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Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

JAN 20 2023

SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED RULE

19 CSR100-1.120 Packaging, Labeling, and Product Design

PURPOSE: Under Article XIV, Sections 1 and 2 of the Missouri Constitution, the Department of Health and Senior Services is authorized to promulgate rules necessary to ensure the safe use of marijuana product, including rules related to labeling and packaging standards. This rule explains what packaging, labeling, and product design regulations apply to all medical and marijuana facility licensees.

(1) All marijuana product shall be produced, packaged, and labeled in a manner that protects public health and does not appeal to children.

(A) No marijuana product may be manufactured, packaged, or labeled in a false or misleading manner, such as by inaccurately representing product ingredients.

(B) Product and Packaging Design.

1. No marijuana product or packaging may be designed using the shape or any part of the shape of a human, animal, or fruit, including realistic, artistic, caricature, or cartoon renderings.

2. No marijuana product or packaging may be designed in such a way as to cause confusion between a marijuana product and any product not containing marijuana, such as where products or packaging are visually similar to any commercially similar product that does not contain marijuana.

3. All marijuana product packaging shall be resealable, opaque, and certified as child resistant. Where marijuana product is packaged in a series of containers, the container closest to the product, excluding methods of administration or wrappers, must be compliant with this requirement.

4. All marijuana product packaging shall be constructed from FDA-approved food contact substances. Where marijuana product is packaged in a series of containers, the container closest to the product, including methods of administration or wrappers, must be compliant with this requirement.

5. All marijuana product packaging, including exit packaging, may only utilize—

A. a single color;

B. a product name;

C. text indicating whether the product is sativa, indica, or a hybrid; and

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By JCAR at 11:31 am, Jan 20, 2023

D. up to two (2) logos or symbols of a different color or colors, whether images or text, including brand logos, provided the logos or symbols are no larger than two (2) inches in length and two inches in height.

(C) Labeling.

1. The front of all containers, wrappers, packages, and methods of administration, except the paper for prerolls, that contain marijuana product shall be clearly and conspicuously labeled with “Marijuana” printed at least as large as any other words used on the containers, methods of administration, wrappers, and packages, as well as a prominently displayed universal symbol indicating the product contains marijuana that consists of the following:

A. A diamond containing the letters “THC”; and

B. The number of milligrams of THC in the package.

2. The marijuana product container closest to the product shall bear a label displaying only the following information, in the following order, from top to bottom and left to right:

A. All active and other ingredients, which shall not include groupings of ingredients that obscure the actual ingredients, such as “natural flavors” or “botanically derived terpenes”;

B. Servings or doses per package;

C. A “best if used by” date;

D. The license number of the licensed entity from which the final marijuana product originated;

E. The license number(s) of the licensee that packaged the product, if different from the licensed entity from which the final marijuana product originated;

F. The testing lab where the marijuana product passed required testing;

G. The statewide track and trace system tag number associated with the final testing results for the product;

H. The exact total weight of the marijuana included in the package;

(I) For dried, unprocessed marijuana, concentrates, prerolls, and infused prerolls, weight shall be listed in grams.

(II) For infused products other than infused prerolls, weight shall be listed by milligrams of delta 9 tetrahydrocannabinol.

I. The exact delta 9 tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, cannabidiol acid, cannabitol, tetrahydrocannabivarin, cannabidivarin, and delta 8 tetrahydrocannabinol per serving/dose, listed in milligrams;

J. The following warning: “Keep out of reach of children”; and

K. Marijuana product packaging may include health warnings including side effects and behavioral effects of usage of any particular product.

3. Marijuana product packaging may not contain any information other than that specifically required by this subsection.

(2) Prior to use, all marijuana product designs and packaging designs must be submitted to the department for review of compliance with sections (1)(B) and (C) of this rule and, once approved, will receive an approval number that must be displayed on the marijuana product packaging.

(3) All marijuana product shall be compliantly packaged and labeled by the cultivation, manufacturing, or microbusiness wholesale facility providing the final marijuana product for sale except where cultivation or microbusiness wholesale facilities are providing dried, unprocessed marijuana to dispensaries for use in creating prerolls or for dispensing directly to consumers or qualifying patients in custom amounts. In such a case, the dispensary facility is responsible for ensuring the product is compliantly packaged and labeled prior to sale.

(4) Any violation of this subsection shall be punishable by an appropriate and proportional department sanction, up to and including an administrative penalty of five thousand (\$5000) dollars for each product/packaging category, identified by approval number, in which a requirement is violated.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions three million, one hundred eight thousand, three hundred twenty-four dollars (\$3,108,324) for the first three-year period, and one million, nineteen thousand, fourteen dollars (\$1,019,014) annually thereafter.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, MMPublicComment@health.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.*