

HB1377 Written Testimony.pdf

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Position: FAV



HB1377 – CANNABIS - ADVERTISING - PROHIBITED LOCATIONS
(EQUITY IN CANNABIS ADVERTISING ACT)
DEL. AMPREY

SUPPORT

District Cannabis is pleased to offer its strong support to HB1377, a modest, common-sense reform that will significantly help the next generation of retail dispensaries to succeed.

The fundamental principle of 2023's Cannabis Reform Act is that we all benefit from cannabis sales taking place in the legal market. Consumers can trust the safe, tested, legal products that our licensees provide, and the state benefits from the development of a legal, regulated cannabis industry and the jobs and taxes that industry generates.

A retailer can only sell products to consumers, however, if the consumers know the retailer exists. Our licensed dispensaries face a number of public and private hurdles to advertising, hindering their ability to reach cannabis consumers and to bring them into the legal market. These impediments are even more challenging for our newer market entrants, who must compete with the vestiges of the illegal market as well as established dispensaries.

HB1377 gives these new licensees a benefit by allowing them to engage in outdoor advertising subject to reasonable restrictions. The legislation represents thoughtful reforms that will benefit the community while preserving protections against marketing to or near minors.

Notably, existing law not only prevents outdoor advertising by licensees in Maryland, it also prohibits them from advertising in other states. Many of our dispensaries serve markets that cross state borders, but our existing limitations prevent them from alerting consumers in places like Pennsylvania or West Virginia that Maryland's licensees are able to provide adults with safe, tested, quality products. We believe the state would benefit from cross-border sales, and believe this is an additional, important reason to support HB1377.

Carrington 2025 Cannabis HB1377 advertising.pdf

Uploaded by: Darrell Carrington

Position: FAV



CARRINGTON & ASSOCIATES, LLC

Integrity.Passion.Results

Since 2006

Position Statement in Support of House Bill 1377 – Equity in Cannabis Advertising Act

Carrington & Associates, LLC strongly supports House Bill 1377, the Equity in Cannabis Advertising Act. As representatives of various stakeholders in the cannabis industry, we advocate for policies that ensure fair treatment of cannabis businesses, aligning them with other legally operating industries in Maryland.

The overwhelming bipartisan support for cannabis legalization in Maryland reflects the will of the people. Our state has established one of the most comprehensive regulatory frameworks in the nation, prioritizing consumer safety and industry accountability. House Bill 1377 advances this progress by addressing a key disparity: the restrictions on cannabis advertising that unfairly hinder industry participants, many of whom are minority entrepreneurs.

Fair access to advertising is essential for any business to succeed. By providing cannabis businesses with opportunities equivalent to those afforded to other regulated industries, this bill fosters economic growth and equity while maintaining necessary safeguards. Furthermore, expanding advertising opportunities will enhance consumer awareness, ensuring responsible use and informed decision-making.

For these reasons, Carrington & Associates, LLC urges a favorable report on House Bill 1377. This legislation is a necessary step toward a fair and competitive marketplace, reinforcing Maryland's leadership in responsible cannabis policy. We thank you for your kind consideration of our position.

%5B2025%20-%2002.25%5D%20HB1377%20-%20Equity%20in%

Uploaded by: Marlon Amprey

Position: FAV

MARLON AMPREY
Legislative District 40
Baltimore City

DEPUTY MAJORITY WHIP

Economic Matters Committee



The Maryland House of Delegates
6 Bladen Street, Room 315
Annapolis, Maryland 21401
410-841-3520 · 301-858-3520
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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

February 25, 2025

**Testimony of Delegate Marlon Amprey in Support of HB1377 Cannabis - Advertising -
Prohibited Locations (Equity in Cannabis Advertising Act)**

Dear Members of the Economic Matters Committee,

Maryland should always aim to foster an environment where fairness and equity are prioritized, ensuring that all communities can participate in this burgeoning market. However, disparities in advertising and promotion within the cannabis industry threaten this goal, particularly when it comes to marginalized groups who have been historically impacted by cannabis prohibition. The influx of social equity license holders and new license holders are not able to have the access to marketing that legacy license holders now have.

House Bill 1377 aims to address these inequities by promoting equal opportunities for social equity license holders to participate in cannabis advertising. The legacy companies from the medical licenses only era were given the opportunity to promote and advertise in a careful manner that has given them a leg up in the competition. If we want our social equity license holders to thrive, we have to give them the same resources we gave the medical license holders.

