

DRAFT

Pursuant to the authority vested in the Cannabis Control Board by Sections 13, 81 and 86 of the Cannabis Law, Chapter II of Subtitle B of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York is hereby amended, and a new Part 128 and Part 129 are added, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

Part 128

Part 128 - Adult-Use Packaging and Labeling

**§ 128.1 Definitions.**

**§ 128.2 Cannabis Product Retail Packaging Minimum Standards.**

**§ 128.3 Cannabis Product Retail Packaging Prohibitions.**

**§ 128.4 Retail Packaging Sustainability Program.**

**§ 128.5 Cannabis Product Labeling Minimum Standards.**

**§ 128.6 Cannabis Product Labeling Prohibitions.**

**§ 128.7 Retail Packaging and Labeling Violations and Penalties.**

**§ 128.1 Definitions.**

For purposes of Part 128 and Part 129 of this Title, the following terms shall have the following meanings:

(a) *Advertising* means disseminating communications in any manner or by any means, for the purpose of causing, directly or indirectly, the purchase or use of a cannabis product brand or cannabis product, including but not limited to websites, social media, brochures, prints ads, TV, radio, streaming, out of home, and digital advertisements.

(b) *Attractive to individuals under twenty-one* means labeling, packaging, advertising and marketing that is pleasing or appealing to persons under the age of twenty-one by using or including, among other things:

- (1) Cartoons;
- (2) Bubble-type or other cartoon-like font;
- (3) Bright colors that are "neon" in appearance;
- (4) Similarities to products or words that refer to products that are commonly associated with or marketed in a manner so as to be attractive to individuals under twenty-one, including but not limited to, any imitation of food, candy, soda, drinks, cookies, or cereal, in labeling, packaging, advertising, or marketing;
- (5) Terms "candy" or "candies" or variants in spelling such as "kandy" or "kandeez";
- (6) Symbols, images, characters, public figures, phrases, toys, or games that are commonly used to market products to individuals under the age of twenty-one; or
- (7) Images of individuals who could reasonably appear to be under the age of twenty-one.

(c) *Board* means Cannabis Control Board.

(d) *Brand or Branding* means the name, entity name, or doing business as name, registered trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other identifiable marker that identifies one adult-use cannabis licensee or adult-use cannabis licensee's cannabis products as distinct from those cannabis products of other adult-use cannabis licensees or other cannabis products of an adult-use cannabis licensee and is used in, among other things, any packaging, labeling, advertising or marketing.

(e) *Certificate of analysis* means a certified report from a cannabis laboratory as set forth in Part 130 of this Title.

(f) *Child-Resistant* means special packaging for ultimate sale to a consumer that is:

(1) designed or constructed to be significantly difficult for children under five years of age open and not difficult for adults to use properly as defined by Title 16 of the Code of Federal Regulations relating to Commercial Practices, Part 1700 regarding Poison Prevention Packaging, §1700.15 for Poison Prevention Packaging Standards and. §1700.20 for Testing Procedure for Special Packaging, as amended from time to time,

(2) and follows the packaging standards set forth in §1700.15 and the testing procedure set forth in 1700.20.

(g) *Date of expiration* means the date prior to which an unopened cannabis product meets applicable

(h) *Exit package* means a receptacle into which cannabis products within a retail package are placed at the retail point of sale. The exit package is optional.

(i) *Health claim* means any claim made on the retail package or marketing layer or in the marketing or advertising of a cannabis product, that expressly or by implication, including, but not limited to, by "third party" references, written statements (e.g., a brand name including a term such as "heart"), symbols (e.g., a heart symbol), or branding, characterizes the relationship of any cannabis product to a disease or health-related condition or symptom. Implied health claims include those statements, symbols, branding, or other forms of communication that suggest, within the context in which they are presented, that a relationship exists between the presence or level of a substance in the cannabis product to a disease or health-related condition or symptom.

(j) *Licensee* means an individual or an entity who has been granted a license for any activity under Article 4 of the Cannabis Law.

