



Letter of Information

House Bill 1377

Cannabis – Advertising – Prohibited Locations (Equity in Cannabis Advertising Act)
Before the House Economic Matters Committee: February 25, 2025

The Legal Resource Center for Public Health Policy – Cannabis (“LRC-C”) is a public health organization housed at the University of Maryland Carey School of Law. Our mission is to help Maryland understand cannabis legalization policy. To advance our mission, we provide legal technical assistance, develop educational resources, and conduct trainings on cannabis policy at the state and national level. To this end, the LRC-C submits this letter of information for House Bill 1377 to provide information regarding outdoor cannabis advertising. Maryland law currently prohibits outdoor advertising, and the current outdoor advertising ban does not foreclose cannabis businesses from advertising in the state. Cannabis businesses of all types may partake in other forms of advertising, such as print, radio, and TV ads. Print, broadcast, and online media are directed towards specific audiences, and advertisers can choose ad placements that are directed at the audience they actually want to reach. This allows cannabis businesses to market more efficiently, not spending money to show ads to viewers too young to legally purchase their products.

This letter will focus on five issues: (1) the prevalence of outdoor cannabis advertising restrictions, (2) the public health impact of outdoor cannabis advertising, (3) the ineffectiveness of the advertising prohibitions in the bill, (4) the constitutionality of restricting outdoor cannabis advertising, and (5) the potential impact of HB 1377 on Maryland’s social equity businesses.

Prevalence of Outdoor Cannabis Advertising Restrictions

Maryland currently restricts outdoor cannabis advertising by prohibiting advertisements on the side of buildings or other publicly visible locations. HB 1377 repeals these restrictions and would allow outdoor cannabis advertising anywhere in the state as long as the advertisement is 500 feet away from a substance use treatment facility, a primary or secondary school, a licensed childcare facility, or a playground, recreational center, library, or public park.

Most states place restrictions on outdoor cannabis advertising because of the public health implications discussed in the next section of this letter. These restrictions include audience composition requirements, location restrictions, select hours of display, content restrictions, and in some states, complete bans on all outdoor cannabis advertising. Maryland joins fourteen other states that prohibit outdoor cannabis advertising in most forms.¹ For example, Virginia and New York prohibit billboard advertising of cannabis products and businesses.² Like Maryland, Minnesota and Delaware prohibit outdoor advertising of any kind.³ Going further than Maryland are states like Hawaii and Mississippi, which prohibit all forms of cannabis advertising, whether outdoors, in broadcast media, or in print.⁴ Reviewing the legal landscape, Maryland's current restriction of outdoor advertising is squarely aligned with a significant number of our peer jurisdictions.

¹ ALA. ADMIN. CODE R. 538-X-4.17; DEL. ADMIN. CODE 5001-10.1 § 10.2.1.4; FLA. STAT. ANN. § 381.986; HAW. CODE R. § 11-850-145; 915 KY. ADMIN. REG. 1:090; MD. CODE ANN., ALC. BEV. & CANN. § 36-903; MINN. STAT. § 342.64; 15 MS. ADC Pt. 22, Subpt. 9, R. 9.1.1; MONT. ADMIN. R. 42.39.123; NJ ADC 17:30-17.2; N.Y. CANNABIS LAW § 86; OHIO ADMIN. CODE 3796:5-7-01; S.D. ADMIN. R. 44:90:10:14.01; UTAH CODE ANN. § 4-41a-403; VA. CODE ANN. § 4.1-1401.

² 18 VA. ADMIN. CODE § 110-60-215; N.Y. CANNABIS LAW § 86.

³ MINN. STAT. § 342.64; DEL. ADMIN. CODE 5001-10.1 § 10.2.1.4.

⁴ HAW. CODE R. §§ 11-850-141, 145; 15 MISS. CODE R. § 22-3-1-2.2.1.

