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**BUSINESS AND PROFESSIONS CODE - BPC**

**DIVISION 10. Cannabis [26000 - 26325]** ( *Heading of Division 10 amended by Stats. 2017, Ch. 27, Sec. 3.* )

**CHAPTER 15. Advertising and Marketing Restrictions [26150 - 26156]** ( *Chapter 15 added November 8, 2016, by initiative Proposition 64, Sec. 6.1.* )

**26150.** For purposes of this chapter:

(a) "Advertise" means the publication or dissemination of an advertisement.

(b) "Advertisement" includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of cannabis or cannabis products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:

(1) Any label affixed to any cannabis or cannabis products, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of this division.

(2) Any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any licensee, and which is not written by or at the direction of the licensee.

(c) "Advertising sign" is any sign, poster, display, billboard, or any other stationary or permanently affixed advertisement promoting the sale of cannabis or cannabis products which are not cultivated, manufactured, distributed, or sold on the same lot.

(d) "Health-related statement" means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of cannabis or cannabis products and health benefits, or effects on health.

(e) "Market" or "Marketing" means any act or process of promoting or selling cannabis or cannabis products, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.

(Amended by Stats. 2017, Ch. 27, Sec. 84. (SB 94) Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)

**26151.** (a) (1) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content, by adding, at a minimum, the licensee's license number.

(2) A technology platform shall not display an advertisement by a licensee on an Internet Web page unless the advertisement displays the license number of the licensee.

(3) An outdoor advertising company subject to the Outdoor Advertising Act (Chapter 2 (commencing with Section 5200) of Division 3) shall not display an advertisement by a licensee unless the advertisement displays the license number of the licensee.

(b) Any advertising or marketing placed in broadcast, cable, radio, print, and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.

(c) Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in that communication or dialogue controlled by the licensee. For purposes of this section, that method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.

(d) All advertising shall be truthful and appropriately substantiated.

**26152.** A person engaged in commercial cannabis activity, whether licensed or unlicensed, shall not do any of the following:

- (a) Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.
- (b) Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof.
- (c) Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the cannabis originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement.
- (d) Advertise or market on a billboard or similar advertising device located on an interstate highway or on a state highway which crosses the California border.
- (e) Advertise or market cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.
- (f) Publish or disseminate advertising or marketing that is attractive to children.
- (g) Advertise or market cannabis or cannabis products on an advertising sign within 1,000 feet of a daycare center, school providing instruction in kindergarten or any of grades 1 to 12, inclusive, playground, or youth center.
- (h) Publish or disseminate advertising or marketing for unlicensed commercial cannabis activity or for licensed commercial cannabis activity while the licensee's license is suspended.

(Amended by Stats. 2024, Ch. 899, Sec. 1. (SB 1498) Effective January 1, 2025. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)

**26152.1.** (a) (1) Advertisement and marketing of an integrated cannabis vaporizer, as defined in Section 26122, shall prominently provide in a clear and legible fashion: "An empty integrated cannabis vaporizer shall be properly disposed of as hazardous waste at a household hazardous waste collection facility or other approved facility."

(2) Advertisement and marketing of a cannabis cartridge shall prominently provide in a clear and legible fashion: "A spent cannabis cartridge shall be properly disposed of as hazardous waste at a household hazardous waste collection facility or other approved facility."

(3) For the purposes of this subdivision, "authorized facility" means a facility authorized under the hazardous waste control laws under Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

(b) Advertisement and marketing of a cannabis cartridge and an integrated cannabis vaporizer shall not indicate that a cannabis cartridge or an integrated cannabis vaporizer is disposable nor imply that it may be thrown in the trash or recycling streams.

(c) This section shall become operative on July 1, 2024.

(Added by Stats. 2022, Ch. 390, Sec. 3. (AB 1894) Effective January 1, 2023. Operative July 1, 2024, by its own provisions.)

**26152.2.** (a) The Attorney General, on behalf of the people, a city attorney, or a county counsel may bring and maintain an action to redress a violation of subdivisions (d), (e), (f), and (g) of Section 26152, or subdivision (b) of Section 111926 of the Health and Safety Code.

(b) (1) The Attorney General, a city attorney, or a county counsel who prevails in an action pursuant to this section shall be awarded injunctive relief.

(2) The Attorney General, a city attorney, or a county counsel may also be awarded either or both of the following:

(A) Reasonable attorney's fees and costs.

(B) Civil penalties of not more than five thousand dollars (\$5,000) per violation by a licensed cannabis business or an industrial hemp registrant and not more than thirty thousand dollars (\$30,000) per violation by an unlicensed cannabis business or an unregistered business engaged in the sale of products that contain industrial hemp.

(3) The remedies provided in this section shall be in addition to any other remedies otherwise provided in any other law.

(c) In determining whether to award reasonable attorney's fees and costs and civil penalties, and in assessing the amount of any civil penalty, the court shall consider factors the court determines to be relevant, including, but not limited to, the following:

- (1) The gravity of the violation.
- (2) The defendant's good faith, or lack thereof.
- (3) The defendant's history of previous violations.

(d) Civil penalties awarded in an action brought pursuant to this section shall be distributed as described in subdivision (d) of Section 26038.

(e) (1) Except as provided in paragraph (2), a defendant shall not be subject to more than one action pursuant to this section in connection with the same, or substantially similar, advertising or marketing.