(k) *Lot unique identifier or lot number or bar code* means any distinctive combination of letters, numbers, or symbols, from which the complete history of manufacturing, testing, holding, distribution or recall of a lot of a cannabis product can be determined.

(l) *Marketing* means the activity or process for creating, communicating, delivering, and exchanging cannabis products.

(m) *Marketing layer* means packaging in addition to the retail packaging that is the outermost layer visible to the consumer at the point of sale. The Marketing Layer is optional, but if used it must be labeled according to the requirements in this Part.

(n) *Non-consumer package* means any container or wrapping used solely for the transport of cannabis or cannabis products in bulk and particularly a package intended solely for wholesale distribution as allowed in this Part.

(o) *Office* means the Office of Cannabis Management.

(p) *Phytocannabinoids* means any of the chemical compounds, excluding terpenes or any other compounds determined by the Office, that are the active principles of the cannabis sativa, including but not limited to tetrahydrocannabinol (THC) and CBD, and does not include synthetic cannabinoids as that term is defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law.

(q) *Post-consumer recycled material* means new material produced using material resulting from the recovery, separation, collection and reprocessing of material that would otherwise be disposed of or processed as waste and that was originally sold for consumption. It does not

include post-industrial material, or material generated by means of combustion, incineration, pyrolysis, gasification, solvolysis, chemical recycling and any high-heat or conversion process.

(r) *Principal packaging display panel* means the panel of the retail package or the marketing layer that the manufacturer or distributor intends to be displayed at retail.

(s) *Resealable* means a package that maintains its child-resistant effectiveness, as well as preserving the integrity of cannabis products for multiple servings.

(t) *Retail package* means a sealed, hard or soft-bodied, child-resistant receptacle in which cannabis product is for sale. Does not mean: (1) inner wrapping or lining; (2) an exit package; or (3) a non-consumer package used to transfer cannabis from one licensee to another.

(u) *Reusable packaging* is packaging made from durable material that is designed to be used repeatedly for a number of use cycles, is safe for washing and sanitizing, and is capable of being recycled at the end of use, with the exception of ceramic products.

(v) *Use by date* means the date prior to which an opened cannabis product meets applicable standards of identity, potency, and quality at the time of use, as determined by appropriate stability testing, subject to any storage conditions stated on the labeling

(w) *Tamper-evident* means, with respect to a device or process, bearing a seal, a label or a marking that makes unauthorized access to tampering with a package, product or container easily detectable.

(x) *Total THC* means the sum of the percentage by weight or volume measurement of tetrahydrocannabinolic acid multiplied by 0.877, plus, the percentage by weight or volume measurement of THC.

(y) *Universal symbol* means an image developed by the Office, and made available to licensees, that indicates that a retail package or product contains cannabis.

**§128.2 Cannabis Product Retail Packaging Minimum Standards.**

(a) A retail package shall:

(1) Be child-resistant;

(2) Be tamper-evident;

(3) Fully encloses the product, minimize oxygen exposure and prevents the contamination and or degradation of the cannabis product; and

(4) Not impart any toxic or deleterious substance onto the cannabis product.

(b) A licensee shall maintain a copy of the certificate showing that each retail package into which the licensee places cannabis or cannabis products is child-resistant and complies with the requirements of Title 16 of the Code of Federal Regulations relating to Commercial Practices,

Part 1700 regarding Poison Prevention Packaging, §1700.15 for Poison Prevention Packaging Standards and §1700.20 for Testing Procedure for Special Packaging, as amended from time to time.

(c) The exit package is optional and is not required to be labeled but may include the retail dispensary's name or logo, providing such that name or logo complies with the provision of section 128.6 of this Part.

