

Date of Hearing: April 14, 2026

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Marc Berman, Chair

AB 2249 (Irwin) – As Amended March 16, 2026

SUBJECT: Cannabis: labels, packaging, and manufacturing.

SUMMARY: Establishes a definition of “attractive to children” for purposes of prohibited advertising, marketing, packaging, and labeling of cannabis and cannabis products; requires the Department of Cannabis Control (DCC) to produce a standardized rubric for determining whether cannabis products are attractive to children; and requires the DCC to establish a process for licensees to request a written determination of whether a proposed packaging or labeling of a cannabis product is attractive to children.

EXISTING LAW:

- 1) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to provide for a comprehensive regulatory framework for the cultivation, distribution, transport, storage, manufacturing, processing, and sale of medicinal and adult-use cannabis. (Business and Professions Code (BPC) §§ 26000 *et seq.*)
- 2) Establishes the DCC within the Business, Consumer Services, and Housing Agency for purposes of administering MAUCRSA. (BPC § 26010)
- 3) Establishes grounds for disciplinary action against cannabis licensees, including failures to comply with state requirements as well as local laws and ordinances. (BPC § 26030)
- 4) Authorizes the DCC to suspend, revoke, place on probation, or otherwise discipline licensees for specified acts or omissions constituting grounds for disciplinary action. (BPC § 26031)
- 5) Requires cannabis or cannabis products purchased by a customer to be placed in an opaque package prior to leaving a licensed retail premises. (BPC § 26070.1)
- 6) Requires cannabis and cannabis products to be labeled and placed in a tamper-evident, child-resistant package prior to delivery or sale. (BPC § 26120(a))
- 7) Prohibits cannabis and cannabis product packages and labels from being made to be attractive to children. (BPC § 26120(b))
- 8) Requires cannabis and cannabis product labels and inserts to include specified information prominently displayed in a clear and legible fashion. (BPC § 26120(c))
- 9) Provides that only generic food names may be used to describe the ingredients in edible cannabis products. (BPC § 26120(d))
- 10) Allows for cannabis beverages to be packaged in containers that are clear or any color. (BPC § 26120(e))

- 11) Effective July 1, 2024, prohibits the package or label of a cannabis cartridge and an integrated cannabis vaporizer from indicating that the cartridge or vaporizer is disposable or implying that it may be thrown in the trash or recycling streams. (BPC § 26120(f))
- 12) Requires the DCC to regularly reevaluate its labeling regulations to determine whether additional warnings are necessary to reflect evolving science regarding the risks that cannabis use may cause consumers. (BPC § 26121)
- 13) Requires a cannabis cartridge or integrated cannabis vaporizer to bear a universal symbol and defines “integrated cannabis vaporizer” as a singular device that contains both cannabis oil and an integrated electronic device that creates an aerosol or vapor. (BPC § 26122)
- 14) Requires the DCC to establish standards for the manufacturing, packaging, and labeling of all manufactured cannabis products. (BPC § 26130(a))
- 15) Requires edible cannabis products to be all of the following:
 - a) Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain cannabis.
 - b) Produced and sold with a standardized concentration of cannabinoids not to exceed 10 milligrams tetrahydrocannabinol (THC) per serving.
 - c) Delineated or scored into standardized serving sizes if the cannabis product contains more than one serving and is an edible cannabis product in solid form.
 - d) Homogenized to ensure uniform disbursement of cannabinoids throughout the product.
 - e) Manufactured and sold under sanitation standards established by the DCC that are similar to the standards for preparation, storage, handling, and sale of food products.
 - f) Provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the cannabis product and directions as to how to consume the cannabis product, as necessary.
 - g) Marked with a universal symbol, as determined by the DCC through regulation.
 - h) Prohibits edible cannabis products from being designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain cannabis.(BPC § 26130(C))
- 16) Provides that standards for the production, packaging, and labeling of all cannabis products developed by the DCC apply to all licensed manufacturers, microbusinesses, and nonprofits, unless otherwise specified by the DCC. (BPC § 26131)
- 17) Defines “advertisement” as 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 product label or news publications. (BPC § 26150(b))

