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SB-378 Online marketplaces: illicit cannabis: reporting and liability. (2025-2026)

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Senate Bill No. 378

CHAPTER 411

An act to add Chapter 31.3 (commencing with Section 22943) and Chapter 31.4 (commencing with Section 22944) to Division 8 of the Business and Professions Code, and to add Section 1714.47 to the Civil Code, relating to cannabis.

[Approved by Governor October 06, 2025. Filed with Secretary of State October 06, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

SB 378, Wiener. Online marketplaces: illicit cannabis: reporting and liability.

(1) Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure, authorizes a person who obtains a state license under AUMA and any applicable local ordinances to engage in commercial adult-use cannabis activity pursuant to that license, if conducted as prescribed. Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities, and requires the Department of Cannabis Control to administer its provisions.

Existing law, until January 1, 2028, requires a social media platform to create and post a policy statement regarding the use of the social media platform to illegally distribute controlled substances, including a link to the social media platform's reporting mechanism for illegal or harmful content or behavior on the social media platform, if one exists, and a general description of its policies and procedures for responding to law enforcement inquiries.

This bill, beginning on July 1, 2026, would require an online cannabis marketplace, as defined, to address in its terms of service whether it permits Californians to view the advertisements and business information of unlicensed sellers of cannabis or cannabis products on its marketplace and whether the marketplace verifies the licenses of sellers of cannabis or cannabis products whose advertisements and business information are viewable on its marketplace, as specified. The bill would require an online cannabis marketplace that does not verify those licenses to display a clear and conspicuous graphic that warns the consumer that the marketplace may be displaying, storing, or hosting unlicensed sellers of cannabis or cannabis products.

This bill would require an online cannabis marketplace to establish a clear and conspicuous mechanism within its internet-based service that allows an individual to report to the online cannabis marketplace the display, storing, or hosting on the marketplace of advertisements from, or business information about, an unlicensed seller of cannabis or cannabis products. The bill would require the mechanism to provide the individual who submits a report with written confirmation of receipt of the report, periodic updates, and final written determination, as specified.

This bill would impose certain penalties and relief depending on the violation of these provisions, as specified.

(2) The Sherman Food, Drug, and Cosmetic Law regulates the packaging, labeling, and advertising of food, beverages, and cosmetics and authorizes the State Department of Public Health to adopt regulations for the enforcement of that law, as specified. That law imposes various requirements specific to the manufacture and sale of industrial hemp products that are food or

beverages, including a requirement for a certificate of analysis from an independent testing laboratory that confirms that the THC concentration does not exceed a specified amount. Existing emergency regulations require that industrial hemp food, food additives, beverages, and dietary supplements intended for human consumption have no detectable THC per serving.

This bill, beginning July 1, 2026, would require an online hemp marketplace, as defined, to establish a clear and conspicuous mechanism within its internet-based service that allows an individual to report to the online hemp marketplace an advertisement for an intoxicating hemp product on the marketplace, as specified. The bill would define “intoxicating hemp product” to include an inhalable hemp product, as further defined, with a detectable THC concentration. The bill would require the mechanism to provide the individual who submits a report with written confirmation of receipt of the report, periodic updates, and final written determination, as specified. The bill would impose specified penalties and relief for violations of these provisions.

(3) Existing law imposes strict liability upon persons who place a defective product on the market, including retailers engaged in the business of distributing goods to the public, for injuries caused by the product. Existing law also provides that each person is responsible for an injury occasioned to another by that person's want of ordinary care or skill, commonly known as negligence, in the management of their property or person, unless the injured person has, willfully or by want of ordinary care, brought the injury upon themselves.

This bill, beginning July 1, 2026, would prohibit an online marketplace from engaging in unlawful paid online advertising related to unlicensed sellers of cannabis or cannabis products or intoxicating hemp products, as specified. The bill would impose joint and several liability on an online marketplace that violates that prohibition, and is a substantial factor in an unlawful transaction between a consumer and an unlicensed seller of cannabis or a cannabis product, or between a consumer and a seller of an intoxicating hemp product, for damages caused to the consumer by the cannabis, cannabis product, or intoxicating hemp product, unless specified conditions are met. The bill would increase the amount that a prevailing plaintiff may recover depending on what the online marketplace had actual knowledge at the time of the unlawful transaction and whether the harm was suffered by a child, as described. The bill would provide various affirmative defenses to an action brought under these provisions, and would authorize an online marketplace to seek indemnification against an advertiser of cannabis, cannabis products, or intoxicating hemp products that misrepresented to the online marketplace that they were licensed or registered to sell that product, as specified.