**§ 128.3 Cannabis Product Retail Packaging Prohibitions.**

(a) A retail package shall not:

- (1) Contain brand elements beyond one brand logo and the brand name (which has size restrictions but can be any font and color as set forth in this Part);
- (2) Contain any pictures, images, or graphics, other than what is required by the Office;
- (3) Contain any features that emit scent or sound;
- (4) Contain any features that change or alter a package's appearance through technology, other than for anti-counterfeiting purposes;
- (5) Be made attractive to individuals under twenty-one;
- (6) Be made of single-use plastic, unless containing a minimum 25% post-consumer recycled content; and
- (7) Violate any additional requirements as set out by the Office.



**§ 128.4 Retail Packaging Sustainability Program.**

(a) A licensee shall submit an environmental sustainability program for cannabis product packaging as part of the application process, if applicable for the license type. Such programs may include but are not limited to reuse strategies collecting reusable cannabis packaging components to be sanitized and refilled or reused as cannabis packaging, or sustainable packaging strategies that use non-plastic, compostable or recyclable materials, or packaging materials exceeding 25% post-consumer recycled content. Within two years of issuance of the license, the licensee shall submit to the Board or Office a revised environmental sustainability product packaging plan.

(b) Retail packages can be reused after appropriate sanitation and based on visual inspection, if the retail package is in good working order and does not appear to pose a risk of unintended exposure or ingestion of cannabis products. The visual inspection must ensure such retail packages are not brittle or have chips, cracks, or other imperfections that could compromise the child-resistant properties of the retail package or otherwise pose a threat of harm to a consumer.

(1) The retail packages shall be sanitized and disinfected either by a licensee or by a third-party to ensure that they do not contain any harmful residue or contaminants.

(c) Claims about recyclable or recycled content packaging shall comply with Title 16 of the Code of Federal Regulations relating to Commercial Practices, Part 260 regarding Guides for the Use of Environmental Marketing Claims.

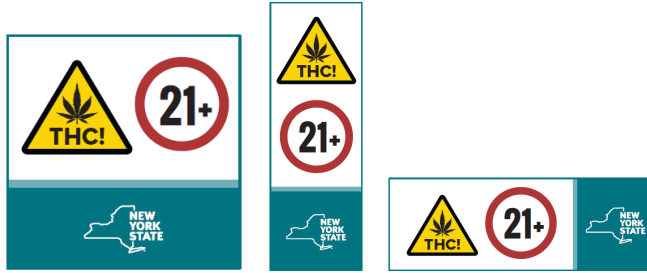
(d) A licensee who packages products for retail sale shall annually report to the Office key metrics including but not limited to the total amount of packaging material, by weight, sold, offered for sale, or distributed into the state by the licensee in the prior calendar year; and the total costs of packaging material.

**§ 128.5 Cannabis Product Labeling Minimum Standards.**

(a) Licensees authorized to package cannabis products for retail sale shall ensure that the principal packaging display panel shall have a white background with black text containing the following information:

- (1) milligrams per single serving of total THC (THC + THCA x 0.877), total CBD (CBD + CBDA x 0.877) content and any other marketed phytocannabinoids, or terpene profile;
- (2) milligrams per package of total THC (THC + THCA x 0.877);
- (3) the amount of total THC (THC + THCA x 0.877) and any other marketed phytocannabinoids as a percentage of volume, except if the cannabis product is in the form of an edible;
- (4) number of servings in total for the cannabis product except for cannabis flower and other forms of cannabis for vaporization;
- (5) weight of cannabis product; and
- (6) lot number.

- (b) The retail package and any marketing layer shall contain the following information:
- (1) a list of all ingredients in descending order of predominance by weight in the cannabis product – both active and inactive. The ingredient list must include and separately list, in bold, any major allergens set forth in the Food Allergen Labeling and Consumer Protection Act of 2004, Title 21, as it relates to Food and Drugs, of the U.S. Code § 343, for misbranded food, as amended from time to time.
    - (i) Edible products and beverage products will include a nutritional label pursuant to Title 21, as it relates Food and Drugs, of the Codes of Federal Regulations §101.9(c) for nutrition labeling of food, as amended from time to time.
  - (2) a list of any solvent used to produce any the cannabis product, if applicable;
  - (3) the date of expiration of the unopened cannabis product;
  - (4) use by date;
  - (5) the proper storage conditions;
  - (6) name, address, license number, and contact information of the manufacturer or distributor;
  - (7) any one of the following three universal symbols on the upper left 25% of the marketing layer at a minimum size of 1.25 inch in height for the square symbol, 0.5 inch in width for the vertical symbol, and 0.5 inch in height for the horizontal symbol. The symbol must be made conspicuous by printing the symbol on, or outlining the symbol with, a contrasting color;