HB1377 simply restores our advertising rules to the original rules of advertising from when we first made cannabis legal in Maryland and imposes restrictions to make sure we are doing it fairly and thoughtfully. Cannabis companies would be able to advertise to the public but with strict rules and guidelines to ensure it is done tastefully and carefully.

The impact of HB1377 would be far-reaching, benefiting not only businesses but also communities that have been disproportionately affected by the criminalization of cannabis. The law will require that advertising opportunities be distributed equitably, with particular attention given to businesses that are owned by individuals from these communities. By having advertising re-open in Maryland and by doing it carefully, we can ensure the cannabis industry can blossom and create more revenue for the state while fully dismantling the black market.

HB1377 sets standards that ensure fairness, inclusion, and equal access while ensuring the advertising does not harm or entice children. The cannabis industry has the potential to be a key driver of economic growth in Maryland, and it is essential that all people, regardless of their background, have the opportunity to share in this success. This bill will help Maryland lead the way in creating an inclusive and fair marketplace, where all individuals have an equal chance to participate, succeed, and contribute to the state's growing cannabis economy.

For these reasons, I urge a favorable report on House Bill 1377.

Respectfully,

A handwritten signature in black ink, appearing to read "Marlon Amprey". The signature is written in a cursive style with a large initial "M" and a stylized "A".

Delegate Marlon Amprey
40th Legislative District of Maryland

2025 MDDA House Bill 1377 Advertising.pdf

Uploaded by: Ashlie Bagwell

Position: FWA



House Bill 1377: Cannabis—Advertising—Prohibited Locations (Equity in Cannabis Advertising Act)

On behalf of the Maryland Dispensary Association (MDDA)

House Economic Matters Committee

Support with Amendments

February 25, 2025

The Maryland Dispensary Association (MDDA), formerly the Maryland Medical Dispensary Association (MDMDA), was established in May, 2017 in order to promote the common interests and goals of the Medical Cannabis Dispensaries in Maryland. MDDA advocates for laws, regulations and public policies that foster a healthy, professional and secure medical cannabis industry in the State. MDDA works on the State and local level to advance the interest of licensed dispensaries as well as to provide a forum for the exchange of information in the Medical Cannabis Industry. We appreciate the opportunity to provide comments on House Bill 1377.

Two years ago, the Maryland General Assembly passed legislation, setting up both a policy and taxing framework for cannabis for adult use. This bill focused on increasing diversity in the cannabis industry while at the same time setting up a taxing structure so as to greatly minimize the illicit market. We commend you for the work you did to create a successful cannabis program in Maryland, and we are proud to be your partners in that.

House Bill 1377 seeks to lift the sign prohibition on signs for cannabis licensees. We have consistently supported proposals like this one and others that would allow for increased, commonsense advertising opportunities for cannabis licensees. We have some concern, however, that this bill, as drafted, could inadvertently negatively impact a licensee's ability to put a sign on their building. As result, we respectfully request consideration of language that

clarifies that licensees, irrespective of advertising laws and regulations related to setbacks and the 85 percent rule, are able to have an onsite sign that identifies their actual business location.

We appreciate the opportunity to provide comments on House Bill 1377. Thank you for your support of the cannabis industry. We urge a favorable report on House Bill 1377 with the language requested in this testimony.

HB 1377 - MML - UNF.pdf

Uploaded by: Bill Jorch

Position: UNF



Maryland Municipal League
The Association of Maryland's Cities and Towns

TESTIMONY

February 25, 2025

Committee: House Economic Matters Committee

Bill: HB 1377 - Cannabis - Advertising - Prohibited Locations (Equity in Cannabis Advertising Act)

Position: Unfavorable

Reason for Position:

The Maryland Municipal League (MML) opposed House Bill 1377. The bill would eliminate the Statewide prohibition on outdoor, public advertising of cannabis businesses. It also establishes a process for a cannabis licensee to have an advertisement reviewed by the Maryland Cannabis Administration for legal sufficiency.

