



Consumer Profiles Prohibited

In passing SB 516/ HB 556, Maryland's General Assembly expressly provided that consumer access to regulated cannabis is critical to eradicating the illicit market. Dispensaries are required to be geographically diverse in order to accomplish this goal. In this way, it was critical to Maryland's adult-use enabling statute that adult-use consumers have consistent access to regulated dispensaries.

It has come to the attention of the Maryland Cannabis Administration (MCA) that certain dispensaries have conditioned individuals' ability to purchase adult-use cannabis on the dispensary's creation of additional records of their visits by capturing a copy of identification cards and capturing the name, address, and purchase history of the consumer. This practice is in violation of COMAR 14.17.12.04B.

14.17.12.04B provides in pertinent part:

B. Dispensing Adult-Use Cannabis.

(1) A registered dispensary agent **shall** dispense cannabis only to a consumer who has presented a government-issued photo identification card that is valid, unexpired, and contains the consumer's birth date.

(2) A government-issued identification card under §B(1) of this regulation includes:

- (a) State driver's license;
- (b) U.S. passport;
- (c) U.S. passport card;
- (d) Non-driver's state photo ID card;
- (e) Foreign passport;
- (f) U.S. military ID card; and
- (g) Tribal card (emphasis supplied).

This regulation requires that a dispensary shall provide access to a consumer who has presented a qualifying government-issued photo identification card. This regulation does not permit a dispensary to deny access to an adult-use consumer on the basis that the consumer objects to the dispensary creating additional identifying records reflecting the consumer's visit and purchase. A dispensary is permitted to offer adult-use consumers the opportunity to consent to the creation of a consumer profile if the consumer chooses to do so, but a dispensary may not deny an adult-use consumer the opportunity to purchase adult-use cannabis exclusively on the basis that the customer does not consent to create additional records of their visit or purchases. Dispensaries should delete any customer profiles that were created without informed customer consent.

In order to adequately inform consumers of their rights, and pursuant to COMAR 14.17.12.02C dispensaries are required to post a notice reflecting the following information. The notice must be conspicuously posted at or near the point at which a dispensary agent first greets a consumer and asks for identification. The notice must state:

Adult-use consumers making in-store purchases are not required to allow a dispensary agent to create or maintain a customer profile in order to purchase adult-use cannabis.

Adult-use consumers intending to make an in-store purchase may be offered the opportunity to create a customer profile, and they have the right to refuse without being turned away from the dispensary solely on that basis.

The MCA is further advising that any consumer profiles that were created prior to the date of this notice, without fully informed consent by the consumer shall be destroyed, unless the licensee is able to gain informed consent for the retention of consumer information.

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