(8) total THC and CBD milligrams in bold on the primary packaging display panel or marketing layer;

(9) include clear usage instructions;

(10) a scannable bar code or QR code linked to a downloadable certificate of analysis, or linked to a website where the certificate of analysis can be downloaded; and

(11) any other information required by the Board.

(c) Required labeling text on the retail package or any marketing layer must be no smaller than 6-point font size. Labeling text on the retail package or any marketing layer must be clearly written or printed and in the English language. In addition to the required labeling in English, licensees may include an additional, accurate foreign language translation on the retail package that otherwise complies with this Part.

(d) The marketing layer is optional, but if used by a licensee in addition to the required packaging, it must be labeled according to the requirements in section 128.5 of this Part.

DRAFT

(e) The information required pursuant to section 128.5(a) of this Part must be unobstructed and conspicuous. A licensee may include the required information by printing the information directly onto the retail package or by affixing multiple labels with the information to the retail package, provided that none of the information is obstructed. For example, and not by means of limitation, the information may appear on labels that may be accordion, expandable, extendable, or layered to permit labeling of small retail packages.

(f) The retail packaging or marketing layer shall contain the following warnings:

(1) This product contains cannabis and THC;

(2) In all capital letters as indicated: “KEEP OUT OF REACH OF CHILDREN AND PETS. For use only by persons 21 years and older”;

(3) Warning: Do not use if pregnant or nursing;

(4) National Poison Control Center 1-800-222-1222;

(5) For cannabis products intended to be smoked, inhaled, or vaporized: Warning: Smoking or vaping is hazardous to health;

(6) For cannabis products intended to be ingested orally: Warning: Effects of this product may be delayed by 4 or more hours;

(7) For all topical products: Warning: For topical use only. Do not eat or smoke; and

(8) Any other warning required by the Board.

(g) The warnings required pursuant to section 128.5(f) of this Part shall be displayed as follows:

- (1) in the English language;
- (2) in Times New Roman, Calibri, Arial, or Helvetica;
- (3) in text no smaller than size 6 font;
- (4) bolded;
- (5) be legible, unobscured, and visible to the consumer; and
- (6) in a bright yellow text box on the primary packaging display panel or marketing layer so as to stand out from other packaging and labeling. The use of a bright yellow color for the warning shall not render the retail package attractive to individuals under twenty-one as prohibited by section 128.3 of this Part. If the label or package are yellow in color, the text box shall be offset with a distinctive border so as to differentiate it from the surrounding label or package.

(h) In addition to the required warnings in section 128.5(f) of this Part, the retail packaging or marketing layer shall include any rotating health warnings as determined by the Office.

(i) Any research licensee conducting research approved by the Office involving human subjects shall comply with all packaging and labeling requirements, unless the licensee receives prior written approval for a waiver of specific packaging or labeling requirements in connection with any research approved by the Office. The waiver may extend to a licensee providing cannabis or cannabis products for an approved research study.