MML has several concerns with HB 1377 related to the bill's impact on process, local liability, and preemption:

1. **Signage content** –The language in (b)(5) of the bill is problematic in that it establishes a process that is ill-equipped to handle decision-making on what could be a flood of requests on short deadlines. Advertisements submitted would need to be reviewed by the Administration and an advisory opinion issued within 30 days. This sets up a scenario where important judgments on the appropriateness, and legality, of an advertisement may be rushed and not subject to appropriate scrutiny.
2. **Local preemption** – If this bill were to pass, the State's express prohibition on public advertisements would be lifted. MML has concerns that the State's occupation of this policy space may be interpreted to implicitly preempt local authority to further restrict the placement of these advertisements.
3. **Legal uncertainty** – Further, if it is determined local governments are not implicitly preempted from placing further restrictions on cannabis advertisements until this bill, there are still concerns about how local restrictions would stand up to legal challenge of a local sign ordinance under *Reed v. Town of Gilbert*, 576 U.S. 155 (2015) and Maryland's Declaration of Rights.

For these reasons, the Maryland Municipal League respectfully requests an unfavorable report on House Bill 1377. For more information, please contact Bill Jorch, Director, Public Policy and Research at billj@mdmunicipal.org. Thank you in advance for your consideration.

Testimony 2025 HB 1377 letter opposition .pdf

Uploaded by: Joseph Hobelmann

Position: UNF

MDDCSAM is the Maryland state chapter of the American Society of Addiction Medicine whose members are physicians and other healthcare providers who treat people with substance use disorders.

February 25, 2025

The Honorable C. T. Wilson
Chair, House Economic Matters Committee
Room 231, House Office Building
Annapolis, MD 21401-1991

RE: HB 1377 - Cannabis - Advertising - Prohibited Locations - Letter of Opposition

Dear Chair Wilson:

The Maryland-DC Society of Addiction Medicine (MDDCSAM) submits this letter of opposition to **House Bill (HB) 1377 - Cannabis - Advertising - Prohibited Locations (Equity in Cannabis Advertising Act)**. This bill repeals Maryland's ban on outdoor cannabis advertising and replaces it with a 500-foot exclusionary zone for outdoor cannabis advertising around substance use disorder treatment facilities and child-focused locations such as schools, childcare centers, playgrounds, and public parks.

MDDCSAM opposes HB 1377 because it weakens an important public health measure that protects Maryland's minors. Sound public health research demonstrates that exposure to cannabis advertising is associated with greater intentions to use cannabis, positive expectancies about cannabis use, and greater cannabis use.¹ Cannabis use by adolescents is associated with psychosis, anxiety, depression, and impaired cognitive development, among other health problems^{2,3}.

The proposed 500-foot exclusionary zone is ineffective in protecting minors. First, it assumes that minors never travel more than 500-feet from their school, playground, or other protected location, which is clearly not true. Second, the bill does not provide an exclusionary zone around many public locations frequented by minors, such as museums, places of worship, and sports facilities.

This bill would remove Maryland from the group of 15 states (AL, DE, FL, HI, KY, MD, MN, MS, MT, NJ, NY, OH, SD, UT, and VA) that prohibits the use of billboards for cannabis advertising.⁴ Maryland's legal cannabis industry has generated \$1.1 billion in cumulative sales of cannabis products from July 2023 (the

¹ Padon, A. A., Ghahremani, D. G., Simard, B., Soroosh, A. J., & Silver, L. D. (2025). Characteristics and effects of cannabis advertisements with appeal to youth in California. *The International journal on drug policy*, 137, 104718. Advance online publication. <https://doi.org/10.1016/j.drugpo.2025.104718>

² Padoan, F., Colombrino, C., Sciorio, F., Piacentini, G., Gaudino, R., Pietrobelli, A., & Pecoraro, L. (2023). Concerns Related to the Consequences of Pediatric Cannabis Use: A 360-Degree View. *Children (Basel, Switzerland)*, 10(11), 1721. <https://doi.org/10.3390/children10111721>

³ Hurd, Y. L., Manzoni, O. J., Pletnikov, M. V., Lee, F. S., Bhattacharyya, S., & Melis, M. (2019). Cannabis and the Developing Brain: Insights into Its Long-Lasting Effects. *The Journal of neuroscience : the official journal of the Society for Neuroscience*, 39(42), 8250–8258. <https://doi.org/10.1523/JNEUROSCI.1165-19.2019>

