

## ASSEMBLY THIRD READING

AB 2249 (Irwin)

As Amended April 15, 2026

Majority vote

**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.

**Major Provisions**

- 1) Define "attractive to children" for purposes of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) as meaning any of the following:
  - a) Images that are designed or likely to appeal to children, except when required 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.
- 2) Allow for a person engaged in commercial cannabis activity to publish or disseminate advertising or marketing that contains images of real humans under either of the following circumstances:
  - a) The image accurately depicts the licensee and is not a cartoon.
  - b) The image is part of a corporate logo, is limited in color to black and white, and is not a cartoon.
- 3) Provide that cannabis, cannabis products, packages, and labels shall not be made to be attractive to children.
- 4) Prohibit 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.
- 5) 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, on or before July 1, 2027.
- 6) Provide that the DCC shall update the rubric by regulation as necessary to reflect emerging products, marketing practices, and public health data.
- 7) Require 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.
- 8) 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, but that the DCC may revise or rescind a written determination, which would become effective six months after the DCC provides notice to the licensee.
- 9) Provide that requesting a written determination shall not be required as a condition of licensure under MAUCRA or for the sale of a cannabis product.

## COMMENTS

*Child-Attractive Advertising and Labeling Restrictions.* Prior to the Adult Use of Marijuana Act (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:

- 1) Prohibiting consumption of cannabis outside a residence within 1,000 feet of a school, day care center, or youth center while children are present.
- 2) Requiring child-resistant packaging for cannabis products.

- 3) Prohibiting packages and labels from being made to be attractive to children.
- 4) 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.
- 5) Prohibiting cannabis businesses from being located within 600 feet of schools and other areas where children congregate.
- 6) Authorizing a licensing authority to deny a license if there is an unreasonable risk of minors being exposed to cannabis or cannabis products.
- 7) 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 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.

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. 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 until revised or rescinded with notice and a sell-through period.

### **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."

### **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."

## **FISCAL COMMENTS**

According to the Assembly Committee on Appropriations, the DCC estimates annual costs of approximately \$3 million to \$4 million; the DCC notes the possibility of additional, potentially significant costs of an unknown amount to the Attorney General to defend First Amendment challenges and a significant increase in appeals of labeling determinations heard in the Office of Administrative Hearings.

## **VOTES**

### **ASM BUSINESS AND PROFESSIONS: 17-0-2**

**YES:** Berman, Addis, Ahrens, Alanis, Bains, Bauer-Kahan, Caloza, Chen, Elhawary, Hadwick, Haney, Hart, Irwin, Jackson, Lowenthal, Nguyen, Pellerin

**ABS, ABST OR NV:** Johnson, Macedo

### **ASM APPROPRIATIONS: 14-0-1**

**YES:** Wicks, Hoover, Aguiar-Curry, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Tangipa

**ABS, ABST OR NV:** Ta

## **UPDATED**

VERSION: April 15, 2026

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