- 18) Defines “marketing” as 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. (BPC § 26150(e))
- 19) Requires that all cannabis advertisements identify the license number of the licensee responsible for its content, requires any advertising or marketing by cannabis licensees placed in broadcast, cable, radio, print, and digital communications to only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, and requires any direct advertising or marketing by cannabis licensees to verify that the recipient is 21 years of age or older. (BPC § 26151)
- 20) Prohibits a person engaged in commercial cannabis activity, whether licensed or unlicensed, from doing any of the following:
 - a) Advertising or marketing 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) Publishing or disseminating advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on its labeling.
 - c) Publishing or disseminating advertising or marketing containing any statement, design, device, or representation which tends to create the impression that cannabis or hemp 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) Advertising or marketing on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border.
 - e) Advertising or marketing cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.
 - f) Publishing or disseminating advertising or marketing that is attractive to children.
 - g) Advertising or marketing cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 to 12, inclusive, playground, or youth center.
 - h) Publishing or disseminating advertising or marketing while the licensee’s license is suspended.(BPC § 26152)
- 21) Requires the advertisement and marketing of an integrated cannabis vaporizer to provide specified statements about how to correctly dispose of those products. (BPC § 26152.1)
- 22) Authorizes the Attorney General, on behalf of the people, a city attorney, or a county counsel to bring and maintain an action for violations of cannabis advertising prohibitions. (BPC § 26152.2)

- 23) Prohibits a cannabis licensee from including on the label of any cannabis or cannabis product or publishing or disseminating 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. (BPC § 26154)
- 24) Exempts from the prohibition against advertising within 1,000 feet of a day care, school, playground, or youth center the placement of advertising signs inside a licensed premises that 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. (BPC § 26155)
- 25) Requires a manufacturer, distributor, or seller of an industrial hemp product to follow packaging, labeling, and advertising laws applicable to cannabis businesses. (Health and Safety Code § 111926)

THIS BILL:

- 1) Defines “attractive to children” for purposes of MAUCRSA as meaning any of the following:
 - a) Images that are designed or likely to appeal to children, except as part of required health warnings, including, but not limited to, any of the following:
 - i) Cartoons, as defined.
 - ii) Any real or fictional humans, unless used to convey information regarding safe use of the product or packaging.
 - iii) Any fictional animals or creatures.
 - iv) Fruits or vegetables, except when used to accurately describe ingredients or flavors contained in a product.
 - v) Toys or robots.
 - vi) Bubble-type or other cartoon-like font, including, but not limited, to typography which uses rounded shapes that resemble bubbles, balloons, or other inflated shapes.
 - b) Any likeness to images, characters, or phrases that are popularly used to advertise to children or resemble a noncannabis consumer product that is marketed to children.
 - c) Any likeness to a noncannabis consumer product that is marketed to children.
 - d) Any imitation of candy packaging or labeling, or other packaging and labeling of cereals, sweets, chips, or other food products typically marketed to children.
 - e) The terms “candy” or “candies” or variants in spelling such as “kandy” or “kandee.”
 - f) Brand names or close imitations of brand names of candies, cereals, sweets, chips, or other food products typically marketed to children.

- g) Any other image or packaging that is easily confused with commercially available foods that do not contain cannabis and are typically marketed to children.
 - h) Anything else that the DCC determines in regulation to be attractive to children.
 - i) Anything else that is attractive to children in light of all relevant facts and circumstances.
- 2) Provides that cannabis, cannabis products, packages, and labels shall not be made to be attractive to children.
 - 3) Prohibits a manufacturer, distributor, or seller of cannabis or cannabis products from manufacturing, distributing, or selling any cannabis or cannabis product, or any packaging or labeling, that is attractive to children.
 - 4) Requires the DCC to develop, adopt, and implement by regulation a standardized rubric for determining whether cannabis products, including their packaging and labeling, are attractive to children, on or before July 1, 2027.
 - 5) Provides that the standardized rubric shall identify and describe prohibited design elements, including, but not limited to, all of the following elements:
 - a) Images, characters, or depictions.
 - b) Product form factors or physical presentations.
 - c) Color schemes, graphic styles, or fonts.
 - d) Resemblance to commercially available foods, beverages, or consumer products that are commonly marketed to children.
 - 6) Requires the DCC to make the rubric publicly available, including on its internet website, and to provide the rubric to licensees as guidance.
 - 7) Provides that the DCC shall update the rubric by regulation as necessary to reflect emerging products, marketing practices, and public health data.
 - 8) Requires the DCC develop, adopt, and implement by regulation a process by which a licensee may voluntarily request a written determination from the DCC to inform the licensee of whether a proposed packaging or labeling of a cannabis product is attractive to children.
 - 9) Requires the DCC to establish the written determination process by July 1, 2027.
 - 10) Provides that the DCC shall use the standardized rubric in making a determination pursuant to this section.
 - 11) Requires the DCC to issue a written determination within 30 calendar days of receiving a request for a determination.
 - 12) Provides that a written determination issued by the DCC for a proposed packaging or label of a cannabis product shall be binding on the DCC for purposes of any subsequent enforcement action against any licensee.