Public Health Impacts of Outdoor Cannabis Advertising

Research shows that children exposed to cannabis advertising are significantly more likely to use cannabis and have more positive perceptions about the drug.⁵ Increased usage of cannabis during adolescence is linked to negative outcomes, such as academic unpreparedness and poor academic performance, increased delinquency, poor mental health, impaired cognitive development, development of psychosis, anxiety, depression, impaired cardiovascular health and heightened risk of cardiac arrest, higher risk of abuse or dependence in adulthood, obesity, and impaired immune system and cell function.⁶

Cannabis outdoor advertising plays a substantial role in the problem because physical advertisements, such as billboards, have a much stronger effect on teens than other forms of advertising. For example, one study found that children frequently exposed to cannabis billboard advertising were seven times more likely to use cannabis and nearly six times as likely to have symptoms of cannabis use disorder.⁷ Children exposed to cannabis advertisements are also more likely to miss school, have trouble concentrating, do something they regret, or get into trouble at school or home. Therefore, outdoor cannabis advertising has a profound effect on an adolescent's decision to use cannabis and related consequences.

Cannabis advertising is especially dangerous because cannabis-positive messages conveyed through advertising normalizes cannabis use for young people. For example, more than fifty percent of high schoolers believe that smoking cannabis regularly does not carry great risk. Twenty percent of teens report driving under the influence of cannabis, and of this, over thirty percent believe their driving ability was improved due to cannabis use. Second, the marketing

⁵ Elizabeth J. D'Amico et al., *Gateway to Curiosity: Medical Marijuana Ads and Intention to Use During Middle School*, 29 PSYCH. ADD. BEHAV. 613 (2015); Elizabeth J. D'Amico et al., *Planting the Seed for Marijuana Use: Changes in Exposure to Medical Marijuana Advertising and Subsequent Adolescent Marijuana Use, Cognitions, and Consequences Over Seven Years*, 188 DRUG & ALCOHOL DEPEND. 385 (2018).

⁶ *Marijuana and Youth: The Impact of Marijuana Use on Teen Health and Wellbeing*, CTR. FOR DISEASE CONTROL & PREVENTION (Apr. 28, 2023), <https://www.cdc.gov/marijuana/featured-topics/marijuana-youth.html>; Sanjay B. Maggirwar et al., *The Link Between Cannabis Use, Immune System, and Viral Infections*, 13 VIRUSES 1099 (2021); Venkat N. Subramaniam, *The Cardiovascular Effects of Marijuana: Are the Potential Adverse Effects Worth the High?*, 116 MO. MED 146 (2019); Ryan S. Sultan et al., *Nondisordered Cannabis Use Among US Adolescents*, 6 JAMA NETWORK OPEN 1 (2023); Will Lawn, *The CannTeen Study: Cannabis Use Disorder, Depression, Anxiety, and Psychotic-like Symptoms in Adolescent and Adult Cannabis Users and Age-matched Controls*, 36 J. PSYCHOPHARMACOLOGY 1350 (2022).

⁷ Pamela J. Trangenstein et al., *Cannabis Marketing and Problematic Cannabis Use Among Adolescents*, 82 J. Stud. Alcohol & Drugs 288 (2021).

methods of cannabis advertise the drug as a safe, natural, medicinal product, luring children into a false sense of security when deciding to use cannabis.⁸ Teens' positive perceptions of cannabis and cannabis marketing tactics render children even more susceptible to using cannabis after viewing cannabis advertisements such as billboards.

