

HOUSE BILL 1348

J1

8lr3253
CF SB 1078

By: **Delegates Valentino–Smith, Glenn, and Pena–Melnyk**

Introduced and read first time: February 9, 2018

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Medical Cannabis – Advertising – Restrictions**

3 FOR the purpose of prohibiting a certifying provider, dispensary, processor, or grower or
4 officers, managers, and employees of the certifying provider, dispensary, processor,
5 or grower from cooperating, directly or indirectly, in advertising that has a certain
6 purpose or effect; prohibiting an advertisement for cannabis from containing certain
7 statements, offers, or images; requiring that any advertisement for medical cannabis
8 or a medical cannabis product be submitted to the Natalie M. LaPrade Commission
9 before dissemination of the advertisement; requiring the person submitting the
10 advertisement to provide certain information in addition to the advertisement;
11 requiring that a certain submission be considered incomplete; requiring the
12 Commission to notify a certain person if the Commission receives an incomplete
13 submission; authorizing the Commission to take certain actions related to the
14 advertisements submitted to the Commission; requiring that advertisements for
15 medical cannabis or medical cannabis products present a certain statement of
16 certain information; requiring that advertisements for medical cannabis or medical
17 cannabis products include certain statements in certain audio or audio visual parts
18 of the presentation; prohibiting certain false or misleading statements from being
19 corrected by the inclusion of certain true statements; providing that an
20 advertisement does not satisfy certain requirements if the advertisement fails to
21 provide a certain balance of information; providing that an advertisement is false,
22 lacking fair balance, or otherwise misleading under certain circumstances;
23 prohibiting the dissemination of an advertisement under certain circumstances;
24 requiring a dispensary to restrict certain signage to a certain sign; prohibiting a
25 dispensary from illuminating certain signs, advertising certain brand names or
26 using certain graphics, and displaying medical cannabis and paraphernalia in a
27 certain manner; prohibiting a dispensary from placing, maintaining, or causing to be
28 placed or maintained certain advertisements in any form or through any medium in
29 certain places; prohibiting growers and processors from advertising certain prices
30 except under certain circumstances; prohibiting growers, processors, and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 dispensaries from producing certain items for sale, subject to a certain exception;
2 and generally relating to restrictions on advertising medical cannabis.

3 BY adding to

4 Article – Health – General

5 Section 13–3317

6 Annotated Code of Maryland

7 (2015 Replacement Volume and 2017 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
9 That the Laws of Maryland read as follows:

10 **Article – Health – General**

11 **13–3317.**

12 (A) A CERTIFYING PROVIDER, DISPENSARY, PROCESSOR, OR GROWER OR
13 THE OFFICERS, MANAGERS, AND EMPLOYEES OF THE CERTIFYING PROVIDER,
14 DISPENSARY, PROCESSOR, OR GROWER MAY NOT COOPERATE, DIRECTLY OR
15 INDIRECTLY, IN ANY ADVERTISING IF THE ADVERTISING HAS THE PURPOSE OR
16 EFFECT OF STEERING OR INFLUENCING PATIENT OR CAREGIVER CHOICE WITH
17 REGARD TO THE SELECTION OF A CERTIFYING PROVIDER OR APPROVED MEDICAL
18 CANNABIS PRODUCT.

19 (B) AN ADVERTISEMENT FOR MEDICAL CANNABIS OR ANY MEDICAL
20 CANNABIS PRODUCT MAY NOT CONTAIN:

21 (1) ANY STATEMENT THAT IS FALSE OR MISLEADING IN ANY
22 MATERIAL WAY OR IS OTHERWISE IN VIOLATION OF TITLE 13, SUBTITLE 3 OF THE
23 COMMERCIAL LAW ARTICLE;

24 (2) ANY STATEMENT THAT FALSELY DISPARAGES A COMPETITOR'S
25 PRODUCTS;

26 (3) ANY STATEMENT, DESIGN, REPRESENTATION, PICTURE, OR
27 ILLUSTRATION THAT:

28 (I) IS OBSCENE OR INDECENT;

29 (II) ENCOURAGES OR REPRESENTS THE USE OF MEDICAL
30 CANNABIS FOR A CONDITION OTHER THAN A DEBILITATING MEDICAL CONDITION;

31 (III) ENCOURAGES OR REPRESENTS THE RECREATIONAL USE OF
32 CANNABIS;

1 (IV) RELATES TO THE SAFETY OR EFFICACY OF MEDICAL
2 CANNABIS, UNLESS SUPPORTED BY SUBSTANTIAL EVIDENCE OR SUBSTANTIAL
3 CLINICAL DATA; OR

4 (V) PORTRAYS OR CONTAINS:

5 1. AN INDIVIDUAL UNDER THE AGE OF 18 YEARS;

6 2. OBJECTS SUGGESTIVE OF THE PRESENCE OF AN
7 INDIVIDUAL UNDER THE AGE OF 18 YEARS; OR

8 3. A FIGURE, SYMBOL, OR LANGUAGE THAT IS
9 CUSTOMARILY ASSOCIATED WITH AN INDIVIDUAL UNDER THE AGE OF 18 YEARS;

10 (4) ANY OFFER OF A PRIZE OR AWARD TO A QUALIFYING PATIENT,
11 PRIMARY CAREGIVER, OR CERTIFYING PROVIDER RELATED TO THE PURCHASE OF
12 MEDICAL CANNABIS OR A CERTIFICATION FOR THE USE OF MEDICAL CANNABIS; OR

13 (5) ANY STATEMENT THAT INDICATES OR IMPLIES THAT THE
14 PRODUCT OR ENTITY IN THE ADVERTISEMENT HAS BEEN APPROVED OR ENDORSED
15 BY THE COMMISSION, THE DEPARTMENT, THE STATE, OR ANY PERSON OR ENTITY
16 ASSOCIATED WITH THE STATE.

17 (C) (1) ANY ADVERTISEMENT FOR MEDICAL CANNABIS OR A MEDICAL
18 CANNABIS PRODUCT SHALL BE SUBMITTED TO THE COMMISSION BEFORE THE
19 DISSEMINATION OF THE ADVERTISEMENT.

20 (2) THE PERSON SUBMITTING THE ADVERTISEMENT SHALL PROVIDE
21 THE FOLLOWING INFORMATION IN ADDITION TO THE ADVERTISEMENT:

22 (I) A COVER LETTER THAT:

23 1. HAS THE SUBJECT LINE "MEDICAL CANNABIS
24 ADVERTISEMENT REVIEW PACKAGE FOR A PROPOSED ADVERTISEMENT FOR
25 (BRAND NAME)";

26 2. PROVIDES A BRIEF DESCRIPTION OF THE FORMAT
27 AND EXPECTED DISTRIBUTION OF THE PROPOSED ADVERTISEMENT; AND

28 3. PROVIDES THE NAME, TITLE, ADDRESS, TELEPHONE
29 NUMBER, FACSIMILE NUMBER, AND E-MAIL ADDRESS OF THE PERSON SUBMITTING
30 THE ADVERTISEMENT;

1 (II) AN ANNOTATED SUMMARY OF THE PROPOSED
2 ADVERTISEMENT SHOWING EVERY CLAIM BEING MADE IN THE ADVERTISEMENT AND
3 THE SUPPORT FOR EACH CLAIM;

4 (III) VERIFICATION THAT AN INDIVIDUAL IDENTIFIED IN AN
5 ADVERTISEMENT AS AN ACTUAL QUALIFYING PATIENT OR HEALTH CARE
6 PRACTITIONER IS AN ACTUAL QUALIFYING PATIENT OR HEALTH CARE
7 PRACTITIONER AND NOT A MODEL OR AN ACTOR;

8 (IV) VERIFICATION THAT A SPOKESPERSON WHO IS
9 REPRESENTED AS AN ACTUAL QUALIFYING PATIENT IS AN ACTUAL QUALIFYING
10 PATIENT;

11 (V) VERIFICATION THAT AN OFFICIAL TRANSLATION OF A
12 FOREIGN LANGUAGE ADVERTISEMENT IS ACCURATE;

13 (VI) ANNOTATED REFERENCES TO SUPPORT DISEASE OR
14 EPIDEMIOLOGY INFORMATION, CROSS-REFERENCED TO THE ADVERTISEMENT
15 SUMMARY; AND

16 (VII) A FINAL COPY OF THE ADVERTISEMENT, INCLUDING A
17 VIDEO, IF APPLICABLE.

18 (3) (I) A SUBMISSION OF AN ADVERTISEMENT OR INFORMATION
19 REQUIRED UNDER THIS SUBSECTION THAT IS MISSING ANY OF THE INFORMATION
20 REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION, OR THAT FAILS TO FOLLOW
21 ANY ADDITIONAL REQUIREMENTS ESTABLISHED BY THE COMMISSION, SHALL BE
22 CONSIDERED INCOMPLETE.

23 (II) THE COMMISSION SHALL NOTIFY THE PERSON SUBMITTING
24 AN ADVERTISEMENT AND THE INFORMATION REQUIRED UNDER THIS SUBSECTION
25 IF THE COMMISSION RECEIVES AN INCOMPLETE SUBMISSION.