(4) This bill would state that its provisions are severable.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) (1) In September 2024, the Los Angeles County Board of Supervisors adopted a resolution affirming the connection between the proliferation of unlawful, unlicensed, uninspected, and unregulated cannabis and the knowing, profit-driven behavior of internet companies:

“Unfortunately, distinguishing between licensed and unlicensed dispensaries is now more difficult than ever. When searching for a cannabis dispensary, search engine and GPS platforms such as Google and Apple Maps do not distinguish between licensed and unlicensed businesses, but instead give results that contain, more often than not, unlicensed dispensaries, thus legitimizing problematic establishments selling unregulated and often dangerous products for general public consumption. Regulating online search engines and GPS platforms will ensure only legal, licensed dispensaries appear in results from those platforms and protect the safety of the public.”

(2) The unanimously adopted resolution cites a February 2024 report by the Pew Research Center that found there were nearly 1,500 cannabis dispensaries in the County of Los Angeles; as of 2022, only 384 of them were properly licensed.

(3) Investigative reports affirm the vast scope of the problem. According to the Los Angeles Times, “the black market is booming in plain sight, luring customers away from aboveboard retailers with their cheaper — if untested and unregulated — product.”

(4) Law enforcement and other experts also affirm that the problem is vast:

(A) Bill Jones, the head of enforcement for the state's Department of Cannabis Control, has stated “[t]he black market is very pervasive and it's definitely larger than the legal market.”

(B) According to a study by Beau Whitney, founder of cannabis economics research firm Whitney Economics, illicit marijuana sales make up more than half the state's marijuana sales.

(C) Another expert assert more than two out of three cannabis purchases are made in the illicit market, and evidence suggests that disparity is getting worse. Legal sales have been on a two-year slide.

(5) The nation's most populous county is not alone in observing the role internet companies play in facilitating the sale of illegal and dangerous cannabis. In February, New York Governor Kathy Hochul pleaded with Google and Yelp to delist illegitimate cannabis dispensaries as the state began to see the rollout of its nascent recreational cannabis industry, as the Associated Press reported at the time. Initial results were not promising, as many illicit dispensaries remained on the sites while some of New York's fledgling legal dispensaries were repeatedly delisted.

(b) Unlawful cannabis sales pose a unique peril to the state's children. Recently, the state seized an astonishing 2,200,000 illicit cannabis packages designed to look like candy and sweets. As The Los Angeles Times reported in an August 2024 article, the packages were:

"... designed to mimic popular food and candy, including Sweet Tarts sour gummies and Twinkies adorned with rainbow sprinkles, which officials said could make them attractive to children. Such packages would not be permitted in the legal marijuana market."

(c) That internet companies openly and profitably facilitate criminal enterprises selling inherently dangerous products poses a grave risk to public safety. As the Los Angeles Times wrote in a September 2022 article, "Unlicensed dispensaries have become hotbeds of crime. Sometimes the operators are the perpetrators, authorities say, selling cocaine and methamphetamine alongside cannabis. At other times, they are the victims. In August 2021, a man was gunned down in the doorway of the illegal dispensary he ran in East Los Angeles."

(d) (1) Law enforcement leaders say law enforcement raids are barely slowing the black market. Siskiyou County Sheriff Jeremiah LaRue has stated that "[i]f we examine the statistics, it is clear that these operations are not effectively or aggressively putting a dent into the illegal market."

(2) As the sheriff observed, operations by the state Department of Justice's Eradication and Prevention of Illicit Cannabis program, or EPIC, have seized about 750,000 cannabis plants in 36 counties. Yet, Siskiyou County alone produces an estimated 12,000,000 to 16,000,000 illegal plants per year. Therefore, if EPIC only focused on Siskiyou for a year, it would eradicate just 6 percent of the estimated local black market, he said.