The Effectiveness of HB 1377's Advertising Protections

While repealing the outdoor advertising ban, HB 1377 appears to soften the negative public health impact by including marketing prohibitions and a 500-foot buffer zone for the purpose of protecting public health. However, these prohibitions either already exist or are ineffectual. For instance, HB 1377 prohibits false and misleading statements in cannabis advertising. This prohibition is duplicative because Maryland already bans cannabis advertisements from violating the Maryland Consumer Protection Act, which prohibits false and misleading statements in advertising in general.⁹

Additionally, HB 1377 prohibits cannabis advertisements from making health claims. While current cannabis law allows a cannabis advertisement to make health claims, health claims must be, "supported by competent and reliable scientific evidence and include information on the most serious and most common side effects or risks associated with the use of cannabis."¹⁰ By requiring this information, existing law heavily discourages businesses from making health claims and serves as a significant hurdle to advertising health claims

Current Maryland law also prohibits cannabis advertising that targets or is attractive to minors, such as, "cartoon characters, mascots, and any other depiction that is commonly used to market to minors."¹¹ HB 1377 prohibits advertisements from resembling trademarked or commercially available food products, images of food, the word candy or candies, or images that are popularly used to market to minors. The prohibitions are examples of depictions commonly used to market to minors and therefore do not create any new protections.

⁸ *How Marijuana Ads Affect Youth: Q&A with Elizabeth D'Amico*, RAND (Aug. 21, 2018) <https://www.rand.org/pubs/commentary/2018/08/how-marijuana-ads-affect-youth-qa-with-elizabeth-damico.html>.

⁹ MD. ALC. & BEV. CODE § 36-903.

¹⁰ MD. ALC. & BEV. CODE § 36-902.

¹¹ MD. ALC. & BEV. CODE § 36-903.

HB 1377 also proposes a 500-foot buffer zone for cannabis advertising around schools, parks, public playgrounds, and libraries. This buffer zone will not prevent cannabis businesses from marketing to children. The Maryland General Assembly purposefully prohibited cannabis businesses from utilizing outdoor advertising. Legislators did not want cannabis businesses to be able to “directly or indirectly target individuals younger than age 21.”¹² The list of protected locations is underinclusive and leaves out many areas frequented by Maryland’s children. Furthermore, the children in our community are not limited to living their lives within prescribed, child-focused zones. They ride as passengers in cars, buses, and trains; they accompany parents to workplaces, restaurants, stores, and attractions designed to serve the entire community, not just children. Notably, HB 1377 does not include within its exclusionary zone the location where the vast majority of children spend the majority of their time: the homes where they eat, sleep, play, and socialize.

Constitutionality of Restricting Outdoor Cannabis Advertising

Generally speaking, advertising is a form of commercial speech that is subject to the speech protections of the First Amendment. Maryland’s current outdoor advertising restrictions were included in the Cannabis Reform Act, passed by the General Assembly in 2023. When the bill was drafted the Attorney General of Maryland assessed the restrictions and found them permissible under the First Amendment.¹³ The Legal Resource Center for Public Health Policy has conducted a full constitutional analysis of Maryland’s current outdoor cannabis advertising restrictions under the Supreme Court’s *Central Hudson* test.¹⁴ This analysis is provided in *Appendix: Commercial Speech Analysis of Outdoor Advertising Restrictions Under the Central Hudson Test*, which is attached at the end of this letter, and affirms the Attorney General’s conclusion that the restrictions are permissible under the First Amendment.

¹² MD. ALC. & BEV. CODE § 36-903.

¹³ RE: *House Bill 556 and Senate Bill 516, “Cannabis Reform,”* OFFICE OF COUNCIL TO THE GENERAL ASSEMBLY, https://mgaleg.maryland.gov/2023RS/ag_letters/hb0556.pdf.

¹⁴ *Central Hudson Gas & Elec. v. Public Serv. Comm’n*, 447 U.S. 557 (1980) (in which the U.S. Supreme Court created a four elements test for constitutionality of commercial speech restrictions).

Potential Impact on Social Equity Businesses

HB 1377 is unlikely to promote equity among cannabis licensees. The repeal of the outdoor advertising bill would apply equally to established, well-financed cannabis businesses and new social equity businesses alike. As such, HB 1377 may perpetuate inequities within the cannabis industry.

Outdoor advertising can be expensive.¹⁵ Estimates for billboards in Baltimore, Maryland are on average about \$3,500 for a four-week period. For transit ads, it is on average about \$1,800 for a four-week period. In Prince George's County, the average cost for a billboard over a four-week period is about \$3,700. For transit ads, it is on average \$3,400¹⁶ over a four-week period.