26 (D) THE COMMISSION MAY:

27 (1) REQUIRE THAT A SPECIFIC DISCLOSURE BE MADE IN THE
28 ADVERTISEMENT IN A CLEAR AND CONSPICUOUS MANNER IF THE COMMISSION
29 DETERMINES THAT THE ADVERTISEMENT WOULD BE FALSE OR MISLEADING
30 WITHOUT THE DISCLOSURE;

31 (2) MAKE RECOMMENDATIONS WITH RESPECT TO CHANGES THAT
32 THE COMMISSION DETERMINES ARE:

1 (I) NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, OR
2 WELFARE; OR

3 (II) CONSISTENT WITH DISPENSING INFORMATION FOR THE
4 PRODUCT UNDER REVIEW; AND

5 (3) IF APPROPRIATE AND IF INFORMATION EXISTS, RECOMMEND
6 STATEMENTS FOR INCLUSION IN THE ADVERTISEMENT TO ADDRESS THE SPECIFIC
7 EFFICACY OF THE DRUG AS IT RELATES TO SPECIFIC DISEASES, DISEASE SYMPTOMS,
8 AND POPULATION GROUPS.

9 (E) (1) ANY ADVERTISEMENT FOR MEDICAL CANNABIS OR MEDICAL
10 CANNABIS PRODUCTS THAT MAKES A STATEMENT RELATING TO SIDE EFFECTS,
11 CONTRAINDICATIONS, AND EFFECTIVENESS SHALL PRESENT A TRUE STATEMENT OF
12 THE INFORMATION.

13 (2) ANY ADVERTISEMENT BROADCAST THROUGH MEDIA, INCLUDING
14 RADIO, TELEVISION, OR OTHER ELECTRONIC MEDIA, SHALL INCLUDE THE
15 INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN THE
16 AUDIO OR AUDIO AND VIDEO PARTS OF THE ADVERTISEMENT.

17 (3) FALSE OR MISLEADING INFORMATION IN ANY PART OF AN
18 ADVERTISEMENT MAY NOT BE CORRECTED BY THE INCLUSION OF A TRUE
19 STATEMENT IN ANOTHER DISTINCT PART OF THE ADVERTISEMENT.

20 (4) (I) AN ADVERTISEMENT DOES NOT SATISFY THE
21 REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION IF THE ADVERTISEMENT
22 FAILS TO PRESENT A FAIR BALANCE BETWEEN INFORMATION RELATING TO SIDE
23 EFFECTS, CONSEQUENCES, CONTRAINDICATIONS, AND EFFECTIVENESS.

24 (II) INFORMATION IS NOT PRESENTED IN A FAIR BALANCE IF
25 THE INFORMATION ON EFFECTIVENESS IS PRESENTED IN GREATER SCOPE, DEPTH,
26 OR DETAIL THAN THE INFORMATION RELATING TO SIDE EFFECTS, CONSEQUENCES,
27 AND CONTRAINDICATIONS, TAKING INTO ACCOUNT ALL IMPLEMENTING FACTORS
28 INCLUDING TYPOGRAPHY, LAYOUT, CONTRAST, HEADLINES, PARAGRAPHING,
29 WHITE SPACE, AND ANY OTHER TECHNIQUES THAT MAY PROVIDE EMPHASIS.

30 (5) AN ADVERTISEMENT IS FALSE, LACKING FAIR BALANCE, OR
31 OTHERWISE MISLEADING IF THE ADVERTISEMENT:

32 (I) CONTAINS A REPRESENTATION OR SUGGESTION THAT HAS
33 NOT BEEN DEMONSTRATED BY SUBSTANTIAL CLINICAL EXPERIENCE THAT A

1 CANNABIS STRAIN, BRAND, OR PRODUCT, AS COMPARED TO OTHER DRUGS OR
2 TREATMENTS, IS:

- 3 1. BETTER;
- 4 2. MORE EFFECTIVE;
- 5 3. MORE USEFUL IN A BROADER RANGE OF CONDITIONS
6 OR PATIENTS; OR
- 7 4. SAFER;

8 (II) CONTAINS FAVORABLE INFORMATION OR OPINIONS ABOUT
9 A MEDICAL CANNABIS PRODUCT PREVIOUSLY REGARDED AS VALID, BUT THAT HAVE
10 BEEN RENDERED INVALID BY CONTRARY AND MORE CREDIBLE RECENT
11 INFORMATION;

12 (III) USES A QUOTATION OR PARAPHRASE OUT OF CONTEXT, OR
13 WITHOUT CITING CONFLICTING INFORMATION FROM THE SAME SOURCE, TO
14 CONVEY A FALSE OR MISLEADING IDEA;

