



Sen. Craig Hickman, Chair
Rep. Laura Supica, Chair
Joint Standing Committee on Veterans and Legal Affairs
Maine State Legislature
100 State House Station
Augusta, ME 04333

Re: *LD 903, An Act to Regulate the Advertising of Cannabis Products*

Dear Sen. Hickman, Rep. Supica, and Members of the Veterans and Legal Affairs Committee:

On behalf of the Maine Cannabis Industry Association, we write to provide comments regarding *LD 903, An Act to Regulate the Advertising of Cannabis Products*. Existing adult-use and medical cannabis laws and regulations already provide robust safeguards for cannabis advertising. LD 903, which proposes a near total ban on marketing and advertising by cannabis businesses in Maine, is overly restrictive, harmful to thousands of Mainers whose livelihoods depend on cannabis businesses, and likely would violate the free speech protections afforded by the First Amendment and Article 1, Section 4 of Maine's Constitution. For these reasons, we strongly oppose LD 903.

About MCIA. The Maine Cannabis Industry Association is a collection of individuals and businesses dedicated to a fair, responsible, and regulated free-market cannabis industry in Maine. In the context of medical and adult-use cannabis, we advocate for the needs of local businesses, the economy of our State, and the safety of our public.

What does LD 903 do? LD 903 would amend existing law that currently restricts advertising by cannabis businesses to prohibit all advertising and marketing by cannabis businesses with limited exceptions. Under LD 903, adult-use and medical cannabis license holders would only be permitted to maintain a website, be listed in business directories, and display a sign on their physical licensed premises.

Discussion. At the outset, we note that “commercial speech” – like advertising and marketing – is protected by the First Amendment of the United States Constitution and Article 1, Section 4 of the Maine Constitution. Federal and state government may restrict commercial speech, but only if the restrictions seek to implement a substantial government interest, directly advance that interest, and are not broader than necessary to advance the government objective. See *B&B Costal Enterprises, Inc. v. Demers*, 276 F.Supp.2d 155, 163 (D. Me. 2003); *Central Hudson Gas & Elec. Corp. v. Public Serv. Comm'n of New York*, 447 U.S. 557 (1980).


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Our Association assumes the purpose of LD 903 is to curtail children's interest in and exposure to the cannabis industry. If so, we take no issue with this goal but urge this Committee to consider the restrictions *already* in place. Among other restrictions, statutes and Office of Cannabis Policy regulations already prohibit cannabis businesses from advertising in a manner that targets minors, promotes illegal activity, displays consumption of cannabis, contains any subject matter that targets minors or depicts minors, contains any imitation of or use of the words candy, sweets, or snack food, and advertisements within 500 feet of a public or private school. These existing restrictions are effective in curtailing children's interest in cannabis; we have seen no evidence to suggest the opposite is true.

If LD 903 were to pass, cannabis businesses would only be permitted to maintain a website, be listed in business directories, and display a sign on their physical licensed premises. Our review of advertising restrictions in other states where adult-use or medical cannabis is legal indicates LD 903 would make Maine's advertising restrictions the **most restrictive in the nation**. The proposed prohibition on all other advertising vastly exceeds what is necessary to protect the state's interests and for this reason would likely violate the First Amendment and the free speech protections of the Maine Constitution Article 1, Section 4. Moreover, the proposed restrictions would unnecessarily and directly harm the thousands of Mainer cannabis professionals who have entered the industry since the state legalized cannabis for adult-use and medical purposes.

Conclusion. Thank you for the opportunity to provide testimony in opposition to LD 903. If you have any questions or need additional information, please do not hesitate to contact us.

Sincerely,



Jill G. Cohen
Legislative Counsel
Maine Cannabis Industry Association