Studies demonstrate that large, dynamic billboards are the most effective at attracting consumer attention but also cost the most to lease.

Unfortunately, the cost of outdoor advertising will not be felt equally by established cannabis businesses and small, minority- and women-owned cannabis businesses. Established cannabis businesses will be able to finance more outdoor advertising than small businesses and may drown out advertisements for small businesses. The difference in resources available to leverage outdoor advertising is emphasized by the existence of Maryland Cannabis Business Assistance Fund. In establishing the Cannabis Business Assistance Fund, which provides grants and loans to small, minority- and women-owned businesses entering the cannabis industry, Maryland has recognized that social equity cannabis businesses are less likely to have the financial resources that established cannabis businesses have.¹⁷

¹⁵ See True Impact Media Buying Platform, *Pricing Explorer Baltimore, MD* (last accessed Feb. 12, 2025), <https://trueimpactmedia.com/pricing-explorer/>.

¹⁶ This is an estimate provided by an online service provider. See True Impact Media Buying Platform, *Pricing Explorer Baltimore, MD* (last accessed Feb. 12, 2025), <https://trueimpactmedia.com/pricing-explorer/>. The difference in the price estimate between Baltimore City transit ads and Prince George's County transit ads can likely be explained by the proximity to Washington, D.C. and that some transit options go into the District, increasing the cost of the advertisements.

¹⁷ Maryland Department of Commerce, *Funding and Incentives Cannabis Businesses Assistance Fund*, <https://commerce.maryland.gov/fund/programs-for-businesses/cannabis-business-assistance-fund#:~:text=The%20Cannabis%20Business%20Assistance%20Loan%2FGrant%20Fund%20%28CBAF%29%20is%20small%20women-owned%20businesses%20entering%20the%20adult-use%20cannabis%20industry> (last accessed Feb. 12, 2025).

Conclusion

Outdoor cannabis advertising is an important policy issue with critical public health, legal, and equity implications. The Legal Resource Center appreciates the opportunity to provide this letter of information. Should you wish to discuss the information in this letter or require additional information, please contact us.

Sincerely,

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Appendix: Commercial Speech Analysis of Outdoor Advertising Restrictions Under the *Central Hudson* Test

I. Introduction

In prohibiting outdoor cannabis advertising, Maryland is acting within its constitutional authority to regulate commercial speech. This conclusion was reached by the Maryland Attorney General when reviewing the advertising restrictions contained in the Cannabis Reform Act of 2023.¹⁸ While the First Amendment protects commercial speech – any speech or writing which aims to promote commerce – it also permits states to enact restrictions that protect public welfare. In *Central Hudson Gas & Electric Corp. v. Public Service Commission* (“*Central Hudson*”), the United States Supreme Court created a four-part test to analyze a restriction on commercial speech.¹⁹ First, to be subject to constitutional protections, the speech must concern lawful commercial activity and not be misleading. Second, the asserted government interest on which the restriction is based must be substantial. Third, the regulation must directly advance that government interest. Finally, the regulation must not be more extensive than necessary to serve the government interest. Maryland’s current regulatory framework survives this test because cannabis advertising is not a lawful activity under federal law, Maryland has a substantial interest in keeping cannabis out of the hands of individuals under twenty-one, and the current restriction not only advances the state’s interest, it is also narrowly tailored to do so while allowing for significant alternative media for cannabis business to advertise to legal customers.

The *Central Hudson* analysis is not only the framework for analyzing First Amendment commercial speech claims, it is also applicable to claims arising from Article Forty of the Maryland Declaration of Rights, which provides state speech protections.²⁰ This dynamic exists because Maryland courts construe the protections of Article Forty *in pari materia* with the First Amendment, which means they follow federal free speech precedence.²¹ Accordingly, a *Central Hudson* analysis reveals that Maryland’s outdoor cannabis advertising restrictions are

¹⁸ Letter from Attorney General Anthony G. Brown to Governor Wes Moore (April 26, 2023), https://mgaleg.maryland.gov/2023RS/ag_letters/sb0516.pdf.