- 13) Authorizes the DCC to establish by regulation a reasonable fee to cover the costs of making a written determination.
- 14) Provides that requesting a written determination shall not be required as a condition of licensure under MAUCRA or for the sale of a cannabis product.

FISCAL EFFECT: Unknown; this bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author:

The recent audit completed by the State Auditor confirmed what many have long recognized: California’s cannabis industry continues to package and market products in ways which are overtly attractive to children. Since the passage of Proposition 64, child cannabis poisonings have increased dramatically. These exposures are often driven by cannabis product packaging that uses features which are explicitly attractive to children, leading children to consume the products unintentionally. Young children who accidentally consumer cannabis require poison control treatment consistently, and in many cases they can also expose their fellow elementary and middle school peers to cannabis. AB 2249 acts on recommendations from the auditor to clarify and strengthen California’s standards for what constitutes cannabis packaging that is attractive to children. The bill also ensures that the Department of Cannabis Control provides licensees with additional resources and pathways to work on designing compliant packaging which is not attractive to children. Taken together, these reforms will protect children from cannabis poisonings and ensure we keep young Californians out of the emergency room.

Background.

Brief History of Cannabis Regulation in California. Consumption of cannabis was first made lawful in California in 1996 when voters approved Proposition 215, the Compassionate Use Act. Proposition 215 protected qualified patients and caregivers from prosecution relating to the possession and cultivation of cannabis for medicinal purposes, if recommended by a physician. This regulatory scheme was further refined by SB 420 (Vasconcellos) in 2003, which established the state’s Medical Marijuana Program. After several years of lawful cannabis cultivation and consumption under state law, a lack of a uniform regulatory framework led to persistent problems. Cannabis’s continued illegality under the federal Controlled Substances Act, which classifies cannabis as a Schedule I drug ineligible for prescription, generated periodic enforcement activities by the United States Department of Justice. Threat of action by the federal government created persistent apprehension within California’s cannabis community.

After several prior attempts to improve the state’s regulation of cannabis, the Legislature passed the Medical Marijuana Regulation and Safety Act—subsequently retitled the Medical Cannabis Regulation and Safety Act (MCRSA)—in 2015. MCRSA established, for the first time, a comprehensive statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis. While entrusting state agencies to promulgate extensive regulations governing the implementation of the state’s cannabis laws, MCRSA fully preserved local control. Under MCRSA, local governments may establish their own ordinances to regulate medicinal cannabis activity. Local jurisdictions could also choose to ban cannabis establishments altogether.

Not long after the Legislature enacted MCRSA, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA). The passage of the AUMA legalized cannabis for non-medicinal adult use in a private home or licensed business; allowed adults 21 and over to possess and give away up to approximately one ounce of cannabis and up to eight grams of concentrate; and permitted the personal cultivation of up to six plants. The proponents of the AUMA sought to make use of much of the regulatory framework and authorities set out by MCRSA while making a few notable changes to the structure still being implemented.

In the spring of 2017, SB 94 (Committee on Budget and Fiscal Review) was passed to reconcile the distinct systems for the regulation, licensing, and enforcement of legal cannabis that had been established under the respective authorities of MCRSA and the AUMA. The single consolidated system established by the bill—known as MAUCRSA—created a unified series of cannabis laws. On January 16, 2019, the state’s three cannabis licensing authorities—the Bureau of Cannabis Control, the California Department of Food and Agriculture, and the California Department of Public Health—officially announced that the Office of Administrative Law had approved final cannabis regulations promulgated by the three agencies respectively.

In 2021, the Department of Finance released trailer bill language to create a new department with centralized authority for cannabis licensing and enforcement activities. This new department was created through a consolidation of the three prior licensing authorities’ cannabis programs. As of July 1, 2021, the DCC has been the single entity responsible for administering and enforcing the majority of MAUCRSA. New regulations went into effect on January 1, 2023 to effectuate the organizational consolidation and make other changes to cannabis regulation.

