

Cannabis – Advertising and Marketing Restrictions

In 2015, the Legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA), a series of three bills that established the State’s three cannabis licensing authorities (The Bureau of Cannabis Control, CalCannabis Cultivation Licensing, and the Manufactured Cannabis Safety Branch) and created a comprehensive framework for licensing, regulating, and enforcing commercial medicinal cannabis activities.

In November 2016, California voters approved Proposition 64, also known as the Adult Use of Marijuana Act (“AUMA”), which enabled adults 21 years of age or older to grow, possess and use cannabis for recreational purposes, and legalized the sale and distribution of cannabis (with certain restrictions), effective January 1, 2018.

In June 2017, the State combined MCRSA and AUMA via a budget trailer bill, Senate Bill 94, into “MAUCRSA” – the Medicinal and Adult-Use Cannabis Regulation and Safety Act. Under MAUCRSA, a single regulatory system governs the medicinal and adult use cannabis industry in California.

Prop 64 and MAUCRSA were passed, in part, with the purpose and intent of legalizing cannabis on the promise of creating regulations that protect public safety, public health and the environment, maintain local control and prevent access to minors. Under MAUCRSA Cannabis was legalized for those over 21 years old and includes strict safeguards against children accessing it. Among other things it provides new resources to educate youth against drug use and bars cannabis businesses from being located within 600 feet of schools and other areas where children congregate. It establishes mandatory and strict packaging and labeling requirements for cannabis and cannabis products and mandates that cannabis and cannabis products cannot be advertised or marketed towards children.

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MOTION BY SUPERVISOR KATHRYN BARGER

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Page 2

In some communities including those in the Santa Clarita Valley, there has been a distribution of door hangers at residential properties advertising cannabis products that can be delivered to your door, including cannabis edibles and snacks that would appeal to kids. This direct marketing to homes where families with children reside is exactly what the voters and the Legislature were desirous of restricting.

MAUCRSA expressly provides that a local jurisdiction may adopt and enforce ordinances to regulate businesses including but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed by the state. MAUCRSA also requires that 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.

In order to protect our children from direct marketers' individualized solicitation, the County should adopt an ordinance consistent with the restrictions imposed by State law and require any business advertising or marketing cannabis or cannabis products directly to the consumer be required to verify the recipient is 21 years of age or older before engaging in that communication.

I, THEREFORE MOVE, that the Board of Supervisors instruct County Counsel to report back to the Board in two weeks with a legal analysis of current state law concerning cannabis advertisement along with recommendations for how the County may impose additional restrictions at the local level.

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