#### **§ 128.6 Cannabis Product Labeling Prohibitions.**

DRAFT

- (a) No retail package or marketing layer shall display any content or be labeled in any manner that:
- (1) is made attractive to individuals under twenty-one as defined in 128.1(b) of this Part;
  - (2) includes any false or misleading statements including, but not limited to, any health claims;
  - (3) includes the term “organic”;
  - (4) includes the term “craft” unless the processor meets the term as defined in Part 118 of this Chapter;
  - (5) causes a reasonable consumer confusion as to whether the cannabis product is trademarked, marked or labeled in a manner that violates any federal trademark law or regulation;
  - (6) contains any illustration or content that falsely portrays cannabis or cannabis products as being authorized under or part of Article 3 or Article 5 of the Cannabis Law;
  - (7) depicts cannabis, excluding the universal symbol as required by section 128.4 of this Part, cannabis products, or paraphernalia;
  - (8) promotes overconsumption;
  - (9) promotes price, price reductions, or any other discount or coupon;
  - (10) depicts a child or other person reasonably appearing to be under the age of twenty-one;  
and
  - (11) additional prohibitions as set out by the Office.

**§ 128.7 Retail Packaging and Labeling Violations and Penalties.**

(a) The Board may suspend, cancel or revoke a license and impose any other penalties as authorized by Subchapter J of this Title and the Cannabis Law for the following violations:

- (1) failing to comply with this Part; and
- (2) transferring, selling, or offering to sell a cannabis product for retail sale to a consumer or to another licensee that is not packaged or labeled in accordance with this Part.

(b) If a licensee receives a cannabis product for retail sale that is not packaged or labeled in accordance with this Part, the licensee must immediately notify the Office and either:

- (1) return the cannabis product to the licensee who transferred the item or product to the licensee; or
- (2) in the event the cannabis product is packaged according to this Part but is not labeled according to Part 128, correct the labeling by adding only the information required to make the labeling compliant. If the noncompliance cannot be corrected by affixing a label with the required information, the cannabis product must be returned to the licensee who manufactured the cannabis product and transferred it to the licensee.

(c) If a licensee returns a cannabis product to the licensee who transferred the product, the licensee must document the return and the reason for the return in the inventory tracking system.



DRAFT

Part 129

Part 129 - Adult-Use Marketing and Advertising

**§ 129.1 Definitions.**

**§ 129.2 Adult-Use Marketing and Advertising General Requirements.**

**§ 129.3 Adult-Use Marketing and Advertising Prohibitions.**

**§ 129.4 Outdoor Signage.**

**§ 129.5 Adult-Use Marketing and Advertising Violations and Penalties.**

**§ 129.1 Definitions.**

For purposes of this Part, the terms used herein shall have the meanings ascribed to them in section 128.1 of this Title.

**§ 129.2 Adult-Use Marketing and Advertising General Requirements.**

(a) A licensee may use its brand on labeling, signage, and other material subject to Parts 128 and 129 of this Title.

(b) A licensee is permitted to develop advertising and marketing materials, provided the primary purpose of the advertising is to displace the illicit market and inform the consumer of the location of licensed retail dispensaries. A licensee may engage in reasonable advertising practices that are not otherwise prohibited in this Part, provided the marketing and advertising does not jeopardize public health or safety, promote youth use, or be attractive to individuals under twenty-one.

(c) Any marketing or advertisement of cannabis or cannabis products shall include the following statements, in a conspicuous manner on the face of the marketing material or advertisement or be read aloud clearly at the same volume and pace as the rest of the advertisement.:

“For use only by adults 21 years of age and older. Keep out of reach of children and pets. In case of accidental ingestion or overconsumption, contact the National Poison Control Center hotline 1-800-222-1222 or call 9-1-1. Please consume responsibly.”,

(d) Any marketing or advertising of cannabis or cannabis products shall include one of the following warnings in a rotating manner as directed by the Office, in their entirety in a conspicuous manner on the face of the marketing material or advertisement:

- (1) "Cannabis may cause impairment and may be habit forming.";
- (2) "Cannabis can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of cannabis.";
- (3) "There may be health risks associated with consumption of this product.";
- (4) "Cannabis is not recommended for use by persons who are pregnant or nursing." or
- (5) Other warnings as determined by the Board.

