

HOUSE BILL NO. 2428

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on _____)

(Patron Prior to Substitute--Delegate Wilt)

A BILL to amend the Code of Virginia by adding a section numbered 4.1-1116 and by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1404 and 4.1-1405, relating to marijuana; advertising restrictions; penalties.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 4.1-1116 and by adding in Chapter 14 of Title 4.1 sections numbered 4.1-1404 and 4.1-1405 as follows:

§ 4.1-1116. Illegal advertising; penalties; exception.

A. No person shall advertise in or send any advertising material into the Commonwealth regarding marijuana or marijuana products other than those that may be legally sold in the Commonwealth under this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act. Advertisements regarding marijuana or marijuana products shall comply with the provisions of this subtitle and Board regulations.

B. Except as provided in subsection C, any person who violates the provisions of subsection A is guilty of a Class 1 misdemeanor.

C. For violations of § 4.1-1405 relating to distance and zoning restrictions on outdoor advertising, the Board shall give the advertiser written notice to take corrective action to either bring the advertisement into compliance with this subtitle and Board regulations or to remove such advertisement. If corrective action is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

D. This section shall not apply to advertising conducted by pharmaceutical processors or cannabis dispensing facilities in accordance with Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act and regulations of the Board of Pharmacy.

§ 4.1-1404. General advertising restrictions.

27 A. No person shall advertise in or send any advertising material into the Commonwealth regarding
28 marijuana or marijuana products other than those that may be legally sold in the Commonwealth under
29 this subtitle or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug Control Act.

30 B. Advertisements regarding marijuana or marijuana products shall:

31 1. Comply with the provisions of this subtitle, Board regulations, Chapter 12 (§ 33.2-1200 et seq.)
32 of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board, and
33 federal laws and regulations;

34 2. Accurately and legibly identify the person responsible for its content;

35 3. Include the following statement: "For use by adults 21 years of age and older"; and

36 4. If the advertisement involves direct, individualized communication or dialogue, utilize a method
37 of age affirmation to verify that the recipient is 21 years of age or older before engaging in such
38 communication or dialogue.

39 C. Advertisements regarding marijuana or marijuana products shall not:

40 1. Be broadcasted (i) through any means unless at least 71.6 percent of the audience is reasonably
41 expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data
42 or (ii) through digital pop-ups;

43 2. Be misleading, deceptive, or false;

44 3. Target or appeal particularly to persons younger than 21 years of age, including by use of
45 cartoons;

46 4. Imply that marijuana or marijuana products enhance athletic prowess or are government
47 endorsed;

48 5. Be displayed on a billboard or at a sporting event;

49 6. Make any reference to the intoxicating effects of marijuana or marijuana products;

50 7. Promote overconsumption or consumption by persons younger than 21 years of age; or

51 8. Depict a person consuming marijuana or marijuana products or depict any person younger than
52 21 years of age.

53 D. The provisions of this section shall not apply to noncommercial speech.

54 **§ 4.1-1405. Outdoor advertising restrictions; limitations; variances.**

55 A. No outdoor advertising regarding marijuana or marijuana products shall be placed within 500
56 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the
57 sign face upon which the advertisement is placed to the nearest edge of a building or structure located on
58 the real property of (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public,
59 private, or parochial school or an institution of higher education; (iii) a public or private playground or
60 similar recreational facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for
61 residential use.

62 B. However, (i) if there is no building or structure on a playground or similar recreational facility,
63 the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed
64 to the property line of such playground or similar recreational facility and (ii) if a public or private school
65 providing grades K through 12 education is located across the road from a sign, the measurement shall be
66 from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a
67 building or structure located on such real property across the road.

68 C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from
69 (i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial
70 school or an institution of higher education; (iii) a public or private playground or similar recreational
71 facility; (iv) a substance use disorder treatment center; or (v) a dwelling used for residential use, but the
72 circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board
73 shall permit the advertisement to remain as displayed for the remainder of the term of any written
74 advertising contract, but in no event more than one year from the date of the change in circumstances.

75 D. The Board may grant a permit authorizing a variance from the distance requirements of this
76 section upon a finding that the placement of the advertisement on a sign will not unduly expose children
77 to advertising regarding marijuana or marijuana products.

78 E. The distance and zoning restrictions contained in this section shall not apply to any sign that is
79 included in the Integrated Directional Sign Program administered by the Virginia Department of
80 Transportation or its agents.

81 F. Nothing in this section shall be construed to authorize billboard signs containing outdoor
82 advertising regarding marijuana or marijuana products on property zoned agricultural or residential, or on
83 any unzoned property. Nor shall this section be construed to authorize the erection of new billboard signs
84 containing outdoor advertising that would be prohibited under state law or local ordinance.

85 G. All lawfully erected outdoor signs regarding marijuana or marijuana products shall comply with
86 the provisions of this subtitle, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and
87 regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor
88 directional sign regarding marijuana or marijuana products that is located or to be located on highway
89 rights of way shall also be governed by and comply with the Integrated Directional Sign Program
90 administered by the Virginia Department of Transportation or its agents.

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