¹⁹ 447 U.S. 557, 566 (1980).

²⁰ MD. CONST. DECLARATION OF RIGHTS art. 40.

²¹ *Lightman v. State*, 14 Md. App. 713, 727 (Md. Ct. Spec. App. 1972).

permissible under both the First Amendment and Article Forty of the Maryland Declaration of Rights.

II. Analysis of the *Central Hudson* Factors

a. Cannabis is illegal under federal law.

Regarding *Central Hudson*'s threshold test, cannabis distribution cannot be considered "lawful activity" where its use, possession, production, and distribution remain illegal under federal criminal law.²² The Supremacy Clause of the U.S. Constitution dictates that federal law governs the "lawful activity" analysis.²³ Thus, an activity that is not permitted by federal law – even if permitted by state law – is not a "lawful activity" within the meaning of *Central Hudson*.²⁴ This analysis was recently applied to a challenge of Mississippi's medical cannabis advertising laws in the Fifth Circuit Court of Appeals, which affirmed that federal prohibition removes cannabis advertising from the protections of commercial speech, regardless of the state laws permitting and even regulating cannabis sales.²⁵ As such, no cannabis advertisements, indoors or out, are entitled to protection under the First Amendment.

b. Maryland has a substantial interest in the health of its children.

Even if a court were to determine that cannabis advertising was a "lawful activity," Maryland's restriction on outdoor advertising is still legal because it satisfies the remaining factors of the *Central Hudson* test.

Regarding the significance of the advanced state interest, courts in several U.S. jurisdictions have established that states have a substantial interest in protecting the physical, mental, and

²² *Cocroft v. Graham*, 122 F.4th 176, 184 (Fifth Cir. 2024); *Mont. Cannabis Indus. Ass'n v. State*, 368 P.3d 1131, 1149-50 (Mont. 2016)

²³ U.S. CONST. art. 6, cl. 2.

²⁴ See *Cocroft*, 122 F.4th at 184; *Montana Cannabis Industry Ass'n*, 368 P.3d at 1149-50.

²⁵ *Cocroft*, 122 F.4th at 184.

emotional health of children.²⁶ More specifically, courts have recognized the government interest in preventing underage substance use.²⁷ Unsurprisingly, when evaluating restrictions on cannabis advertising, courts have acknowledged the state's substantial interest in preventing underage cannabis use.²⁸ Cannabis exposure poses a significant risk to child health, as the adolescent brain undergoes crucial cognitive and neurological development into an individual's twenties.²⁹ As a result, Maryland has an uncontestable and substantial interest in minimizing the exposure of children to cannabis advertising.

c. Maryland's advertising restrictions directly advance the health of children.

Regarding the third prong, whether the state's regulation promotes the substantial government interest, Maryland's outdoor advertising restriction prohibits advertising methods that have been found to cause increased harm to youths. Unlike other forms of cannabis advertisements, which are directed towards particular audiences, outdoor advertising is visible to the public, regardless of age. Adolescents who are frequently exposed to billboard advertisements are seven times more likely than their peers to engage in frequent cannabis use, and six times more likely to develop cannabis use disorder.³⁰ By prohibiting outdoor cannabis advertising, adolescents' incidental exposure to cannabis-related advertising in the public sphere will decrease significantly, which in turn decreases the likelihood of teen cannabis usage. Similar effects have

²⁶ *Seattle Events v. State*, 512 P.3d 926, 935-36 (Wash. Ct. App. 2022); *see also* *Lorillard Tobacco Co. v. Reilly*, 533 U.S. 525, 564 (2001) (finding a substantial government interest in underage tobacco use); *Anheuser-Busch, Inc. v. Schmoke*, 101 F.3d 325, 329-30 (4th Cir. 1996) (finding a substantial government interest in preventing underage alcohol use).