Child-Attractive Advertising and Labeling Restrictions. Prior to the AUMA being passed by the voters, arguments both for and against the initiative debate whether Proposition 64 would adequately protect children from exposure to the cannabis industry. In the official text of Proposition 64, the purpose and intent of the initiative was stated to include an intention to “prohibit the marketing and advertising of nonmedical marijuana to persons younger than 21 years old or near schools or other places where children are present.” Proposition 64 included a number of specified safeguards for minors, including:

- Prohibiting consumption of cannabis outside a residence within 1,000 feet of a school, day care center, or youth center while children are present.
- Requiring child-resistant packaging for cannabis products.
- Prohibiting packages and labels from being made to be attractive to children.
- Providing that cannabis products shall not be designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain marijuana.
- Prohibiting cannabis businesses from being located within 600 feet of schools and other areas where children congregate.
- Authorizing a licensing authority to deny a license if there is an unreasonable risk of minors being exposed to cannabis or cannabis products.
- Expressly prohibiting businesses selling recreational cannabis to minors under 21 or employing minors under 21.

The AUMA further required 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 prior to engaging in such communication or dialogue controlled by the licensee.”

Additionally, Proposition 64 included a prohibition against “advertising or marketing containing symbols, language, music, gestures, cartoon characters or other content elements known to appeal primarily to persons below the legal age of consumption.” This language was significantly simplified when MCRSA and the AUMA were reconciled through the enactment of SB 94. Under MAUCRSA, licensees are instead prohibited more generally from publishing or disseminating “advertising or marketing that is attractive to children.” However, similar language was incorporated into regulations originally promulgated by the Bureau of Cannabis Control.

MAUCRSA currently prohibits individuals and entities engaged in commercial cannabis activity, whether licensed or unlicensed, from advertising or marketing cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products. MAUCRSA further prohibits publishing or disseminating advertising or marketing that is attractive to children. Cannabis or cannabis products also cannot be advertised or marketed on a 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.

The regulations adopted to consolidate the state’s cannabis regulators in 2021 further scaled down the number of examples of what types of advertising would be deemed “attractive to children.” The specific examples of “toys, inflatables, movie characters, [and] cartoon characters” were replaced with a prohibition against cartoons, depictions of minors, or “any likeness to images, characters, or phrases that are popularly used to advertise to children.” The revised regulations also incorporated other prohibition language previously applied only to labeling requirements into the more general advertising restrictions. This includes prohibitions against products containing any imitation of candy packaging or labeling or using the term “candy” or “candies” or variants in spelling such as “kandy” or “kandeez.” The regulations also prohibit the advertising of free cannabis goods or accessories.

While these prohibitions are contained in provisions of the DCC’s regulations relating to advertising and marketing, these prohibitions apply to the packaging and labeling of cannabis goods as well. MAUCRSA requires the DCC to promulgate regulations to set standards for the manufacturing, packaging, and labeling of all manufactured cannabis products. The DCC’s regulations specifically cross-reference the advertising content restrictions in language prohibiting cannabis goods labeling from containing “content that is, or is designed to be, attractive to individuals under the age of 21.” The DCC’s regulations further prohibit the selling of “any cannabis product that the Department determines, on a case-by-case basis,” to be either “attractive to children” based on the above criteria, or “easily confused with commercially available foods that do not contain cannabis.”

In August 2025, the California State Auditor (CSA) released an audit of the DCC’s enforcement of laws prohibiting cannabis products from being advertised, marketed, or labeled in a manner that is attractive to children. The CSA report determined that “state law and DCC’s regulations about design elements that are attractive to children are unspecific, leading to subjective and sometimes inconsistent determinations of whether cannabis product packaging is compliant.”

The CSA recommended that the Legislature clarify what design elements are prohibited from cannabis packaging. The CSA additionally recommended that the DCC improve its documentation and specify penalties for repeat offenders to disincentivize licensees from violating regulations regarding attractiveness to children.¹ On February 17, 2026, the Joint Legislative Audit Committee and the Assembly Committee on Business and Professions held a joint hearing on the CSA report and received a presentation from the State Auditor's office.

This bill, authored by the member who formally requested the CSA audit, would recodify a definition of "attractive to children" for purposes of prohibited advertisements and product packaging under MAUCRSA. Some of the specific examples provided in the bill are already prohibited in the DCC's regulations, including cartoons, images similar to those popularly used to advertise to children, and imitations of candy packaging or labeling. The bill would provide for more specificity around what constitutes a "cartoon" and would ban additional images including real or fictional humans, fictional animals, toys or robots, and fruit or vegetables, except when used to accurately describe ingredients or flavors contained in a product. Similar but not identical language was contained in a prior bill authored by the author of this bill, which was vetoed by the Governor in 2023.

