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HEALTH AND SAFETY CODE - HSC

DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406] (*Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)*

PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4] (*Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)*

CHAPTER 4. Packaging, Labeling, and Advertising [110290 - 110423.101] (*Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)*

ARTICLE 3. Advertising [110390 - 110420] (*Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)*

110390. It is unlawful for any person to disseminate any false advertisement of any food, drug, device, or cosmetic. An advertisement is false if it is false or misleading in any particular.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

110395. It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any food, drug, device, or cosmetic that is falsely advertised.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

110398. It is unlawful for any person to advertise any food, drug, device, or cosmetic that is adulterated or misbranded.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

110400. It is unlawful for any person to receive in commerce any food, drug, device, or cosmetic that is falsely advertised or to deliver or proffer for delivery any such food, drug, device, or cosmetic.

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

110403. Except as otherwise provided in Section 110405, it is unlawful for a person to advertise a drug or device represented to have an effect in any of the following conditions, disorders, or diseases:

- (a) Appendicitis.
- (b) Blood disorders.
- (c) Bone or joint diseases.
- (d) Kidney diseases or disorders.
- (e) Cancer.
- (f) Carbuncles.
- (g) Diseases, disorders, or conditions of the eye.
- (h) Diabetes.
- (i) Diphtheria.
- (j) Gallbladder diseases or disorders.
- (k) Heart and vascular diseases.
- (l) High blood pressure.
- (m) Diseases or disorders of the ear or auditory apparatus, including hearing loss and deafness.
- (n) Measles.
- (o) Meningitis.

- (p) Mental disease or intellectual disability.
 - (q) Paralysis.
 - (r) Pneumonia.
 - (s) Poliomyelitis.
 - (t) Prostate gland disorders.
 - (u) Conditions of the scalp, affecting hair loss, or baldness.
 - (v) Alcoholism.
 - (w) Periodontal diseases.
 - (x) Epilepsy.
 - (y) Goiter.
 - (z) Endocrine disorders.
 - (aa) Sexual impotence.
 - (ab) Sinus infections.
 - (ac) Encephalitis.
 - (ad) Tumors.
 - (ae) Venereal diseases.
 - (af) Tuberculosis.
 - (ag) Ulcers of the stomach.
 - (ah) Varicose ulcers.
 - (ai) Scarlet fever.
 - (aj) Typhoid fever.
 - (ak) Whooping cough.
 - (al) Acquired immunodeficiency syndrome (AIDS).
 - (am) AIDS-related complex (ARC).
 - (an) Diseases, disorders, or conditions of the immune system.
- (Amended by Stats. 2012, Ch. 457, Sec. 31. (SB 1381) Effective January 1, 2013.)*

110405. An advertisement that is not unlawful under Section 110390 is not unlawful under Section 110403 if it is either one of the following:

- (a) Disseminated only to members of the medical, dental, pharmaceutical, or veterinary professions, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of drugs or devices.
- (b) An advertisement that a drug or device has a specific curative or therapeutic effect on a condition, disorder, or disease listed in Section 110403 if the drug or device is approved or cleared for marketing for that specific curative or therapeutic effect through any of the following means:
 - (1) A new drug application approved pursuant to Section 111500, or Section 505 of the federal act (21 U.S.C. Sec. 355).
 - (2) An abbreviated new drug application approved pursuant to Section 505 of the federal act (21 U.S.C. Sec. 355).
 - (3) A licensed biological product pursuant to Section 351 of the Public Health Service Act (42 U.S.C. Sec. 262).
 - (4) A nonprescription drug that meets the requirements of Part 330 of Title 21 of the Code of Federal Regulations.
 - (5) A new animal drug application approved under Section 512 of the federal act (21 U.S.C. Sec. 360b).
 - (6) An abbreviated new animal drug application approved pursuant to Section 512 of the federal act (21 U.S.C. Sec. 360b).
 - (7) A new device application approved pursuant to Section 111550.
 - (8) A device premarket approval application approved under Section 515 of the federal act (21 U.S.C. Sec. 360e).

(9) A determination of substantial equivalence for a device pursuant to Section 513(f)(1) of the federal act (21 U.S.C. Sec. 360c(i)).

(Amended by Stats. 2000, Ch. 796, Sec. 6. Effective January 1, 2001.)

110407. (a) A manufacturer, distributor, or seller of an industrial hemp product shall not include on the label of the product, or publish or disseminate in advertising or marketing, any health-related statement that is untrue in any particular manner as to the health effects of consuming products containing industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp in violation of this part.

(b) For purposes of this section, "health-related statement" means a statement related to health, and includes a statement of a curative or therapeutic nature that, expressly or impliedly, suggests a relationship between the consumption of industrial hemp or industrial hemp products and health benefits or effects on health. However, "health-related statement" does not include statements required to be made pursuant to federal Food and Drug Administration regulations for active ingredients in prescription drugs, nonprescription over-the-counter drugs containing inactive ingredients, or structure-function claims allowed for dietary supplements made in accordance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343(r)(6)).

(Added by Stats. 2021, Ch. 576, Sec. 6. (AB 45) Effective October 6, 2021.)

110410. Section 110403 shall not be construed as indicating that self-medication for conditions, disorders, or diseases other than those named is safe or efficacious.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110413. No publisher, radio or television broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the food, drug, device, or cosmetic to which a false advertisement relates, shall be liable under this article for the dissemination of the false advertisement, unless he or she has refused to furnish the department with the name and address of the manufacturer, packer, distributor, seller, or advertising agency, residing in this state who caused him or her to disseminate the advertisement.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110415. It shall be unlawful to advertise or otherwise represent chopped or ground beef or hamburger in violation of Section 110805.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110420. (a) Any fragrance advertising insert contained in a newspaper, magazine, mailing, or other periodically printed material shall contain only microencapsulated oils. Glue tabs or binders shall be used to prevent premature activation of the fragrance advertising insert.

"Fragrance advertising insert" means a printed piece with encapsulated fragrance applied to it that is activated by opening a flap or removing an overlying ply of paper.

Paperstocks employed in the manufacture of fragrance advertising inserts shall have a maximum porosity of 20 Sheffield units or 172 Gurley-Hill units.

(b) Any person who distributes fragrance advertising inserts in violation of this section, is guilty of an infraction and shall, if convicted, be subject to a fine of one hundred dollars (\$100) for each distribution. The fine shall apply to each mass mailing or distribution, and to each mass publication of a magazine or newspaper in violation of this section. The fine shall not apply, however, to each individual letter, magazine, newspaper, or fragrance advertising insert so distributed. Section 111825 is not applicable to violations of this section.

(c) This section shall become operative on January 1, 1992.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)