(2) This subdivision does not prohibit a subsequent action pursuant to this section to redress a recurring or continuing violation of Section 26152 or of Section 111926 of the Health and Safety Code, after the defendant has previously been found to have engaged in the same violation of Section 26152 or of Section 111926 of the Health and Safety Code or a substantially similar violation. Such an action may be brought and maintained if all of the following conditions are satisfied:

(A) The defendant has previously been found, in an action pursuant to this section, to have violated one or more subdivisions of Section 26152 or subdivision (b) of Section 111926 of the Health and Safety Code.

(B) The defendant subsequently engages in the same advertising or marketing, or substantially similar advertising or marketing, that was previously found to violate Section 26152 or subdivision (b) of Section 111926 of the Health and Safety Code.

(C) The subsequent action is limited to advertising or marketing that occurred after entry of judgment in the prior action.

(f) (1) The causes of action, remedies, and penalties provided by this section are cumulative to each other and to the causes of action, remedies, and penalties available under all other laws of this state.

(2) This section shall not be construed to limit the availability of any cause of action, remedy, or penalty otherwise available under any other law of this state.

(g) (1) This section shall not be construed to limit or otherwise alter, in any way, any other authority conferred by law upon the Attorney General, the department, or any other state or local officer or agency.

(2) An action brought pursuant to this section shall not have preclusive effect upon the Attorney General, the department, or any other state or local officer or agency.

*(Added by Stats. 2024, Ch. 899, Sec. 2. (SB 1498) Effective January 1, 2025.)*

**26153.** (a) A licensee shall not give away any amount of cannabis or cannabis products, or any cannabis accessories, as part of a business promotion or other commercial activity.

(b) For purposes of this section, the donation of cannabis or cannabis products by a licensee to a patient or the primary caregiver of a patient pursuant to Section 26071 shall not be considered a business promotion or other commercial activity.

(c) For purposes of this section, the provision of cannabis or cannabis products by a licensee pursuant to Section 26153.1 shall not be considered a business promotion or other commercial activity.

*(Amended by Stats. 2021, Ch. 70, Sec. 75. (AB 141) Effective July 12, 2021. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

**26153.1.** (a) The Department of Cannabis Control shall adopt regulations to establish a process authorizing licensees to designate cannabis or cannabis products as a trade sample at any time while the cannabis or cannabis product is in the possession of the licensee.

(b) The department shall adopt regulations to establish a definition of trade sample, the quantity of cannabis and cannabis products that may be designated as trade samples, the amount of trade samples that may be provided to a licensee, and any other provisions necessary to implement this section.

(c) Cannabis or cannabis products designated as trade samples shall be subject to quality assurance and testing pursuant to Section 26110, and may be returned to cultivators and manufacturers following quality assurance and testing pursuant to Section 26110.

(d) Cannabis or cannabis products designated as trade samples shall be recorded into the track and trace program established pursuant to Section 26067.

(e) Cannabis or cannabis products designated as trade samples shall be labeled with the following: "TRADE SAMPLE. NOT FOR RESALE OR DONATION."

(f) Cannabis or cannabis products designated as trade samples shall only be given for targeted advertising to licensees about new or existing cannabis or cannabis products. The department may adopt regulations specifying additional purposes of trade samples.

(g) Cannabis or cannabis products designated as trade samples may be transported between any two licensees by an employee of a licensed distributor or microbusiness authorized to engage in distribution, or by a licensee authorized to engage in transportation of cannabis, including a distributor transport-only licensee as established by the department in regulation. Employees transporting trade samples pursuant to this subdivision but outside of a registered vehicle of the licensed distributor or microbusiness shall be subject to possession limits established in Section 11357 of the Health and Safety Code.

(h) Cannabis and cannabis products designated as trade samples shall not be provided for any form of payment, consideration, cost, or compensation.

(i) Except as otherwise provided in this section, cannabis and cannabis products designated as trade samples shall comply with all applicable requirements for cultivation, manufacturing, distribution, processing, storing, laboratory testing, quality assurance, packaging, or labeling under this division.

(j) This section shall become effective upon adoption of regulations by the department and no later than January 1, 2023.

(k) Notwithstanding any other law, the department may adopt and readopt emergency regulations to implement this section. The provisions of Section 26013 shall be applicable to emergency regulations adopted or readopted pursuant to this section. The emergency regulations authorized by this section shall be deemed an emergency and necessary for the immediate preservation of public peace, health, safety or general welfare.

*(Amended (as added by Stats. 2021, Ch. 70, Sec. 76) by Stats. 2021, Ch. 87, Sec. 6. (SB 160) Effective July 16, 2021. Operative on or before January 1, 2023, by its own provisions.)*

**26154.** A licensee shall not include on the label of any cannabis or cannabis product or publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of cannabis consumption.

*(Amended by Stats. 2017, Ch. 27, Sec. 88. (SB 94) Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

**26155.** (a) The provisions of subdivision (g) of Section 26152 shall not apply to the placement of advertising signs inside a licensed premises and which are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

(b) This chapter does not apply to any noncommercial speech.

*(Amended by Stats. 2017, Ch. 27, Sec. 89. (SB 94) Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)*

**26156.** The requirements of Section 5272 apply to this division.

*(Added by Stats. 2017, Ch. 27, Sec. 90. (SB 94) Effective June 27, 2017.)*