⁴ AL- Ala. Admin. Code r. 538-X-4.17; 4 Del. Admin. Code 5001-10.0; Fla. Stat. Ann. § 381.986; Haw. Code. R. §§ 11-850-141, 145; 915 Ky. Admin. Reg. 1:090; MD Code, Alcoholic Beverages, § 36-903; Minn. Stat. § 342.64; 15 Miss. Code R. § 22-9- 9.2.1; Mont. Admin. R. 42.39.123; N.J. Admin. Code § 17:30-17.2; N.Y. Comp. Codes R. & Regs. Tit. 9, §§ 129.3, 129.4; Ohio Admin. Code 3796:5-7-01; S.D. Admin. R. 44:90:10:14.01; Utah Code Section 4-41a-403; Va. Code Ann. § 4.1-1401

opening of the market) through December 2024.⁵ Maryland's legal cannabis industry is clearly prospering without outdoor advertising.

HB 1377 contains three public health provisions that are actually unnecessary because they replicate existing laws relating to marketing cannabis. Advertising to minors⁶ and making false or misleading statements in advertisements⁷ are already prohibited by Maryland law. Making claims regarding the health benefits of a product in a cannabis advertisement is already severely limited. Current law requires such claims to 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 cannabis⁸." No health claim has yet appeared in any legal cannabis advertisement in Maryland.

Current Maryland law protects minors from the harmful effects of outdoor cannabis advertising while allowing the legal cannabis industry to prosper. MDDCSAM respectfully urges this Committee to issue an unfavorable report on HB 1377.

Sincerely,

⁵ *MCA Medical and Adult-Use Cannabis Data Dashboard*, Maryland Cannabis Administration, available at <https://mmcc.maryland.gov/Pages/Data-Dashboard.aspx>.

⁶ MD Code, Alcoholic Beverages, § 36-903

⁷ MD Code, Commercial Law, § 13-301-320

⁸ MD Code, Alcoholic Beverages, § 36-902

md-dcsam.org | mdsam.meeting@gmail.com

HB 1377- ECM- MDH - LOO.docx (1).pdf

Uploaded by: Meghan Lynch

Position: UNF



Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

February 25, 2025

The Honorable C. T. Wilson
Chair, House Economic Matters Committee
Room 231, House Office Building
Annapolis, MD 21401-1991

RE: House Bill 1377 – Cannabis - Advertising - Prohibited Locations (Equity in Cannabis Advertising Act) – Letter of Opposition

Dear Chair Wilson and Committee members:

The Maryland Department of Health (the Department) respectfully submits this letter of opposition for House Bill (HB) 1377 – Cannabis - Advertising - Prohibited Locations (Equity in Cannabis Advertising Act). HB 1377 repeals the existing prohibitions on outdoor cannabis advertising (e.g., billboards, signage, etc.) and removes critical public health protections. The bill includes certain provisions to determine when an advertisement targets or is attractive to minors and limits where outdoor advertisements may be located (i.e., exclusionary zones).

HB 1377 removes provisions that the Maryland General Assembly passed to prevent youth cannabis use and protect public health. Cannabis advertising restrictions, including prohibitions on billboards and certain outdoor signage, are evidence-based practices and key pillars of the Cannabis Reform Act passed in 2023. Most states restrict outdoor advertisements, with 15 states (AL, DE, FL, HI, KY, MD, MN, MS, MT, NJ, NY, OH, SD, UT, and VA) fully prohibiting billboards for cannabis advertising because of the risk they present.^{1,2} A similar bill (SB 399), which would have partially repealed the outdoor billboard prohibitions, was introduced in the 2024 General Assembly Session, and received an unfavorable committee report.³

Youth exposure to cannabis advertisements and marketing are significant public health concerns. Research demonstrates that youth exposed to cannabis advertising are more likely to use

¹ AL- Ala. Admin. Code r. 538-X-4.17; 4 Del. Admin. Code 5001-10.0; Fla. Stat. Ann. § 381.986; Haw. Code. R. §§ 11-850-141, 145; 915 Ky. Admin. Reg. 1:090; MD Code, Alcoholic Beverages, § 36-903; Minn. Stat. § 342.64; 15 Miss. Code R. § 22-9- 9.2.1; Mont. Admin. R. 42.39.123; N.J. Admin. Code § 17:30-17.2; N.Y. Comp. Codes R. & Regs. Tit. 9, §§ 129.3, 129.4; Ohio Admin. Code 3796:5-7-01; S.D. Admin. R. 44:90:10:14.01; Utah Code Section 4-41a-403; Va. Code Ann. § 4.1-1401.