(e) Warnings in print or digital advertisements pursuant to sections 129.2(c) and 129.2(d) of this Part shall be displayed as follows:

- (1) in the English language;
- (2) in Times New Roman, Calibri, Arial, or Helvetica;
- (3) in text no smaller than size 6 font;
- (4) bolded;
- (5) be legible, unobscured, and visible to the consumer; and
- (6) in a bright yellow text box so as to stand out from the surrounding advertisement. The use of a bright yellow color for the warning shall not render the advertisement attractive to

individuals under twenty-one as prohibited by section 129.2 of this Part. If the surrounding advertisement is yellow in color, the text box shall be offset with a distinctive border so as to differentiate it from the surrounding advertisement.

(f) A licensee shall include the New York State HOPEline phone number, text number, and website or QR code on any advertising or marketing materials, by displaying the information on visual media or by reading the information in audio media.

(g) A licensee shall only advertise cannabis products, cannabis paraphernalia, or goods or services related to cannabis or cannabis products by means of television, radio, print, internet, mobile applications, social media, other electronic communication, or print publication if the licensee has reliable evidence that at least 90%, unless otherwise determined by the Office, of the audience for the advertisement is reasonably expected to be twenty-one years of age or older. The burden of proof of the audience composition lies with the licensee.

(h) A licensee shall maintain records and documentation to establish that its advertising and marketing meet the requirements of this Part.

(i) A licensee may sponsor a charitable, sports, or similar event provided however, a licensee shall not engage in advertising at, or in connection with, such an event unless the licensee has reliable evidence that at least 90%, unless otherwise determined by the Office, of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be

twenty-one years of age or older. Advertising and marketing at eligible events must comply with this Part.

(j) A licensee shall limit the apparel displaying its brand and trademark used in connection with the sale of apparel displaying its brand to only adult sizes. Such apparel shall only be sold by the licensee within its licensed premises. The universal symbol as determined in Part 128.4(b)(8) of this Title cannot be used in branded apparel.

(k) A licensee shall accurately and legibly include its name and license number on all advertising and marketing for its products.

(l) A licensee who advertises via a website or digital application shall have a mechanism designed to keep those under the age of twenty-one from visiting the website or digital application.

(m) A licensee who has entered into an intellectual property licensing agreement, marketing or advertising agreement or any other agreement in which a licensee authorizes the use of its intellectual property, or allows a third party to market or advertise on its behalf, the licensee is responsible to ensure that such agreement, intellectual property use, marketing or advertising shall comply with Part 128 and Part 129 of this Title.

(n) Additional requirements as set out by the Office.

**§ 129.3 Adult-Use Marketing and Advertising Prohibitions.**

- (a) No marketing or advertising of cannabis products shall:
  - (1) depict cannabis not otherwise permitted by section 128.4 of this Title or paraphernalia;
  - (2) use or display images designed in any manner to be attractive to individuals under twenty-one;
  - (3) use audio that may be attractive to individuals under twenty-one, including but not limited to using children’s voices or cartoon voices;
  - (4) be on or in the form of a billboard;
  - (5) use or display colloquial references to marijuana and cannabis or depictions or digital images or icons, whether animated or static, of cannabis, cannabis products, paraphernalia, or the imagery or action of smoking or vaping, including but not limited to “stoner”, “chronic”, “weed”, “pot”, or “sticky buds”;
  - (6) be false or misleading, including making any health claims or a representation that use of cannabis has curative or therapeutic effects;
  - (7) promote overconsumption or rapid consumption;
  - (8) promote product potency or THC concentration;
  - (9) promote price, price reductions, or any other discount, customer loyalty program, or coupon;
  - (10) falsely portray cannabis or cannabis products as being in compliance with Article 3 and Article 5 of the Cannabis Law;