In addition to recodifying an expanded definition of "attractive to children," this bill would require the DCC to develop, adopt, and implement by regulation a standardized rubric for determining whether cannabis products, including their packaging and labeling, are attractive to children. The CSA report recommended that the DCC implement a rubric for determining whether products violate legal prohibitions against packaging attractive to children, which the DCC testified was already in development. The bill would require the DCC to make the rubric publicly available and to periodically update it to reflect emerging products, marketing practices, and public health data.

Finally, this bill would require the DCC to develop, adopt, and implement by regulation a process by which a licensee may voluntarily request a written determination from the DCC to inform the licensee of whether a proposed packaging or labeling of a cannabis product is attractive to children. The State of Oregon has established a similar process whereby cannabis licensees have the option to either use pre-approved plain packaging or, for a fee, have the cannabis licensing agency review the licensee's packaging for compliance before their cannabis products are available for sale. This bill, however, would provide that obtaining a written determination would be purely voluntary, but would be binding on the DCC for purposes of future enforcement actions.

Current Related Legislation. AB 2532 (Irwin) would require the labels of edible cannabis products and cannabis beverages to include the toll-free telephone number for the national Poison Help line and would prohibit cannabis beverages from containing more than 10 milligrams of THC per container. *This bill is pending in this committee.*

AB 2667 (Hadwick) would prohibit the sale of cannabis or tobacco vape products that conceal the nature of the vape product, use branding known to appeal to minors, or include interactive videogame capabilities. *This bill is pending in this committee.*

¹ California State Auditor. *Department of Cannabis Control: Unclear Rules and Insufficient Enforcement Hamper Its Ability to Identify Packaging That Is Attractive to Children*. Report No. 2024-105, August 2025.

Prior Related Legislation. SB 1348 (Ashby), Chapter 899, Statutes of 2024 authorized state and local prosecutors to bring an action for injunctive relief and civil penalties against individuals engaged in commercial cannabis or industrial hemp activity for violations of laws intended to restrict the advertising and marketing of cannabis and hemp products to minors, and extended those laws to apply to individuals operating without a license or registration.

SB 540 (Laird) Chapter 491, Statutes of 2023 required the DCC to regularly reevaluate its regulations and determine whether additional warning labels are necessary to reflect evolving science regarding the risks of cannabis use and to create a brochure that includes steps for safer use of cannabis.

AB 1207 (Irwin) of 2023 would have placed additional restrictions on the advertising, marketing, packaging, and labeling of cannabis and cannabis products. *This bill was vetoed by the Governor.*

AB 794 (Flora) of 2023 would have required all cannabis advertisements and marketing to include the licensee's name in addition to the licensee number, and would prohibit a technology platform or an outdoor advertising company from displaying an advertisement unless the advertisement displays that licensee's name and license number. *This bill died in this committee pursuant to Joint Rule 56.*

AB 1894 (L. Rivas), Chapter 390, Statutes of 2022 placed new requirements and restrictions for the packages and labels of integrated cannabis vaporizers, as well as for the advertisement and marketing of those products.

AB 273 (Irwin) of 2021 would have placed restrictions on the content of outdoor advertising by cannabis businesses and required a licensing authority to suspend the license of any licensee who violates those restrictions for one year. *This bill failed passage in this committee.*

AB 2899 (B. Rubio), Chapter 923, Statutes of 2018 prohibited a licensee from publishing or disseminating advertisements or marketing of cannabis and cannabis products while the licensee's license is suspended.

SB 94 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2017 combined AUMA and MCRSA into a unified system for the regulation of cannabis, MAUCRSA.

ARGUMENTS IN SUPPORT:

Youth Forward supports this bill, writing: "The recent report by the State Auditor on cannabis marketing to children and youth simply restated a massive problem we have been bringing to the attention of state policymakers since 2019. To date, the Legislature and the Governor have failed to address this problem. State policymakers have allowed this problem to continue unabated, with more children being poisoned by cannabis products each year."

ARGUMENTS IN OPPOSITION:

The *California Cannabis Industry Association* (CCIA) opposes this bill, writing: "AB 2249 would impose significant costs on the licensed businesses that already keep cannabis away from children, undermine the state's efforts to bring consumers into the regulated market, and does not address safe at-home storage practices."