² Maryland Medical Cannabis Commission. Cannabis Reform: Best Practices for a Medical Cannabis Home Grow Program, On-site Cannabis Consumption Facilities, and Methods to Reduce Cannabis Use by Minors. Maryland Medical Cannabis Commission, November 2022.

<https://dlslibrary.state.md.us/publications/Exec/MDH/MMCC/HB837Ch26%2810%29%282022%29.pdf>

³ <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0399?ys=2024RS>

cannabis, trends also seen with youth alcohol and tobacco use.^{4,5,6} Similar factors were considered in 1998 when 46 states, including Maryland, entered into the Master Settlement Agreement with major tobacco companies and prohibited outdoor tobacco advertising. Youth are increasingly viewing cannabis use as less risky, which influences future cannabis use.⁷ In 2021-22, only 21.4 percent of 12 to 17 year olds and 13.9 percent of 18 to 25 year olds in Maryland viewed regular cannabis use as risky, significantly less than perceived risk of alcohol and tobacco use.⁸ These changes in social norms and risk perceptions around cannabis use behaviors coupled with increased access to cannabis products contribute to youth cannabis use.⁹ While HB 1377 prohibits outdoor advertising near certain public places, Maryland youth and young adults will still be exposed to these advertisements in their communities which will further normalize cannabis use for them.

HB 1377 could contribute to health disparities as advertising concentrates in low-income neighborhoods that already have higher densities of cannabis, tobacco, and alcohol retailers.^{10,11,12} Closer proximity to retail outlets and exposure to advertising are social determinants of health that influence health disparities in vulnerable communities, including increased cannabis use and exposure to secondhand smoke. Maryland has seen over \$1.1 billion in legal cannabis sales to date since legalization on July 1, 2023, far exceeding the State's initial sales projections and clearly demonstrating that these advertising restrictions protect public health without negatively impacting cannabis retail businesses.^{13,14} Passing HB 1377 would also set a precedent, opening the door for future legislation that further erodes the strong public health foundation of the Cannabis Reform Act of 2023.

HB 1377 adds three restrictions on cannabis advertising. However, these restrictions are already generally covered in existing statutes.¹⁵ The only new protection introduced is the prohibition on

⁴ Hébert, E. T., Vandewater, E. A., Businelle, M. S., Harrell, M. B., Kelder, S. H., & Perry, C. L. (2023). Tobacco advertising exposure and product use among young adults: An ecological momentary assessment approach. *Addictive behaviors*, 139, 107601. <https://pmc.ncbi.nlm.nih.gov/articles/PMC9872832/>

⁵ Whitehill, J. M., Trangenstein, P. J., Jenkins, M. C., Jernigan, D. H., & Moreno, M. A. (2020). Exposure to Cannabis Marketing in Social and Traditional Media and Past-Year Use Among Adolescents in States With Legal Retail Cannabis. *Journal of Adolescent Health*, 66(2), 247–254. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6980270/>

⁶ Trangenstein, P. J., Whitehill, J. M., Jenkins, M. C., Jernigan, D. H., & Moreno, M. A. (2021). Cannabis Marketing and Problematic Cannabis Use Among Adolescents. *Journal of studies on alcohol and drugs*, 82(2), 288–296. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8864622/>

⁷ Parker, M.A., & Anthony, J. C. (2018). Population-level predictions from cannabis risk perceptions to active cannabis use prevalence in the United States, 1991-2014. *Addictive behaviors*, 82, 101-104. <https://doi.org/10.1016/j.addbeh.2018.02.030>

⁸ Perceived risk for alcohol use was 43.4 percent for 12-17 year olds and 39.9 percent for 18-25 year olds. Perceived risk for tobacco use was 62.4 percent for 12-17 year olds and 66.1 percent for 18-25 year olds. Data from the National Survey on Drug Use and Health (NSDUH) Maryland State Data 2015-2022, accessed 4 Feb 2025 at <<https://www.samhsa.gov/data/nsduh/state-reports-NSDUH-2022>>.

