

1 State of Arkansas As Engrossed: S3/14/19 H3/28/19

2 92nd General Assembly

A Bill

3 Regular Session, 2019

SENATE BILL 441

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5 By: Senators Bledsoe, J. Cooper, J. English, Flippo, Irvin, Rapert, G. Stubblefield

6 By: Representatives Lundstrum, Bentley

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For An Act To Be Entitled

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AN ACT TO ADD RESTRICTIONS REGARDING ADVERTISING OF

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MEDICAL MARIJUANA AND USE OF CERTAIN SYMBOLS; AND FOR

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OTHER PURPOSES.

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Subtitle

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TO ADD RESTRICTIONS REGARDING ADVERTISING

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OF MEDICAL MARIJUANA AND USE OF CERTAIN

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SYMBOLS.

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

23 (a) The General Assembly finds that:

24 (1) Arkansas Constitution, Amendment 98, also known as the

25 "Arkansas Medical Marijuana Amendment of 2019", creates a medical marijuana

26 program and authorizes the use of medical marijuana for certain medical

27 conditions;

28 (2) As with other medications, proper care and safety

29 precautions are necessary to protect children and adults;

30 (3) The Arkansas Code does not specify the regulation of the

31 advertising or use of certain symbols relating to medical marijuana; and

32 (4) It is necessary to protect the public health, safety, and

33 welfare of the citizens of Arkansas to specify the regulation of the

34 advertising or use of certain symbols relating to medical marijuana.

35 (b) It is the intent of this act to prohibit certain advertising and

36 use of certain symbols relating to medical marijuana.



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2 SECTION 2. Arkansas Code Title 20, Chapter 56, Subchapter 3, is
3 amended to add an additional section to read as follows:

4 20-56-305. Prohibitions on advertising and use of certain symbols.

5 (a)(1) A cultivation facility shall not advertise through any public
6 medium or means designed to market products to the public.

7 (2) A cultivation facility may market products directly to a
8 dispensary by any means directed solely to the dispensary and not available
9 to the public.

10 (b)(1) Advertising for medical marijuana by a dispensary shall not:

11 (A) Contain a statement that is deceptive, false, or
12 misleading;

13 (B) Contain any content that can reasonably be considered
14 to target children, including without limitation:

15 (i) A cartoon character;

16 (ii) A toy; or

17 (iii) Any other similar item or image typically
18 marketed to children;

19 (C) Encourage the transportation of medical marijuana
20 across state lines;

21 (D) Display consumption of marijuana;

22 (E) Contain material that encourages or promotes marijuana
23 for use as an intoxicant; or

24 (F) Contain material that encourages excessive or rapid
25 use or consumption of medical marijuana.

26 (2) Advertising and marketing for medical marijuana shall
27 include at least one (1) of the following statements:

28 (A) "Marijuana is for use by qualified patients only. Keep
29 out of reach of children.";

30 (B) "Marijuana use during pregnancy or breastfeeding poses
31 potential harms to an unborn child or child.";

32 (C) "Marijuana is not approved by the United States Food
33 and Drug Administration to treat, cure, or prevent any disease."; or

34 (D) "Do not operate a vehicle or machinery under the
35 influence of marijuana."

36 (3) A dispensary shall not make any deceptive, false, or

1 misleading assertion or statement on any informational material, any sign, or
2 any document provided to a consumer.

3 (4) A dispensary shall not place or maintain, or cause to be
4 placed or maintained, any advertisement or marketing material for medical
5 marijuana in the following locations:

6 (A) Within one thousand feet (1,000') of the perimeter of
7 a public or private school or daycare center;

8 (B) On or in a public transit vehicle or public transit
9 shelter; or

10 (C) On or in a publicly owned or operated property.

11 (5)(A) A dispensary shall not utilize television, radio, print
12 media, or the internet to advertise and market medical marijuana, unless the
13 dispensary has reliable evidence that no more than thirty percent (30%) of
14 the audience for the program, publication, or website in or on which the
15 advertisement is to air or appear is reasonably expected to be under eighteen
16 (18) years of age.

17 (B) Upon request by the Alcoholic Beverage Control
18 Division, a dispensary shall provide the evidence relied upon to make the
19 determination that no more than thirty percent (30%) of the audience for the
20 program, publication, or website in or on which the advertisement is to air
21 or appear is reasonably expected to be under eighteen (18) years of age.

22 (6) A cultivation facility or dispensary shall not offer any
23 coupons, rebates, or promotions for medical marijuana purchases, unless
24 offered as part of a compassionate care plan presented to the Medical
25 Marijuana Commission as part of the application for licensure.

26 (c)(1) A cultivation facility or dispensary shall have no more than
27 three (3) signs visible to the general public from the public right-of-way
28 that identify the cultivation facility or dispensary by the business name of
29 the cultivation facility or dispensary.

30 (2) A sign shall not exceed thirty-six square feet (36 sq. ft.)
31 in length or width.

32 (3) A sign shall be placed inside the window of the cultivation
33 facility or dispensary or attached to the outside of the building of the
34 cultivation facility or dispensary.

35 (4) A sign shall not display any content or symbol that:

36 (A) Can reasonably be considered to target children,

1 including without limitation:
2 (i) A cartoon character;
3 (ii) A toy; or
4 (iii) A similar image or item typically marketed to
5 children; or
6 (B) Is commonly associated with the practice of medicine
7 or the practice of pharmacy, including without limitation:
8 (i) A cross of any color;
9 (ii) A caduceus; or
10 (iii) Any other symbol that is commonly associated
11 with the practice of medicine, the practice of pharmacy, or health care, in
12 general.

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15 /s/Bledsoe
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18 **APPROVED: 4/12/19**
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