



714-676-2035

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# The Future of Cannabis Marketing in the US

*Compliance,  
Marketing & More*



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## Definition of “Advertisement”

- ✱ The definition of “advertisement” under MAUCRSA is extremely broad
  - ✱ 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
- ✱ the definition does exclude
  - ✱ labels and editorials or
  - ✱ press releases that are NOT prepared, written or involve the direction of the licensee.



## AGE RESTRICTIONS

✱ Advertising and Marketing Material may only be displayed or presented **WHERE AT LEAST 71.6 PERCENT OF THE AUDIENCE IS REASONABLY EXPECTED TO BE 21 YEARS OF AGE OR OLDER**

✱ based on audience composition data

✱ Applies to

✱ Broadcast

✱ Cable

✱ Radio

✱ Print

✱ Digital communications

✱ The BCC is so serious about protecting those under the age of 21 that it also requires the licensee to verify the person's age prior to any direct face-to-face, telephonic, mail or email promotion



# LOCATION RESTRICTIONS FOR ADVERTISEMENTS

- ✳ Advertisements on billboards cannot be located on any highway that crosses the California border.
- ✳ Advertisements must not be within 1,000 feet of a day care center, school where children K-12 (or fraction thereof) learn or play or a youth center.



  
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## Distributors Beware

- ✿ Include Distribution License Number
- ✿ Promotional materials must contain each brand's license number
- ✿ Advertisements are evaluated on a case by case basis

## *Cultivators and Manufacturers Should Contractually Require Indemnity and Liquidated Damages*

If a cultivator or manufacturer is selling its branded product to a distributor, they should make certain that the distributor is contractually obligated to list the license number of the cultivator or manufacturer in any advertisement or promotion. If the distributor does not comply with the law, the manufacturer or cultivator should require complete indemnification and liquidated damages since the penalties range from fines to license revocation. As lawyers, we use liquidated damages when the amount cannot easily or reasonably anticipated, calculated or ascertained. In this way, the parties agree from the outset what the damages should be for a violation that results in something other than monetary payment.



# *Penalties for Violation of Advertising and Marketing Laws*

- ✱ Failing to comply with the cannabis advertising and marketing laws is a “Tier 1” violation according to the BCC.
- ✱ The fines range from \$1,000 to \$250,000 depending on the license type, the licensee’s gross sales and duration of the suspension.
- ✱ Non-monetary penalties include suspension from 5 to 15 days, or the maximum penalty of revocation.



## BEST PRACTICES TIPS

- ✳ Always display the license number on any advertisement or social media post
- ✳ **CONTRACTUALLY REQUIRE** any company that lists, promotes or references your brand to include the license number on any advertisement or social media post
- ✳ Include **INDEMNITY AND LIQUIDATED DAMAGES PROVISIONS IN CONTRACT**
- ✳ Review the advertising practices of any publication or platform before signing a contract to make sure they are 100% compliant





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# Any Questions?