⁹ Substance Abuse and Mental Health Services Administration (SAMHSA). Preventing Marijuana Use Among Youth. SAMHSA Publication No. PEP21-06-01-001. Rockville, MD: National Mental Health and Substance Use Policy Laboratory. Substance Abuse and Mental Health Services Administration, 2021. <https://store.samhsa.gov/sites/default/files/pep21-06-01-001.pdf>

¹⁰ Shi, Y., Meseck, K., & Jankowska, M. M. (2016). Availability of Medical and Recreational Marijuana Stores and Neighborhood Characteristics in Colorado. *Journal of Addiction*, 1-7. <https://www.hindawi.com/journals/jad/2016/7193740/>

¹¹ Matthay, E. C., Mousli, L.M., Fu, C., Zhang, S., Ponicki, W. R., Gruenewald, P., Apollonio, D.E., & Schmidt, L.A. (2022). Equity in Coverage of Local Cannabis Control Policies in California, 2020–2021. *American Journal of Public Health*, 112, 1640-1650. <https://ajphaphublications.org/doi/full/10.2105/AJPH.2022.307041>

¹² Fakunle, D. O., Curriero, F. C., Leaf, P. J., Furr-Holden, D. M., & Thorpe, R. J. (2019). Black, white, or green? The effects of racial composition and socioeconomic status on neighborhood-level tobacco outlet density. *Ethnicity & Health*, 26(7), 1012–1027. <https://doi.org/10.1080/13557858.2019.1620178>

¹³ Maryland Cannabis Administration, “MCA Medical and Adult-Use Cannabis Data Dashboard,” 5 Jan 2025, Accessed 5 Feb 2025 at <<https://mmcc.maryland.gov/Pages/Data-Dashboard.aspx>>.

¹⁴ Department of Legislative Services, “Fiscal and Policy Note: Cannabis Reform (HB 556),” 2023, Maryland General Assembly, Accessed 5 Feb 2025 at <https://mgaleg.maryland.gov/2023RS/fnotes/bil_0006/hb0556.pdf>.

¹⁵ MD Code, Alcoholic Beverages, § 36-903, MD Code, Commercial Law, § 13-3

making health or physical benefit claims in cannabis advertisements. Currently, such claims are permitted as long as they are “supported by competent and reliable scientific evidence” and include information on the most serious and common side effects or risks associated with cannabis use.¹⁶ As such, this addition may have no new public health protections.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at sarah.case-herron@maryland.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Laura Herrera Scott', written in a cursive style.

Laura Herrera Scott, M.D., M.P.H.
Secretary

¹⁶ MD Code, Alcoholic Beverages, § 36-902

HB 1377-Letter of Opposition_CPHAC.pdf

Uploaded by: State of Maryland (MD)

Position: UNF

MARYLAND CANNABIS PUBLIC HEALTH ADVISORY COUNCIL

Deondra P. Asike, M.D.

February 25, 2025

Dawn Berkowitz, MPH, CHES

Jocelyn Bratton-Payne, MSW

David A. Gorelick, M.D., Ph.D.

The Honorable C. T. Wilson
Chair, House Economic Matters Committee
Room 231, House Office Building
Annapolis, MD 21401-1991

Delegate Terri Hill, M.D.

Senator Benjamin Kramer

Elizabeth Kromm, Ph.D.

Karrissa Miller, MSW

Madhumi Mitra, Ph.D.

Martin Proulx

Jason Semanoff

Leah Sera, PharmD.

Nishant Shah, M.D.

Leigh Vinocur, M.D.

Bethany Young, Ph.D., J.D.

RE: HB 1377 - Cannabis - Advertising - Prohibited Locations (Equity in Cannabis Advertising Act) - Letter of Opposition

Dear Chair Wilson and Committee members:

The Maryland Cannabis Public Health Advisory Council (the Council) is submitting this letter of opposition for **House Bill (HB) 1377 - Cannabis - Advertising - Prohibited Locations (Equity in Cannabis Advertising Act)**. HB 1377 repeals Maryland's current ban on outdoor cannabis advertising and instead proposes a 500-foot advertising exclusionary zone around substance use treatment facilities and select child focused locations, including schools, childcare centers, playgrounds, and public parks.