(e) In addition to posing risks to the public health, especially children, in addition to endangering public safety, unlawful cannabis also poses environmental risks. As the Guardian reported, Rick Dean, the community development director for Siskiyou's environmental health division, "is spending ever more of his time on the consequences of illegal cannabis production. One of the challenges is 'the daily accumulation and disposal of human waste and garbage that is buried on site. Many are plastic containers left over from fertilizers and pesticides.'"

(f) The Legislature finds and declares that internet companies' listing of unlawful cannabis sellers when those companies have readily available, inexpensive, and public resources to distinguish between licensed and unlicensed cannabis businesses poses a direct, immediate, and urgent risk to the public health and safety of its citizens, especially its children.

(g) The Legislature finds and declares that such companies routinely prevent content that they disfavor from appearing on their products. For example, Meta's Facebook blocks nudity, Google's YouTube blocks copyrighted songs, and Meta's Instagram was exposed as being able to detect and intercept child sex abuse material, permitting users to click through and see it after being warned.

(h) The Legislature finds and declares that, for all the aforementioned reasons, internet companies must shoulder some accountability for their role in facilitating criminal enterprises that pose direct, immediate, and urgent risks to public health and safety.

SEC. 2. Chapter 31.3 (commencing with Section 22943) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 31.3. Online Cannabis Marketplaces

22943. For purposes of this chapter, the following definitions apply:

(a) "Advertisement" means an advertisement about, or an offer of, the sale of cannabis or a cannabis product.

(b) "Business information" means an internet website, mobile application, address, or telephone number through which a seller offers to sell, or a consumer makes a purchase of, cannabis or a cannabis product.

(c) "Cannabis" has the same meaning as that term is defined in Section 26001.

(d) "Cannabis product" has the same meaning as "cannabis products" as defined in Section 26001.

(e) "Clear and conspicuous" means in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the language. The Attorney General may promulgate regulations further defining clear and conspicuous.

(f) "License" means a license issued by the Department of Cannabis Control pursuant to Division 10 (commencing with Section 26000).

(g) "Online cannabis marketplace" means an internet website, online service, online application, or mobile application, or a portion thereof, including a social media platform, as defined in Section 1798.99.20 of the Civil Code, that does any of the following in California:

(1) Transmits or otherwise communicates between a third-party seller and consumer an offer for the sale of cannabis or a cannabis product that is accepted by the consumer.

(2) Offers for sale cannabis or a cannabis product.

(3) Connects a third-party seller of cannabis or cannabis products and a consumer.

(h) "Third-party seller" means a person or entity, independent of an online marketplace, who sells, offers to sell, or contracts with an online marketplace to sell a product in the state by or through an online marketplace.

22943.2. (a) An online cannabis marketplace shall address in its terms of service both of the following:

(1) Whether the online cannabis marketplace permits advertisements from, or business information about, unlicensed sellers of cannabis or cannabis products to be viewed by Californians on its marketplace.

(2) Whether the online cannabis marketplace verifies that a seller of cannabis or cannabis products has a valid, unexpired license by consulting the license look-up function on the Department of Cannabis Control's internet website established pursuant to Section 26012.5 before displaying, storing, or hosting the seller's advertisements or business information in a manner that is viewable to Californians.

(b) (1) An online cannabis marketplace shall establish a clear and conspicuous mechanism within its internet-based service that allows any individual, whether or not that individual has a profile on the internet-based service or is a user, to report to the online cannabis marketplace the display, storing, or hosting on the marketplace of advertisements from, or business information about, an unlicensed seller of cannabis or cannabis products.

(2) The mechanism required by this subdivision shall meet all of the following criteria:

(A) The mechanism shall allow, but not require, an individual to do both of the following:

(i) Upload a screenshot of the content that offers evidence of advertisements from, or business information about, the unlicensed seller on the marketplace.

(ii) Provide the marketplace with basic identifying information, such as an account identifier or URL, sufficient to permit marketplace to locate the reported material.

(B) The mechanism shall include, but not be limited to, a method for the marketplace to contact a reporting individual in writing, including a telephone number for purposes of sending text messages, an email address, or another reasonable electronic method of communication.

(C) The mechanism shall provide, within 36 hours of receipt of a report, a written confirmation to the reporting individual that the marketplace has received that individual's report.

