:** At least 25 percent of the servings' height and width, but not less than 0.25" x 0.25"

## Required Colors

When used on the marketing layer, the universal symbol and optional "not safe for kids" icons must be reproduced in black and red.

**Black** (CMYK): 0, 0, 0, 100

**Red** (CMYK): 0, 95, 100, 0

**Red** (Pantone): PMS 485

Coloring is not required for on-product markings.

## Background

The icons must be placed on a white or light-colored background. The interior of the icon must remain white.

## Restrictions

- Do not recreate or modify the icons in any manner.
- Do not stretch or distort the icons.
- Do not use the icons smaller than the minimum size.
- Do not change the icon colors (Note: Coloring is not required for on-product markings.)
- Do not use the icons on a dark background.



# Cannabis Safety information flyer at the point of purchase

- Cannabis Safety information flyer at the point of purchase

## 7 VSA 907 (d) – enacted with requirements

- (d) A retailer shall display a safety information flyer at the point of purchase and offer a customer a copy of the flyer with each purchase. A retailer shall inform the customer that if the customer elects not to receive the flyer, the information contained in the flyer is available on the website for the Board. The flyer shall be developed by the Board in consultation with the Department of Health, posted on the Board's website, and supplied to the retailer free of charge. At a minimum, the flyer or flyers shall contain information concerning the methods for administering cannabis, the amount of time it may take for cannabis products to take effect, the risks of driving under the influence of cannabis, the potential health risks of cannabis use, the symptoms of problematic usage, how to receive help for cannabis abuse, and a warning that cannabis possession is illegal under federal law.

# Packaging & Labeling Checklist (self-audit) Example

Please see attached

# Edibles Oversight

- ***Phase 3***
  - Edibles & Department of Health oversight

# Oversight

Department of Health will oversee the  
manufacturing of edibles

\*Still pending vote\*

# **Quick Overview of Act 164**

## **Requirements for**

### **Packaging/Labeling**

# Act 164

- (3) Rules concerning product manufacturers shall include:
- (A) requirements that a single package of a cannabis product shall not contain more than 50 milligrams of THC, except in the case of: No. 164 Page 37 of 102 2020
  - (i) cannabis products that are not consumable, including topical preparations; and
  - (ii) cannabis products sold to a dispensary pursuant to 18 V.S.A. chapter 86 and regulations issued pursuant to that chapter;
- (B) requirements that cannabis products are labeled in a manner that states the number of servings of tetrahydrocannabinol in the product, measured in servings of a maximum of five milligrams per serving, except:
  - (i) cannabis products that are not consumable, including topical preparations; and
  - (ii) cannabis products sold to a dispensary pursuant to 18 V.S.A. chapter 86 and regulations issued pursuant to that chapter;
- (C) requirements that cannabis products are labeled with the date the product was manufactured, the date the product is best used by, the ingredients contained in the product, information on the length of time it typically takes for products to take effect, and appropriate warnings developed by the Board in consultation with the Department of Health;
- (D) requirements that a cannabis product is clearly identifiable with a standard symbol adopted by the Board indicating that it contains cannabis;
- (E) procedures and standards for testing cannabis products for contaminants, potency, and quality assurance and control; and
- (F) requirements for opaque, child-resistant packaging.

# Act 164

- (5) Rules concerning retailers shall include:
  - (A) requirements for proper verification of age of customers;
  - (B) restrictions that cannabis shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the cannabis;
  - (C) requirements that if the retailer sells hemp or hemp products, the hemp and hemp products are clearly labeled as such and displayed separately from cannabis and cannabis products;
  - (D) requirements for opaque, child-resistant packaging of cannabis and cannabis products at point of sale to customer; and
  - (E) facility inspection requirements and procedures.



# Act 164

- Act 164
- § 974. RULEMAKING
- Section (U) labeling requirements for cannabis sold to retailers and integrated licensees, including health warnings developed in consultation with the Department of Health;
- (W) requirements that cannabis products are labeled in a manner that states the number of servings of tetrahydrocannabinol in the product, measured in servings of a maximum of five milligrams per serving, except cannabis products that are not consumable, including topical preparations;
- (X) requirements that cannabis products are labeled with the date the product was manufactured, the date the product is best used by, the ingredients contained in the product, information on the length of time it typically takes for products to take effect, and appropriate warnings developed by the Board in consultation with the Department of Health;
- (Y) requirements that a cannabis product is clearly identifiable with a standard symbol adopted by the Board indicating that it contains cannabis;
- (AA) requirements for opaque, child-resistant packaging;
- (DD) requirements that if the dispensary sells hemp or hemp products, the hemp and hemp products are clearly labeled as such and displayed separately from cannabis and cannabis products;
- (EE) requirements for opaque, child-resistant packaging of cannabis and cannabis products at point of sale to customer;

# **Overview of Act 164 and 62 Requirements for Advertising**

# Act 164 – RE: Advertising

- **Act 164**
- **Sec. 5. (f) page 18 regarding ADVERTISING**
- The Executive Director of the Cannabis Control Board, in consultation with the Office of the Attorney General and the Department of Health, shall ***develop a proposal for advertising for both the adult-use and medical cannabis programs established in this act.***
- The proposal shall reflect the General Assembly's priorities:
  - **not promoting cannabis use**
  - **limiting exposure of cannabis advertising to persons under 21 years of age**
  - **ensuring consumer protection and public safety**
- The proposal shall take the following into consideration:
  - **constitutional protections for commercial speech that may exist regarding the cannabis market**

# Act 62: Definitions

- **Act 62**
- § 861. **DEFINITIONS** As used in this chapter:
  - (1) “Advertise” means the publication or dissemination of an advertisement.
  - (2) “Advertisement” means any written or verbal statement, illustration, or depiction that is calculated to induce sales of cannabis or cannabis products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, other periodical literature, publication, or in a radio or television broadcast, the Internet, or in any other media.
- The term *does not include*:
  - (A) any label affixed to any cannabis or cannabis product, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of these standards
  - (B) any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any cannabis establishment, and that is not written by or at the direction of the licensee
  - (C) any educational, instructional, or otherwise noncommercial material that is not intended to induce sales and that does not propose an economic transaction, but that merely provides information to the public in an unbiased manner; or
  - (D) a sign attached to the premises of a cannabis establishment that merely identifies the location of the cannabis establishment

# Act 62: Advertising Rules

## More specifically, Act 62 stipulates the following rules:

- § 864. ADVERTISING

- (b) A cannabis establishment advertisement shall not contain any statement or illustration that:
  - (1) is deceptive, false, or misleading
  - (2) promotes overconsumption
  - (3) represents that the use of cannabis has curative effects
  - (4) offers a prize, award, or inducement for purchasing cannabis or a cannabis product, except that price discounts are allowed
  - (5) offers free samples of cannabis or cannabis products
  - (6) depicts a person under 21 years of age consuming cannabis or cannabis products; or
  - (7) is designed to be or has the effect of being particularly appealing to persons under 21 years of age

# Act 62: Advertising Rules

- (c) Cannabis establishments shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age. **(85% over 21)**
- (d) All advertisements shall contain **health warnings** adopted by rule by the Board in consultation with the Department of Health.
- (e) All advertisements **shall be submitted to the Board** on a form or in a format prescribed by the Board, prior to the dissemination of the advertisement. The Board may:
  - (1) **require a specific disclosure be made in the advertisement in a clear and conspicuous manner if the Board determines that the advertisement would be false or misleading without such a disclosure; or**
  - (2) **require changes that are necessary to protect the public health, safety, and welfare or consistent with dispensing information for the product under review**