POLICY ISSUE(S) FOR CONSIDERATION:

Overbroad Agency Discretion. In addition to codifying specific examples of images that are to be considered attractive to children for purposes of MAUCRSA, this bill would authorize the DCC to make additional determinations that certain imagery is attractive to children. First, the bill would allow for the DCC to adopt regulations to prohibit other imagery it deems attractive to children. These regulations would be governed by the Administrative Procedure Act, which requires public notice and the opportunity for stakeholders to provide input. However, the bill would also prohibit “anything else that is attractive to children in light of all relevant facts and circumstances.” This language does not require public rulemaking and is arguably vague and broad in its potential application. Given that the DCC already has the flexibility to expand the definition of “attractive to children” through a public rulemaking process, the author should consider striking this additional authority.

Potential Loophole for Child-Attractive Images. Language in this bill prohibiting certain images includes an exception for when those images are included “as part of required health warnings.” While this is intended to provide licensees with flexibility when determining how best to provide consumers with important health and safety information, it could theoretically create a loophole wherein consumers are warned not to consume cannabis while pregnant or breastfeeding in a speech bubble adjacent to a cartoon unicorn. Given that this is presumably not the author’s intent, the bill should be amended to clarify that the exception only applies when an image is *required* as part of a required health warning.

Lack of Authority to Withdraw a Written Determination. This bill would require the DCC to establish a process by which a licensee may voluntarily request a written determination from the DCC to inform the licensee of whether a proposed packaging or labeling of a cannabis product is attractive to children. The bill provides that once a licensee has obtained a written determination that a product is not attractive to children, the written determination “shall be binding on the department for purposes of any subsequent enforcement action against any licensee.” The bill does not currently allow the written determination to be revised or rescinded based on changed circumstances.

For example, the DCC may approve a product labeled as “Greenpuffs” because it does not consider that branding to be inherently child-attractive, only for a children’s cartoon series to premier a year later featuring a hugely popular character named Greenpuffs the Dragon Princess. The author may wish to provide the DCC some authority to rescind a prior written determination. In that event, additional language should be included to allow for some form of grace period for the licensee to sell through existing products.

Prohibitions on Advertisements Containing Real Humans. This bill would include in the definition of “attractive to children” any real or fictional humans, unless the image is used to convey information regarding safe use of the product or packaging. This would prohibit depictions of humans in product packaging and labeling as well as advertising and marketing. While there are certainly some instances in which the image of a human is attractive to children, such as with celebrity endorsers, this broad prohibition would also ban images of the licensed cultivator, manufacturer, or seller of the cannabis product. Many licensees may wish to publish advertisements in which they themselves are depicted, including equity operators and legacy growers. The author may wish to allow for an exception for these forms of advertisements.

AMENDMENTS:

- 1) To remove unnecessarily overbroad authority for the DCC to prohibit “anything else that is attractive to children in light of all relevant facts and circumstances,” strike paragraph (9) of subdivision (e) in Section 1 of the bill.
- 2) To address a potential loophole in the exception to the bill’s prohibition on cartoons and other images, amend paragraph (1) of subdivision (e) in Section 1 of the bill as follows:

Use of images that are designed or likely to appeal to children, including, but not limited to, images of any of the following, except when required as part of required health warnings:

- 3) To allow the DCC to modify or revoke a written determination in the event of a change in circumstances, add a new paragraph (4) to subdivision (a) in Section 3 as follows:

The department may revise or rescind a written determination by providing a notice to the licensee in writing that contains the reasoning behind the revision or rescission. A written determination previously in effect shall remain legally binding on the department for six months following the date the department provides notice to the licensee.

- 4) To establish an exception to the prohibition on images of real humans for advertising and marketing depicting licensees, amend Section 26150 of the Business and Professions Code to add a new subdivision as follows:

“Attractive to children” shall have the same meaning as provided in Section 26001. Notwithstanding that section, a licensee may publish or disseminate advertising or marketing that contains images of real humans under either of the following circumstances:

(1) The image accurately depicts the licensee and is not a cartoon.

(2) The image is part of a corporate logo and is limited in color to black and white.

REGISTERED SUPPORT:

American Academy of Pediatrics
 California State Association of Psychiatrists
 County Health Executives Association of California
 Youth Forward

REGISTERED OPPOSITION:

California Cannabis Industry Association
 Central California Cannabis Club
 Equity Trade Network
 Humboldt County Growers Alliance
 Kiva Confections
 Mendocino Cannabis Alliance
 Origins Council
 Trinity County Agriculture Alliance
 United Core Alliance
 One individual

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