The Council opposes HB 1377 because of the risk it presents for Maryland's youth. Research shows that exposure to cannabis advertising is associated with higher average use, intentions to use, positive expectancies about cannabis use, and negative consequences in children.¹ This is troubling because cannabis use in youth is associated with psychosis, anxiety, depression, impaired cognitive development, and other serious health challenges.^{2,3}

Public health data regarding the impact of adult-use cannabis is still sparse, but over 70 years of public health data demonstrates the harms caused by youth exposure to tobacco advertising.^{4,5,6} These harms are further compounded in communities of color where tobacco advertisements are concentrated.⁷ HB 1377 is presented as a bill to address social equity through cannabis advertising, however, this bill will perpetuate existing health outcome disparities among vulnerable communities.

The proposed 500-foot exclusionary zone is not supported by evidence of being protective for youth from exposure to cannabis billboards for two reasons. First, it assumes that minors never travel more than 500-feet from their school, playground, library and other protected location. This is patently false. Second, the bill leaves out many locations frequented by Maryland's children, such as museums, places of worship, and sports facilities. The Council believes maintaining the current ban on billboards is essential.

We note that 15 states (AL, DE, FL, HI, KY, MD, MN, MS, MT, NJ, NY, OH, SD, UT, and VA) prohibit the use of billboards for cannabis advertising because of the risk they present.⁸ Current law permits advertising by Maryland's cannabis industry that has allowed cumulative legal cannabis sales of \$1.1 billion from July 2023 through December 2024.⁹ The current cannabis outdoor advertising ban prevents youth exposure while allowing the cannabis industry to prosper.

HB 1377 contains three provisions that replicate existing laws relating to marketing cannabis and so do not, in fact, strengthen public health protections. Advertising to minors¹⁰ and making false or misleading statements in advertisements¹¹ are already prohibited by law. Making claims regarding the health benefits of a product in a cannabis advertisement is already severely limited. Current law requires such claims to 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."¹² To date, no health claim has appeared in a cannabis advertisement in Maryland.

Maryland has a law in place to safely allow the legal cannabis industry to grow while protecting youth from the harmful effects of outdoor cannabis advertising. The Council respectfully urges this Committee to issue an unfavorable report on HB 1377.

Sincerely,

A handwritten signature in dark ink, appearing to read "DAsike", written in a cursive style.

Deondra Asike, M.D.
Chair, Maryland Cannabis Public Health Advisory Council

References:

1. Padon, A. A., Ghahremani, D. G., Simard, B., Soroosh, A. J., & Silver, L. D. (2025). Characteristics and effects of cannabis advertisements with appeal to youth in California. *The International journal on drug policy*, 137, 104718. Advance online publication. <https://doi.org/10.1016/j.drugpo.2025.104718>
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3. Hurd, Y. L., Manzoni, O. J., Pletnikov, M. V., Lee, F. S., Bhattacharyya, S., & Melis, M. (2019). Cannabis and the Developing Brain: Insights into Its Long-Lasting Effects. *The Journal of Neuroscience: the official journal of the Society for Neuroscience*, 39(42), 8250–8258. <https://doi.org/10.1523/JNEUROSCI.1165-19.2019>
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5. Lovato, C., Linn, G., Stead, L. F., & Best, A. (2003). Impact of tobacco advertising and promotion on increasing adolescent smoking behaviours. *The Cochrane database of systematic reviews*, (4), CD003439. <https://doi.org/10.1002/14651858.CD003439>
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8. Ala. Admin. Code r. 538-X-4.17; 4 Del. Admin. Code 5001-10.0; Fla. Stat. Ann. § 381.986; Haw. Code. R. §§ 11-850-141, 145; 915 Ky. Admin. Reg. 1:090; MD Code, Alcoholic Beverages, § 36-903; Minn. Stat. § 342.64; 15 Miss. Code R. § 22-9- 9.2.1; Mont. Admin. R. 42.39.123; N.J. Admin. Code § 17:30–17.2; N.Y. Comp. Codes R. & Regs. Tit. 9, §§ 129.3, 129.4; Ohio Admin. Code 3796:5-7-01; S.D. Admin. R. 44:90:10:14.01; Utah Code Section 4-41a-403; Va. Code Ann. § 4.1-1401
9. MCA Medical and Adult-Use Cannabis Data Dashboard, Maryland Cannabis Administration, available at <https://mmcc.maryland.gov/Pages/Data-Dashboard.aspx>.
10. MD Code, Alcoholic Beverages, § 36-903
11. MD Code, Commercial Law, § 13-301-320
12. MD Code, Alcoholic Beverages, § 36-902

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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 \$34,400¹⁶ 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 underaged substance use.²⁷ Unsurprisingly, when evaluating restrictions on cannabis advertising, courts have acknowledged the state's substantial interest in preventing underaged 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 uncontested 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 underaged 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 underaged 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>.