(D) (i) The mechanism shall provide periodic written updates to the reporting individual as to the status of the marketplace's handling of the reported material using the method of communication pursuant to subparagraph (B).

(ii) The first written update required by clause (i) shall be provided as soon as reasonably feasible but no later than 14 days after the date on which the written confirmation required under subparagraph (C) is provided. Subsequent written updates shall be provided as soon as reasonably feasible but no later than 14 days after the most recent written update provided pursuant to this clause, until the final written determination required by subparagraph (F).

(E) Each report shall receive a review by a natural person.

(F) (i) The mechanism shall issue a final written determination to the reporting individual within 30 days of receiving the report. The final written determination shall state one of the following:

(I) The report has provided evidence that an advertisement from, or business information about, an unlicensed seller of cannabis or cannabis products was displayed, stored, or hosted on the marketplace and the seller's advertisements and business information have been blocked from being viewable on the marketplace.

(II) The report has provided evidence that an advertisement from, or business information about, an unlicensed seller of cannabis or cannabis products was or is displayed, stored, or hosted on the marketplace and the seller's advertisements and business information will not be blocked from being viewable on the marketplace. The final written determination issued pursuant to this subclause shall also state that the marketplace acknowledges that it is aware that the seller is unlicensed and whether the marketplace has referred the report to a law enforcement agency. If the marketplace has referred the report to a law enforcement agency, the final written determination shall provide a true and correct copy of the report that the marketplace made to the law enforcement agency.

(III) The report lacks evidence that the identified seller of cannabis or cannabis products who was or is displayed, stored, or hosted on the marketplace is unlicensed and the seller's advertisements and business information will not be blocked from being viewable on the marketplace.

(IV) The report lacks evidence that the identified seller of cannabis or cannabis products whose advertisement or business information was or is displayed, stored, or hosted on the marketplace is unlicensed and the seller's advertisements and business information will be blocked from being viewable on the marketplace for reasons unrelated to the seller's licensing status.

(V) The report lacks evidence that an advertisement or business information of a seller of cannabis or cannabis products was displayed, stored, or hosted on the marketplace.

(ii) If the marketplace cannot comply with clause (i) within 30 days due to circumstances beyond the reasonable control of the marketplace, the marketplace shall comply with clause (i) no later than 60 days after the date on which the report was received. If this clause applies, the marketplace shall promptly provide written notice of the delay, no later than 48 hours from the time the marketplace knew the delay was likely to occur, to the reporting individual.

(c) This section shall not be interpreted to prohibit any individual from reporting activity by an unlicensed seller of cannabis or cannabis products without the use of the mechanism established in subdivision (b).

(d) (1) Any online cannabis marketplace that violates a requirement of this section shall be liable for a civil penalty of not more than ten thousand dollars (\$10,000) for each violation and for compensatory damages, punitive damages, and any civil remedies, penalties, or sanctions for harms caused by the marketplace's failure to comply with this chapter, which damages shall be adjudicated and awarded apart from any harms attributable to the existence of the reported content alone.

(2) Any person may bring an action to enforce this section. In addition to other equitable relief, the court may order injunctive relief to obtain compliance with this section and shall award reasonable attorney's fees and costs to the prevailing plaintiff.

(3) A person shall not bring an action to enforce paragraph (2) of subdivision (b) if the marketplace, upon receipt of the advertisement or business information through the mechanism, removes the reported advertisement or business information within 48 hours.

(4) It is not a violation of paragraph (2) of subdivision (b) if the marketplace, upon receipt of the report, removes the reported advertisement or business information within 48 hours.

(5) Each day an online cannabis marketplace is in violation of a requirement of this section constitutes a separate violation.

(e) The duties and obligations imposed by this section are cumulative with any other duties or obligations imposed under other law and shall not be construed to relieve any party from any duties or obligations imposed under other law.

22943.4. (a) If an online cannabis marketplace does not verify that a seller of cannabis or cannabis products is licensed as described in paragraph (2) of subdivision (a) of Section 22943.2, the online cannabis marketplace shall, immediately after a consumer has accessed the marketplace, interpose a clear and conspicuous graphic that a consumer must acknowledge and click through before viewing or engaging with the marketplace. The graphic shall warn the consumer that the marketplace may be displaying, storing, or hosting unlicensed sellers of cannabis or cannabis products.