²⁷ *See* *Lorillard Tobacco Co. v. Reilly*, 533 U.S. 525, 564 (2001) (recognizing the government's interest in preventing underage substance use); *Anheuser-Busch, Inc. v. Schmoke*, 101 F.3d 325, 329-30 (4th Cir. 1996) (upholding alcohol advertising restrictions based on the substantial government interest of preventing underage alcohol consumption).

²⁸ *Seattle Events v. State*, 512 P.3d 926,935 (Wash. App. 2022) (holding that "the state has asserted a substantial government interest in preventing underage marijuana use and satisfies the second step of the Central Hudson test"); *Plausible Products, LLC d/b/a Hashtag Cannabis v. Washington State Liquor and Cannabis Board*, Case No.19- 2-03293-6 SEA (2019) (holding that the state had a substantial interest in preventing underage cannabis consumption).

²⁹ *Cannabis and Teens*, CDC (Feb. 15, 2024), <https://www.cdc.gov/cannabis/health-effects/cannabis-and-teens.html>; Sanjay B. Maggirwar et al., *The Link Between Cannabis Use, Immune System, and Viral Infections*, 13 *VIRUSES* 1099 (2021); Venkat N. Subramaniam et al., *The Cardiovascular Effects of Marijuana: Are the Potential Adverse Effects Worth the High?*, 116 *MO. MED.* 146 (2019); Ryan S. Sultan et al., *Nondisordered Cannabis Use Among US Adolescents*, 6 *JAMA NETWORK OPEN* 1 (2023); Will Lawn et al., *The CannTeen Study: Cannabis Use Disorder, Depression, Anxiety, and Psychotic-like Symptoms in Adolescent and Adult Cannabis Users and Age-matched Controls*, 36 *J. PSYCHOPHARMACOLOGY* 1350 (2022).

³⁰ Pamela J. Trangenstein et al., *Cannabis Marketing and Problematic Cannabis Use Among Adolescents*, 82 *J. STUD. ON ALCOHOL & DRUGS* 288 (2021).

been observed in the context of alcohol and tobacco advertising, justifying the approach states take to regulate those products.³¹

d. Maryland's outdoor advertising restrictions are narrowly tailored.

The final element of the *Central Hudson* test requires that the challenged restriction on speech be no more extensive than necessary to advance the state's interest.³² To satisfy this requirement, the state must show "a 'fit between the legislature's ends and the means chosen to accomplish those ends.'"³³ *Central Hudson* does not require a perfect fit between the commercial speech restriction and the government's interest, but it must be reasonable and proportionate to the interest served.³⁴ Also, *Central Hudson* does not require the state to use the least restrictive means. Instead, the state must employ "a means narrowly tailored to achieve the desired objective."³⁵

The seminal case pertaining to advertising restrictions that seek to prevent underage substance use is *Lorillard Tobacco Co. v. Reilly*.³⁶ In that case, the Supreme Court evaluated a series of regulations from Massachusetts that restricted the outdoor advertising of smokeless tobacco and cigars. These regulations prohibited every form of outdoor advertising at any location within a 1,000-foot radius of schools. However, the court found that these regulations served as a *de facto* ban in metropolitan areas because the population density meant that the majority of urban areas fell within 1,000 feet of a protected location. The Court struck down these regulations as unconstitutional because they were not narrowly tailored to the government interest they purported to advance. However, Maryland's outdoor advertising restrictions differ from those at issue in *Lorillard* in two key respects.

³¹ E.g., Keryn E. Pasch et al., *Outdoor Alcohol Advertising Near Schools: What Does It Advertise and How Is It Related to Intentions and Use of Alcohol Among Young Adolescents?*, 68 J. STUD. ON ALCOHOL & DRUGS 587 (2007); Nurhayati Nurhayati et al., *Exposure to Outdoor Tobacco Advertisements Near Home Is Associated with Smoking Among Youth in Indonesia*, 23 ASIAN PAC. J. CANCER PREVENTION 2179, 2180-82 (2022).