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February 21, 2025

TO: The Honorable C. T. Wilson, Chair
Economic Matters Committee

FROM: Irnise F. Williams, Deputy Director, Health Education and Advocacy Unit

RE: House Bill 1377- Cannabis - Advertising - Prohibited Locations (Equity in Cannabis Advertising Act)- **LETTER OF CONCERN**

The Health Education and Advocacy Unit of the Consumer Protection Division submits a letter of concern regarding House Bill 1377. In 2023, when recreational cannabis laws were enacted, the Consumer Protection Division (CPD) urged strict advertising measures in part to protect children from being exposed to advertising that specifically targeted minors, including constant advertising by the cannabis industry through billboards and outdoor advertising. We are concerned this bill will eliminate some of those protections.

Outdoor Signage

This bill would permit an advertisement on the side of a building or another publicly visible location of any form, including a sign, a poster, a placard, a device, a graphic display, an outdoor billboard, or a freestanding signboard. Allowing such advertising undermines public health interests and would be inconsistent with the types of restrictions our Consumer Protection Division imposed in a settlement with Juul Labs over deceptive marketing and the sale of e-cigarettes to minors.

A 2021 [study](#) found that adolescent cannabis usage increased based on the amount of exposure to billboards advertising cannabis. Any exposure to billboards significantly increased the odds that the adolescent would suffer Cannabis Use Disorder, with adolescents who saw billboards regularly having seven times the odds of weekly use and six times the odds of Cannabis Use Disorder.

A [Maryland Cannabis Use baseline study](#) found that, “More than 25 percent of Maryland high school students have used cannabis.” Cannabis use in adults and children can lead to the increased risk of depression, anxiety and addiction. The cognitive impacts of the use of cannabis by youth can lead to lower grades, skipping class, and delayed graduation. The [Maryland Cannabis](#)

[dashboard](#) published data stating, “From 2021 to 2023, calls to Poison Centers serving Maryland residents nearly doubled for youths aged nine and younger, tripled for those aged 10 to 14, and increased by over 26 percent for individuals aged 15 to 19.”

Although more studies may need to be done to identify all the risks of cannabis advertising and exposure on vulnerable populations, it is already evident that the legalization of cannabis has led to an increase in youth cannabis usage and even younger children being harmed by cannabis being present in their homes. This bill is likely to dramatically increase the harm to children.

The removal of the outdoor signage prohibition, even with the suggested limitations regarding the location of that signage (advertisements to 500 feet away from treatment centers, schools, daycare centers or other public spaces that children may frequent) does not eliminate the impact these advertisements will have on those vulnerable communities. Allowing what will likely become a proliferation of outdoor advertising will undoubtedly expose vulnerable youth to cannabis which could lead to an increased use by Marylanders under the age of 21 and would create indirect risks and harm to the youth of Maryland.

Targeting Minors

We support the bill’s addition of specific examples of marketing that target or is attractive to minors to make clear for the industry the types of marketing that currently violates Title 13, Subtitle 3 of the Commercial Law article. There is an enormous body of evidence about the risks to children who might accidentally or unknowingly ingest cannabis products, especially edibles that are “disguised” as branded foods (e.g., Cannabis Doritos or Gummy Bears), or packaged or labeled in a way that would attract minors (use of cartoons, animal or fruit shaped products, likeness of a character developed for children, and more).

Here are two images of concern posted on the [FTC’s website](#).



As noted above, according to the Maryland Department of Health’s Cannabis Public Health data dashboard, “calls to poison centers have surged, especially among those under the age of 20. From 2021 to 2023, calls to Poison Centers serving Maryland residents nearly doubled for youths aged

nine and younger, tripled for those aged 10 to 14, and increased by over 26 percent for individuals aged 15 to 19.” Undoubtedly, some of these calls were related to child-directed packaging.

False or Misleading Statements

We oppose the provision that bans “false or misleading statements,” because such statements are already prohibited conduct; the statute prohibits advertisements that violate the Consumer Protection Act. The addition of this language is inconsistent with current state law, could be read to reduce consumer protections, and may cause confusion.

cc: The Honorable Marlon Amprey