(b) Any person who identifies an online cannabis marketplace that displays, stores, or hosts an advertisement from, or business information about, an unlicensed seller of cannabis or cannabis products in violation of subdivision (a) may initiate an action to enforce subdivision (a). A person who prevails in such an action shall be entitled to both of the following:

(1) Reasonable attorneys' fees and costs.

(2) A civil penalty of up to two hundred fifty thousand dollars (\$250,000).

(c) An online cannabis marketplace that violates an injunction requiring compliance with this section shall be prohibited from operating in California until a receiver appointed by the court issuing the injunction affirms to the court that the marketplace is in compliance. In any action to enforce an injunction requiring compliance with this section, the party obtaining enforcement shall be entitled to an award of its reasonable attorneys' fees and costs and a civil penalty of up to five hundred thousand dollars (\$500,000).

(d) This section shall not be construed as prohibiting a public prosecutor, as described in Section 17204, from bringing an appropriate action to enforce this section.

22943.6. This chapter shall become operative on July 1, 2026.

SEC. 3. Chapter 31.4 (commencing with Section 22944) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 31.4. Online Hemp Marketplaces

22944. For purposes of this chapter, the following definitions apply:

(a) "Advertisement" means an advertisement about, or an offer of, a sale of an intoxicating hemp product.

(b) "Business information" means an internet website, mobile application, address, or telephone number through which a seller offers to sell, or a consumer makes a purchase of, an intoxicating hemp product.

(c) "Clear and conspicuous" means in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the language. The Attorney General may promulgate regulations further defining clear and conspicuous.

(d) "Industrial hemp product" has the same meaning as that term is defined in subdivision (g) of Section 111920 of the Health and Safety Code.

(e) "Inhalable hemp product" includes any hemp product that can be used by inhalation, including, but not limited to, hemp flower, hemp prerolls, hemp vaping cartridges, liquids, or prefilled devices, hemp shatter, wax, budder, or other hemp derived concentrates that can be used for inhalation.

(f) "Intoxicating hemp product" means either of the following:

(1) A hemp product whose THC concentration exceeds the amounts allowable under the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104 of the Health and Safety Code) or any rules or regulations adopted thereunder, and is unlawful to sell without a license.

(2) An inhalable hemp product with a detectable THC concentration, and is unlawful to sell without a license.

(g) "Licensed" means licensed pursuant to Division 10 (commencing with Section 26000).

(h) "Online hemp marketplace" means an internet website, online service, online application, or mobile application, or a portion thereof, including a social media platform, as defined in Section 1798.99.20 of the Civil Code, that, as applied to products containing hemp for human consumption, including, but not limited to, cosmetics, food, food additives, dietary supplements, or lotions, does any of the following in California:

(1) Transmits or otherwise communicates between a third-party seller and consumer an offer for the sale of an intoxicating hemp product that is accepted by the consumer.

(2) Offers for sale an intoxicating hemp product.

(3) Connects a third-party seller of an intoxicating hemp product and a consumer.

(i) "Third-party seller" means a person or entity, independent of an online marketplace, who sells, offers to sell, or contracts with an online marketplace to sell a product in the state by or through an online marketplace.

22944.2. (a) (1) An online hemp marketplace shall establish a clear and conspicuous mechanism within its internet-based service that allows any individual, whether or not that individual has a profile on the internet-based service or is a user, to report to the online hemp marketplace the existence on the marketplace of an advertisement of an intoxicating hemp product.

(2) The mechanism required by this subdivision shall meet all of the following criteria:

(A) The mechanism shall allow, but not require, an individual to do both of the following:

(i) Upload a screenshot of the content that offers evidence of an offer of a sale of an intoxicating hemp product on the marketplace.

(ii) Provide to the online hemp marketplace basic identifying information, such as an account identifier or URL, sufficient to permit the marketplace to locate the reported material.

(B) The mechanism shall include, but not be limited to, a method for the online hemp marketplace to contact a reporting individual in writing, including a telephone number for purposes of sending text messages, an email address, or another reasonable electronic method of communication.