15 (IV) USES A STUDY ON INDIVIDUALS WITHOUT A DEBILITATING
16 MEDICAL CONDITION WITHOUT DISCLOSING THAT THE SUBJECTS WERE NOT
17 SUFFERING FROM A DEBILITATING MEDICAL CONDITION;

18 (V) USES DATA, FAVORABLE TO A MEDICAL CANNABIS
19 PRODUCT, DERIVED FROM PATIENTS TREATED WITH A DIFFERENT PRODUCT OR
20 DOSAGES DIFFERENT FROM THOSE APPROVED IN THE STATE;

21 (VI) CONTAINS FAVORABLE INFORMATION OR CONCLUSIONS
22 FROM A STUDY THAT IS INADEQUATE IN DESIGN, SCOPE, OR CONDUCT TO PROVIDE
23 SIGNIFICANT SUPPORT FOR THE INFORMATION OR CONCLUSIONS; OR

24 (VII) FAILS TO PROVIDE ADEQUATE NOTICE THAT TWO OR MORE
25 FACING PAGES ARE PART OF THE SAME ADVERTISEMENT WHEN ONLY ONE PAGE
26 CONTAINS INFORMATION RELATING TO SIDE EFFECTS, CONSEQUENCES, AND
27 CONTRAINDICATIONS.

28 (6) AN ADVERTISEMENT MAY NOT BE DISSEMINATED IF THE
29 SUBMITTER OF THE ADVERTISEMENT HAS RECEIVED INFORMATION THAT HAS NOT
30 BEEN WIDELY PUBLICIZED IN MEDICAL LITERATURE THAT THE USE OF THE
31 MEDICAL CANNABIS PRODUCT OR STRAIN MAY CAUSE FATALITIES OR SERIOUS
32 DAMAGE.

1 (F) (1) A DISPENSARY:

2 (I) SHALL RESTRICT EXTERNAL SIGNAGE TO A SINGLE SIGN
3 NOT LARGER THAN 16 BY 18 INCHES;

4 (II) MAY NOT ILLUMINATE A DISPENSARY SIGN ADVERTISING A
5 MEDICAL CANNABIS PRODUCT AT ANY TIME;

6 (III) MAY NOT ADVERTISE MEDICAL CANNABIS BRAND NAMES OR
7 USE GRAPHICS RELATED TO MEDICAL CANNABIS OR PARAPHERNALIA ON THE
8 EXTERIOR OF THE DISPENSARY FACILITY OR THE BUILDING IN WHICH THE
9 DISPENSARY IS LOCATED; AND

10 (IV) MAY NOT DISPLAY MEDICAL CANNABIS AND
11 PARAPHERNALIA IN A MANNER THAT IS CLEARLY VISIBLE FROM THE EXTERIOR OF
12 THE DISPENSARY.

13 (2) A DISPENSARY MAY NOT PLACE OR MAINTAIN, OR CAUSE TO BE
14 PLACED OR MAINTAINED, AN ADVERTISEMENT OF MEDICAL CANNABIS OR A
15 MEDICAL CANNABIS PRODUCT IN ANY FORM OR THROUGH ANY MEDIUM:

16 (I) WITHIN 1,000 FEET OF THE PERIMETER OF A SCHOOL,
17 PLAYGROUND, RECREATION CENTER OR FACILITY, CHILD CARE CENTER, PUBLIC
18 PARK OR LIBRARY, OR ANY GAME ARCADE THAT IS NOT RESTRICTED TO
19 INDIVIDUALS WHO ARE AT LEAST 21 YEARS OLD;

20 (II) ON OR IN A PUBLIC TRANSIT VEHICLE OR PUBLIC TRANSIT
21 SHELTER; OR

22 (III) ON OR IN A PUBLICLY OWNED OR OPERATED PROPERTY.

23 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
24 PARAGRAPH, A GROWER OR PROCESSOR MAY NOT ADVERTISE THE PRICE OF THE
25 GROWER'S OR PROCESSOR'S MEDICAL CANNABIS.

26 (II) A GROWER OR PROCESSOR MAY MAKE A PRICE LIST
27 AVAILABLE TO A DISPENSARY.

28 (G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
29 GROWER, PROCESSOR, OR DISPENSARY MAY NOT PRODUCE ANY ITEMS FOR SALE OR
30 FOR PROMOTIONAL GIFTS, INCLUDING T-SHIRTS OR NOVELTY ITEMS, BEARING A
31 SYMBOL OR REFERENCE TO CANNABIS.

1 **(2) THE PROHIBITION IN PARAGRAPH (1) OF THIS SUBSECTION DOES**
2 **NOT APPLY TO PARAPHERNALIA SOLD TO QUALIFYING PATIENTS OR THEIR PRIMARY**
3 **CAREGIVERS.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2018.