



**COUNCILMEMBER CHRIS CATE
CITY OF SAN DIEGO
SIXTH DISTRICT**

MARIJUANA ADVERTISING REGULATION PROPOSALS

❖ **ALIGN MARIJUANA BILLBOARD ADVERTISING REGULATIONS WITH CITY'S CURRENT ALCOHOL BILLBOARD RESTRICTIONS**

1) Adopt an ordinance which prevents marijuana billboard advertisements that are physically located within 1,000 feet of the following sensitive receptors: schools, parks, minor-oriented facilities, recreation centers, libraries, churches, and residential care facilities, and 100 feet from residential zones. In addition, the ordinance would prevent billboard advertisements more than 1,000 feet from sensitive receptors if the billboard face and its marijuana advertisement are clearly visible from those sensitive receptors.

- This would mirror the sensitive receptors outlined in current San Diego Municipal Code regulations governing distances between marijuana outlets and production facilities, and sensitive receptors.
- The regulation relating to the prohibition of billboards in excess of 1,000 feet from sensitive receptors if the billboard face is visible from those sensitive receptors is similar to the alcohol billboard regulations outlined in San Diego Municipal Code §58.0503:
 - §58.0503 Alcohol Billboard Restrictions: "It is unlawful for any person, business, or retailer to place or maintain, or cause to be placed or maintained, any advertising of alcoholic beverages on a billboard that is within 500 feet of a school, playground, recreation center or facility, child care center, or library *or that is more than 500 feet and the billboard face and its advertisement are clearly visible from a school, playground, recreation center or facility, child care center, or library.*"

2) Provide that marijuana billboard regulations in the San Diego Municipal Code apply to both permitted/licensed marijuana outlets and un-permitted/un-licensed marijuana outlets, marijuana delivery services, and online marijuana advertising platforms, such as Weedmaps and Eaze.

- Current State law outlines advertisement regulations that apply to licensed and permitted marijuana operations only and sets forth administrative consequences for non-compliance.
- This proposal would apply to all marijuana related advertisements, not just those associated with licensed/permitted marijuana operations.

3) Provide that violations of these San Diego Municipal Code regulations shall be prosecuted as infractions for the first offense, and may be prosecuted as misdemeanors for subsequent offenses. This shall apply equally to licensed/permitted marijuana operations, unlicensed/unpermitted marijuana operations, marijuana delivery services, and online marijuana advertising platforms.

- Current State law imposes administrative consequences to licensed marijuana operations only for failure to follow advertisement regulations leaving the City with little enforcement ability to prevent advertisement violations, especially from unlicensed/unpermitted operations.
- The San Diego Municipal Code should ensure regulations apply to both licensed/permitted outlets AND unlicensed/unpermitted outlets by creating consequences that apply to both, which are enforceable by City.
- By allowing the City to prosecute violations as an infraction or misdemeanor under the Municipal Code, just as in illegal alcohol advertising, the City will have the ability to enforce advertising violations:

§58.0503 Alcohol Billboard Advertisement: Violations of this Division shall be prosecuted as infractions for the first offense, and may be prosecuted as misdemeanors for subsequent offenses, subject to the fines and custody provided in Municipal Code Section 12.0201. Any Director may also seek injunctive relief and civil penalties pursuant to Municipal Code Section 12.0202 or pursue any administrative remedy as provided in Chapter 1 of this Code.

❖ STRENGTHEN REGULATIONS AND ENFORCEMENT OF ADVERTISEMENTS FROM ILLEGAL MARIJUANA OULETS AND DELIVERY SERVICES

4) Adopt an ordinance to prohibit illegal, unpermitted, or unlicensed marijuana outlets and delivery services from advertising on internet advertisement platforms, billboards, newspapers, circulations, magazines, or other publications within the City of San Diego. Violators of this ordinance shall be prosecuted as infractions for the first offense, and may be prosecuted as misdemeanors for subsequent offenses.

- Adopting such an ordinance would provide the City with the ability to prevent illegal marijuana operations from advertising within the City of San Diego by giving the City the ability to prosecute violations as infractions or misdemeanors.
- Similar law was recently passed at the state level in Colorado to curb the oversaturation of advertisements from illegal marijuana operations:

State of Colorado SB 15 (Passed in 2017): A person who is not licensed to sell medical marijuana pursuant to Article 43.3 of Title 12 or retail marijuana pursuant to Article 43.4 of Title 12, or pursuant to the laws regarding medical or retail marijuana under the laws of another state, who knowingly advertises in a newspaper, magazine, handbill, or other publication or on the internet the unlawful sale of marijuana, marijuana concentrate, or a marijuana-infused product by a person not licensed to sell marijuana, marijuana concentrate, or a marijuana-infused product commits a level 2 drug misdemeanor.

http://leg.colorado.gov/sites/default/files/documents/2017A/bills/2017a_015_signed.pdf

- Currently, State law is insufficient in preventing and prosecuting illegal marijuana operations that advertise, which only requires that an advertisement display the State license number of the marijuana operation.

Current State Law: Section 26151(a) of California Business and Professions Code: (1) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content, by adding, at a minimum, the licensee's license number. (2) A technology platform shall not display an advertisement by a licensee on an Internet Web page unless the advertisement displays the license number of the licensee. (3) An outdoor advertising company subject to the Outdoor Advertising Act (Chapter 2 (commencing with Section 5200) of Division 3) shall not display an advertisement by a licensee unless the advertisement displays the license number of the licensee.