DRAFT

- (11) assert that cannabis or cannabis products are safe because they are regulated by the Board or Office;
- (12) depict a child or other person under the age of twenty-one or reasonably appearing to be under the age of twenty-one. Talent portrayed in cannabis advertising should be a minimum of twenty-five years old, substantiated by proper identification;
- (13) use the term “organic;”
- (14) contain any obscene or indecent statement, design, or representation, picture, or illustration;
- (15) be within or be readily observed within 500 feet of an elementary or secondary school grounds as defined in Education Law, recreation center or facility, childcare center, playground, public park, or library;
- (16) disparage products of another cannabis business;
- (17) encourage the transportation of cannabis across state lines or otherwise encourage illegal activity;
- (18) be on or through handbills that are passed out in public areas including but not limited to parking lots and publicly owned property;
- (19) a licensee’s brand cannot include medical symbols that might reasonably lead a consumer to think the product is a medical product;
- (20) sponsor an event using a licensee’s brand, business or trade name;
- (21) Utilize unsolicited pop-up or banner advertising on the internet other than on age-restricted websites for people twenty-one and over who consent to view cannabis-related material;

(22) Produce any items for sale or promotional gifts, such as T-shirts or novelty items, bearing a symbol of or references to cannabis. This prohibition shall not pertain to cannabis paraphernalia sold to consumers;

(23) Advertise through the marketing of free promotional items including, but not limited to, gifts, giveaways, discounts, points-based reward systems, customer loyalty programs, coupons, and "free" or "donated" cannabis products, except for the provision of branded exit packages by a licensee for the benefit of customers after a retail purchase is completed; or

(24) additional prohibitions determined by the Board or Office.

(b) A licensee shall not permit the use of their trademarks, brands, names, locations, or other distinguishing characteristics for third-party use on advertising in a manner that does not comply with this Part or any other statute, rule or regulation.

**§ 129.4 Outdoor Signage.**

(a) Outdoor retail store signage for the purpose of alerting individuals to the location of an Adult-Use cannabis retail dispensary is permitted provided such signs:

- (1) are limited to the following information;
  - (i) business or trade name,
  - (ii) business location, and
  - (iii) the nature of the business.
- (2) are affixed to a building or permanent structure;



- (3) are both limited to sixteen hundred square inches;
- (4) are not illuminated by neon lights;
- (5) are not on vehicles;
- (6) do not total more than two in number per licensee; and
- (7) do not depict cannabis, cannabis products, or the imagery or action of smoking or vaping.

(b) Outdoor marketing or advertising is prohibited on signs and placards in arenas, stadiums, shopping malls, fairs that receive state allocations, and video game arcades, whether any of the foregoing are open air or enclosed, but not include any such sign or placard located at an adult only facility or as further set out by the Office in guidance.

(c) Use of a commercial mascot is prohibited;

(d) A licensee shall remove the outdoor signage if the Office determines the outdoor signage violates the provisions of Cannabis Law and this Part or if the licensee fails to provide records to the Office upon request that establishes the outdoor signage meets the requirements of Cannabis Law and this Part.

(e) Outdoor retail store signage must comply with any additional requirements as set out by the Office.

**§ 129.5 Adult-Use Marketing and Advertising Violations and Penalties.**

(a) A licensee shall immediately remove or discontinue advertising or marketing if the Board determines the advertising, marketing, or outdoor signage violates the provisions of Cannabis Law and this Part or if the licensee fails to provide records to the Office upon request that establishes the advertising and marketing meets the requirements of Cannabis Law and this Part.

(b) In the event a third-party has used a licensee's trademarks, brands, names, locations, or other distinguishing characteristics in an advertisement that does not comply with this Part or any other statute, rule or regulation, the licensee must immediately notify the Office, issue a cease-and-desist notification to the third-party, and may pursue appropriate legal action.

(c) The Office may take any action against any licensee who fails to comply with this Part, including but not limited to recommendations to the Board for suspension, cancellation, or revocation of a license, imposition of any fees or fines, requiring a licensee to cease by a date determined by the Office the non-compliant marketing and advertising and requiring removal by a date determined by the Office of any marketing material or advertising still being published or displayed, and any other penalties set forth in Cannabis Law and Part 133 of this Title.