(C) The mechanism shall provide, within 36 hours of receipt of a report, a written confirmation to the reporting individual that the marketplace has received that individual's report.

(D) (i) The mechanism shall provide periodic written updates to the reporting individual as to the status of the marketplace's handling of the reported material using the method of communication pursuant to subparagraph (B).

(ii) The first written update required by clause (i) shall be provided as soon as reasonably feasible but no later than 14 days after the date on which the written confirmation required under subparagraph (C) is provided. Subsequent written updates shall be provided as soon as reasonably feasible but no later than 14 days after the most recent written update provided pursuant to this clause, until the final written determination required by subparagraph (F).

(E) Each report shall receive a review by a natural person.

(F) (i) The mechanism shall issue a final written determination to the reporting individual within 30 days of receiving the report. The final written determination shall state one of the following:

(I) The report has provided evidence that an advertisement of an intoxicating hemp product was displayed, stored, or hosted on the marketplace and the seller's advertisements and business information have been blocked from being viewable on the marketplace.

(II) The report has provided evidence that an advertisement of an intoxicating hemp product was or is displayed, stored, or hosted on the marketplace and the seller's advertisements and business information will not be blocked from being viewable on the marketplace. The final written determination issued pursuant to this subclause shall also state that the marketplace acknowledges that it is aware that the seller is advertising an intoxicating hemp product and whether the marketplace has referred the report to a law enforcement agency. If the marketplace has referred the report to a law enforcement agency, the final written determination shall provide a true and correct copy of the report that the marketplace made to the law enforcement agency.

(III) The report lacks evidence that the identified seller whose advertisement or business information was or is displayed, stored, or hosted on the marketplace was or is advertising an intoxicating hemp product and the seller's advertisements and business information will not be blocked from being viewable on the marketplace.

(IV) The report lacks evidence that the identified seller whose advertisements and business information was or is displayed, stored, or hosted on the marketplace was or is advertising an intoxicating hemp product and the seller's advertisements and business information will be blocked from being viewable on the marketplace for reasons unrelated to the reported advertisement of an intoxicating hemp product.

(V) The report lacks evidence that an advertisement of an intoxicated hemp product was or is displayed, stored, or hosted on the marketplace.

(ii) If the marketplace cannot comply with clause (i) within 30 days due to circumstances beyond the reasonable control of the marketplace, the marketplace shall comply with clause (i) no later than 60 days after the date on which the report was received. If this clause applies, the marketplace shall promptly provide written notice of the delay, no later than 48 hours from the time the marketplace knew the delay was likely to occur, to the reporting individual.

(b) This section shall not be interpreted to prohibit any individual from reporting the advertisement of intoxicating hemp without the use of the mechanism established in subdivision (a).

(c) (1) Any online hemp marketplace that violates a requirement of this section shall be liable for a civil penalty of not more than ten thousand dollars (\$10,000) for each violation and for compensatory damages, punitive damages, and any civil remedies, penalties, or sanctions for harms caused by the marketplace's failure to comply with this chapter, which damages shall be adjudicated and awarded apart from any harms attributable to the existence of the reported content alone.

(2) A person may bring an action to enforce this section. In addition to other equitable relief, the court may order injunctive relief to obtain compliance with this section and shall award reasonable attorney's fees and costs to the prevailing plaintiff.

(3) A person shall not bring an action to enforce paragraph (2) of subdivision (a) if the marketplace, upon receipt of the advertisement or business information through the mechanism, removes the reported advertisement or business information within 48 hours.

(4) It is not a violation of paragraph (2) of subdivision (a) if the marketplace, upon receipt of the report, removes the reported advertisement or business information within 48 hours.

(5) Each day an online hemp marketplace is in violation of a requirement of this section constitutes a separate violation.

(d) The duties and obligations imposed by this section are cumulative with any other duties or obligations imposed under other law and shall not be construed to relieve any party from any duties or obligations imposed under other law.

22944.4. This chapter shall become operative on July 1, 2026.

SEC. 4. Section 1714.47 is added to the Civil Code, to read:

1714.47. (a) For purposes of this section, the following definitions apply:

(1) "Business information" means an internet website, mobile application, address, or telephone number through which a seller offers to sell, or a consumer makes a purchase of, a product.