³² *Central Hudson Gas & Elec. Corp. v. Public Service Commission of New York*, 447 U.S. 557, 566 (1980).

³³ *Bd. of Trustees of State Univ. of N.Y. v. Fox*, 492 U.S. 469, 480 (1989) (quoting *Posadas de P.R. Assocs. V. Tourism Co. of P.R.*, 478 U.S. 328 (1986)).

³⁴ *Id.*

³⁵ *Id.*

³⁶ 533 U.S. 525 (2001).

First, Maryland's outdoor advertising restrictions are less stringent than the contested regulations in *Lorillard*. Those regulations prohibited oral communications regarding the sale of tobacco products within the exclusionary zone, even if those communications were directed towards the business's age-appropriate customers, a factor that the Court highlighted in determining that the regulations were not narrowly tailored to protect young people.³⁷ Maryland does not restrict oral communications in this way. Maryland's restrictions prohibit less speech than the regulations in *Lorillard*, and specifically only those that directly infringe on the state's interest in protecting young members of the public.

Second, the specific commercial speech interest the Court sought to protect in *Lorillard* is not infringed upon by Maryland advertising restrictions. In *Lorillard*, the Court focused on a business's ability to propose a commercial transaction to an adult passing their location.³⁸ The court reasoned that without outdoor advertising, many businesses could not communicate that they had tobacco available for sale. This is a reasonable assertion, since many tobacco retailers sell a broad range of products and are not specialty stores. In its analysis, the Court held that alternative forms of advertising, like newspaper advertisements, could not provide the same immediate communication.

This ability to propose an immediate transaction is not infringed upon by Maryland's outdoor advertising restrictions. First, cannabis dispensaries are specialty stores and by definition sell cannabis.³⁹ Any adult walking past a dispensary knows that they can purchase cannabis at that business. Second, Maryland allows cannabis businesses to place signs on their property to identify the business to the public, allowing passersby to see and contemplate the nature of the business and the opportunity to purchase cannabis inside.⁴⁰ Third, the *Lorillard* case was decided in 2001, and advertising technology has advanced considerably, allowing more cost effective and targeted advertising methods than billboards. Cannabis businesses can utilize age-gated social media and mobile applications to engage adult customers directly.⁴¹ These methods present a

³⁷ *Id.* at 563.

³⁸ *Id.* at 564-65.

³⁹ MD. CODE ANN., ALC. BEV. & CANN. § 36-401.

⁴⁰ *Id.* § 36-903.

⁴¹ *Id.*

much smaller risk of youth exposure than outdoor advertising methods visible to the public at large.

Maryland's outdoor cannabis advertising restrictions do not create the same constitutional issues experienced in *Lorillard*. Maryland's policy is narrowly tailored to protect children from the unique risks presented by outdoor cannabis advertising, while permitting cannabis businesses ample opportunities to advertise their products through other, more targeted means. Under Maryland's current advertising laws, the licensed cannabis industry surpassed \$1.1 billion in sales in 2024.⁴² This level of success indicates that Maryland has restricted no more speech than necessary and allowed ample alternative venues for commercial speech by cannabis businesses.

III. Conclusion

As the Maryland Attorney General's analysis of the Cannabis Reform Act concluded, Maryland's cannabis outdoor advertising restriction is not prohibited by constitutional free speech protections. The outdoor cannabis advertising restriction does not infringe upon core principles of free expression but rather advances the substantial government interest of adolescent health, while allowing significant alternative methods for cannabis businesses to advertise their products to legal customers.

⁴² MCA Medical and Adult-Use Cannabis Dashboard, MARYLAND CANNABIS ADMINISTRATION (last accessed Feb. 12, 2025), <https://cannabis.maryland.gov/Pages/Data-Dashboard.aspx>.