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TO: DetroitCity Council
FROM: David Whitaker, Director 
Legislative Policy Division
DATE: July 3, 2024
RE: Billboard Cannabis Advertising

The Legislative Policy Division (LPD) has been requested by Council President Pro-Tempore, James Tate to research the following matters:

1. If applicable, what State of Michigan laws ban the use of the word “weed” on promotional billboards?
2. What is the Cannabis Regulatory Agency’s (CRA) position on the use of the term “weed” on promotional billboards?

LPD has looked into the matter and reports the following:

In searching the myriad of statutes within the State of Michigan, including but not limited to the statute specifically related to the regulation of cannabis or marijuana, LPD has not found any statutory provision that bans the use of the term “weed”.

With regard to the Cannabis Regulatory Agency (CRA), LPD has determined the authority of the CRA to promulgate rules regulating the advertisement of cannabis is derived under sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958.

Pursuant to the Michigan Administrative Code, Marijuana Rules, R.420.507, *Marketing and advertising restrictions*, provide:

- (1) A marihuana product may only be advertised or marketed in compliance with all applicable municipal ordinances, state law, and these rules that regulate signs and advertising.
- (2) A licensee may not advertise a marihuana product in a way that is deceptive, false, or misleading, or make any deceptive, false, or misleading assertions or statements on any marihuana product, sign, or document provided.
- (3) Marihuana product marketing, advertising, packaging, and labeling must not contain any claim related to health or health benefits, unless a qualified health claim has received and complies with a Letter of Enforcement Discretion issued by the United States Food and Drug Administration (FDA), or the health claim has been approved under the significant scientific agreement standard by the FDA.
- (4) A marihuana product must not be advertised or marketed to members of the public unless the person advertising the product has reliable evidence that no more than 30% of the audience or readership for the television program, radio program, internet website, or print publication, is reasonably expected to be under the age listed in subrules (7) and (8) of this rule. Any marihuana product advertised or marketed must include the warnings listed in R 420.504(1)(j).
- (5) A person receiving reasonable payment under a licensing agreement or contract approved by the agency concerning the licensing of intellectual property, including, but not limited to, brands and recipes, is responsible for any marketing or advertising undertaken by either party to the agreement.
- (6) A marihuana product marketed or advertised under the MMFLA must be marketed or advertised as “medical marihuana” for use only by registered qualifying patients or registered primary caregivers.
- (7) A marihuana product marketed or advertised under the MMFLA must not be marketed or advertised to minors aged 17 years or younger. Sponsorships targeting individuals aged 17 years or younger are prohibited.
- (8) A marihuana product marketed or advertised under the MRTMA must be marketed or advertised as “marihuana” for use only by individuals 21 years of age or older.
- (9) A marihuana product marketed or advertised under the MRTMA must not be marketed or advertised to individuals under 21 years of age. Sponsorships targeting individuals under 21 years of age are prohibited.

LPD has not identified any language under R.420.507 that expressly prohibits or bans the use of the term “weed” from any advertisement of cannabis products. LPD also contacted representatives from the CRA Enforcement Division to see if they had a different interpretation of the rules regarding a prohibition the use of the term weed in cannabis advertisement. The CRA representative was not aware of any prohibition to use of the term “weed” but requested the question be submitted by email so their legal team can answer. LPD has submitted the requested email and is awaiting CRA’s response.

Should CRA’s response provide anything different from the current analysis, LPD will provide this Honorable Body with the updated information.