(2) "Cannabis" has the same meaning as that term is defined in subdivision (f) of Section 26001 of the Business and Professions Code.

(3) "Cannabis product" has the same meaning as that term is defined in subdivision (k) of Section 26001 of the Business and Professions Code.

(4) "Intoxicating hemp product" has the same meaning as that term is defined in Section 22944 of the Business and Professions Code.

(5) "Licensed" means licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(6) "Online marketplace" means an online cannabis marketplace, as that term is defined in Section 22943 of the Business and Professions Code, or an online hemp marketplace, as that term is defined in Section 22944 of the Business and Professions Code.

(7) "Unlawful paid online advertising" means an advertisement or promotional information displayed on a computer or mobile device about, or for an offer of, the sale of cannabis or a cannabis product by an unlicensed seller, or an intoxicating hemp product, for which an online marketplace receives compensation either directly from a business or indirectly by increasing the number of individuals who visit the marketplace.

(b) (1) An online marketplace shall not engage in unlawful paid online advertising related to unlicensed sellers of cannabis or cannabis products or intoxicating hemp products.

(2) An online marketplace that engages in unlawful paid online advertising related to unlicensed sellers of cannabis or cannabis products in violation of paragraph (1) and is a substantial factor in an unlawful transaction between a consumer and an unlicensed seller of cannabis or a cannabis product shall be jointly and severally liable for all damages caused to the consumer by the ingestion of the cannabis or cannabis product.

(3) An online marketplace that engages in unlawful paid online advertising related to sellers of intoxicating hemp products in violation of paragraph (1) and is a substantial factor in an unlawful transaction between a consumer and a seller of an intoxicating hemp product shall be jointly and severally liable for all damages caused to the consumer by the ingestion of the intoxicating hemp product.

(c) (1) Except as provided in subdivision (d), in an action brought pursuant to paragraph (2) of subdivision (b) for harm to a consumer caused by the ingestion of cannabis or a cannabis product purchased from an unlicensed seller of cannabis products, a prevailing plaintiff may, in addition to any other remedy at law, recover as a civil penalty up to two times the damages caused by the cannabis or cannabis product if the online marketplace had actual knowledge that the seller that offered the cannabis or cannabis product was not licensed. For purposes of this paragraph, receipt of a report pursuant to Section 22943.2 or 22944.2 of the Business and Professions Code may be a basis for obtaining knowledge.

(2) Except as provided in subdivision (d), in an action brought pursuant to paragraph (3) of subdivision (b) for harm to a consumer caused by the ingestion of an intoxicating hemp product, a prevailing plaintiff may, in addition to any other remedy at law, recover as a civil penalty up to two times the damages caused by the intoxicating hemp product if the online marketplace had actual knowledge that the product was an intoxicating hemp product. For purposes of this paragraph, receipt of a report pursuant to Section 22943.2 or 22944.2 of the Business and Professions Code may be a basis for obtaining knowledge.

(d) (1) In an action described in paragraph (1) of subdivision (c), a prevailing plaintiff may, in addition to any other remedy at law, recover as a civil penalty up to three times the damages suffered by a child caused by the ingestion of cannabis or a cannabis product if the online marketplace had actual knowledge at the time the marketplace facilitated the connection that the seller that offered the cannabis or cannabis product was not licensed. For purposes of this paragraph, receipt of a report pursuant to Section 22943.2 or 22944.2 of the Business and Professions Code may be a basis for obtaining knowledge.

(2) In an action described in paragraph (2) of subdivision (c), a prevailing plaintiff may, in addition to any other remedy at law, recover as a civil penalty up to three times the damages suffered by a child caused by the ingestion of the intoxicating hemp product if the online marketplace had actual knowledge at the time the marketplace facilitated the connection that the product was an intoxicating hemp product. For purposes of this paragraph, receipt of a report pursuant to Section 22943.2 or 22944.2 of the Business and Professions Code may be a basis for obtaining knowledge.

(e) This section shall not be construed as applying to information or content displayed by a business on a computer or mobile device when the content does not satisfy the definition of unlawful paid online advertisement.

(f) (1) In a civil action brought pursuant to subdivision (b), (c), or (d) against an online marketplace in relation to cannabis or cannabis products, it is a complete affirmative defense if the online marketplace establishes, by clear and convincing evidence, all of the following:

(A) The online marketplace had, at the time the allegedly harmful product was sold, in full force and effect, a policy and practice of verifying that each seller of cannabis or cannabis products had a license.

(B) The seller had a valid, unexpired license at the time of the sale.

(C) The online marketplace never had custody or control of the cannabis or cannabis product.

(2) In a civil action brought pursuant to subdivision (b), (c), or (d) against an online marketplace in relation to intoxicating hemp products, it is a complete affirmative defense if the online marketplace establishes, by clear and convincing evidence, all of the following:

(A) The defendant had, at the time the allegedly harmful product was sold, in full force and effect, a policy and practice of requiring offers to sell a product containing hemp to describe the product as "THC free" or "nonintoxicating," or to contain that statement "[Insert online marketplace name] does not permit the sale of intoxicating hemp," where those words appear in the largest text visible to the public describing or identifying the product and are either of the following:

(i) In the same size and style as the largest text visible to the public describing or identifying the product.

(ii) Clearly and conspicuously disclosed as a part of the largest text visible to the public describing or identifying the product.

(B) The disclosure described by subparagraph (A) existed at the time the product was sold to the consumer.

(C) The defendant never had custody or control of the product.

(3) In a civil action brought pursuant to subdivision (b), (c), or (d) against an online marketplace in relation to intoxicating hemp products, it is a complete affirmative defense if the online marketplace establishes, by clear and convincing evidence, all of the following:

(A) The defendant did not know or should not have known from the information it obtained from the seller, including the description of the product, that the hemp was intoxicating.

(B) The defendant never had custody or control of the allegedly harmful product.

(4) In a civil action brought pursuant to subdivision (b), (c), or (d) against an online marketplace in relation to intoxicating hemp products, it is a complete affirmative defense if the online marketplace establishes, by clear and convincing evidence, all of the following:

(A) The defendant received a report pursuant to the mechanism required by Section 22944.2 of the Business and Professions Code that the seller of the intoxicating hemp product alleged to have caused the injury was selling intoxicating

hemp.

(B) Prior to the sale of the intoxicating hemp product alleged to have caused the injury, the defendant did either of the following:

(i) Required the disclosure described in paragraph (2).

(ii) Removed the seller from their marketplace.

(5) (A) In a civil action brought pursuant to subdivisions (b), (c), or (d) against an online marketplace in relation to intoxicating hemp products, it is a complete affirmative defense if the online marketplace establishes, by clear and convincing evidence, that the marketplace did either of the following:

(i) Prior to the action being filed, within 48 hours of the online marketplace knowing it was violating paragraph (1) of subdivision (b), removed the product description that offered the intoxicating hemp that is alleged to have caused the harm from the marketplace, and the product description remained removed from the marketplace without interruption until the time the action was filed.

(ii) Prior to the action being filed, within 48 hours of the online marketplace knowing it was violating paragraph (1) of subdivision (b), inserted or caused to be inserted into the product description of the product that is alleged to have caused the harm disclosures that describe the product as "THC free" or "nonintoxicating," or "[Insert marketplace name] does not permit the sale of intoxicating hemp," where the words "THC free" or "nonintoxicating" or "[Insert marketplace name] does not permit the sale of intoxicating hemp," appear in the largest text visible to the public describing or identifying the product, those words appeared on the product description without interruption until the time the action was filed, and those words are either of the following:

(I) In the same size and style as the largest text visible to the public describing or identifying the product.

(II) Clearly and conspicuously disclosed as a part of the largest text visible to the public describing or identifying the product.

(B) For purposes of this paragraph, receipt of a report pursuant to Section 22943.2 or 22944.2 of the Business and Professions Code may be a basis for obtaining knowledge.

(g) In any action brought pursuant to this section, an online marketplace may, notwithstanding any provision in an agreement or contract, seek in the same action indemnification against an advertiser of cannabis, cannabis products, or intoxicating hemp products that misrepresented to the online marketplace that they were licensed or registered to sell that product, or misrepresented to the online marketplace that they were a seller of nonintoxicating hemp.

(h) This section shall become operative on July 1, 2026.

SEC. 5. The provisions of this bill are severable. If any provision of this bill or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.