

Cannabis Legalization and Regulation in British Columbia

DISCUSSION PAPER



Ministry of
Public Safety and
Solicitor General

Introduction

In 2015, the federal government committed to legalizing non-medical cannabis in Canada. On June 30, 2016, it established the Task Force on Cannabis Legalization and Regulation (the Task Force) to consult and advise on the design of a new legislative and regulatory framework. The [Task Force report](#) was released on December 13, 2016, and provides a comprehensive set of recommendations for governments to consider.

On April 13, 2017, the federal government introduced Bill C-45, the *Cannabis Act* and Bill C-46 (the Act to amend the *Criminal Code*), in the House of Commons. The Bills are currently making their way through the parliamentary process. Bill C-46 amends the *Criminal Code* to simplify and strengthen its approach to alcohol and drug impaired driving, and the federal government plans to move quickly to bring the amendments into force once the Bill receives Royal Assent.

The federal government plans to bring Bill C-45 into force in July 2018; this will make non-medical cannabis legal in Canada as of that date. Bill C-45 is largely based on the recommendations of the Task Force. It seeks to balance the objectives of providing access to a regulated supply of cannabis, implementing restrictions to minimize the harms associated with cannabis use, and reducing the scope and scale of the illegal market and its associated social harms.

The federal government's decision to legalize cannabis creates a corresponding need for provincial and territorial governments to regulate it. While the federal government intends to assume responsibility for licensing cannabis producers and regulating production and product standards, provinces and territories will be responsible for many of the decisions about how non-medical cannabis is regulated in their jurisdictions. These include, but are not limited to: distribution and retail systems; compliance and enforcement regimes; age limits; restrictions on possession, public consumption and personal cultivation; and amendments to road safety laws.

As it considers these important decisions, the BC Government wants to hear from local governments, Indigenous governments and organizations, individual British Columbians, and the broad range of other stakeholders that will be affected by cannabis legalization.

This discussion paper has been prepared to help inform this public and stakeholder engagement. It addresses a number of key policy issues for BC, including minimum age, public possession and consumption, drug-impaired driving, personal cultivation, and distribution and retail. It draws heavily from the analysis of the Task Force, and identifies policy options to consider in developing a BC regulatory regime for non-medical cannabis.

Note that this paper does not address regulation of medical cannabis. For now, the federal government has decided to maintain a separate system for medical cannabis. The Province has a more limited role in the medical cannabis system, and the policy issues and policy choices available are very different, in part because of a history of court cases related to the *Canadian Charter of Rights and Freedoms*.

Minimum Age

While Bill C-45 establishes a minimum age of 18 years to buy, grow, and publicly possess up to 30 grams of non-medical cannabis, provinces and territories can choose to establish a higher minimum age in their jurisdictions. This is consistent with the Task Force recommendations.

- BC could accept the federal minimum age of 18. However, the minimum age to buy tobacco and alcohol in BC is 19. 19 is also the BC age of majority, when minors become legal adults. In addition, since significant numbers of high school students turn 18 before they graduate, a minimum age of 18 could increase the availability of cannabis to younger teens.
- BC could set the minimum age at 19. This would be consistent with the minimum ages for tobacco and alcohol, and with the BC age of majority.
- BC could set the minimum age at 21 or higher. Emerging evidence suggests that cannabis use could affect brain development up to age 25. As a result, many health professionals favour a minimum age of 21.

However, as the Task Force recognized, setting the minimum age too high could have unintended consequences. Currently, persons under 25 are the segment of the population most likely to use cannabis. The greater the number of young users who cannot buy legal cannabis, the more likely that there will continue to be a robust illegal market where they can continue to buy untested and unregulated cannabis.

Finally, it's important to note that a legal minimum age is not the only tool to discourage cannabis use by young persons. As an example, public education campaigns that provide information about how cannabis use can limit academic performance and future opportunities have been found to be effective.

Personal Possession - Adults

Bill C-45 establishes a 30 gram limit on public possession of dried cannabis. Practically, this means that this is the maximum amount that an adult could buy and take home at any one time (for context, one joint typically contains between .33g to 1g of cannabis). The legislation also sets possession limits for other forms of cannabis (e.g. oils, solids containing cannabis, seeds) and the federal government intends to add other types of cannabis products (e.g. edibles) by regulation at a later date.

The 30 gram limit is consistent with the Task Force recommendation and with public possession limits in other jurisdictions that have legalized non-medical cannabis. The reason for public possession limits is that possession of large amounts of cannabis can be an indicator of intent to traffic, so a public possession limit can help law enforcement to distinguish between legal possession for personal use, and illegal possession for the purpose of trafficking.

Provinces and territories cannot increase the public possession limit, but they can set a lower limit. However, a consistent possession limit across the provinces and territories would be easier for the public to understand and comply with.

Personal Possession – Youths

While persons under 18 will not be able to buy or grow cannabis under Bill C-45, they are not prohibited from possessing up to 5 grams of dried cannabis or equivalent amounts for other cannabis products. This is consistent with the Task Force report, which took the position that youth should not be criminalized for possession of relatively small amounts of cannabis. However, provinces and territories can establish laws that prohibit possession by persons under an established provincial minimum age. Such a provincial law would not result in a criminal conviction and would be similar to how BC deals with alcohol – persons under 19 are prohibited from possessing alcohol, and a law enforcement officer can confiscate it and has the option of issuing a ticket.

Public consumption

Bill C-45 will amend the federal *Non-smokers' Health Act* to prohibit cannabis smoking and vaping in certain federally-regulated places (e.g. planes, trains), but regulation of public consumption of cannabis will otherwise fall within provincial and territorial jurisdiction.

BC can restrict where non-medical cannabis can be consumed, and can place different restrictions on different types of consumption (e.g. smoked, eaten). If BC does not legislate restrictions on public consumption by the time Bill C-45 comes into force, it will be legal to smoke, vape, and otherwise consume cannabis in public, including in places where tobacco smoking and vaping are forbidden.

For the purpose of considering potential restrictions on public consumption, it may be helpful to consider cannabis smoking and vaping separately from other forms of consumption.

Cannabis Smoking and Vaping

The Task Force recommended that current restrictions on public tobacco smoking be extended to cannabis. In BC, both tobacco smoking and vaping are currently prohibited in areas such as workplaces, enclosed public spaces, on health authority and school board property, and in other prescribed places such as transit shelters, and common areas of apartment buildings and community care facilities.

BC has a number of options to consider:

- BC could extend existing restrictions on tobacco smoking and vaping to cannabis smoking and vaping – under provincial law, adults would then be allowed to smoke or vape cannabis anywhere they can smoke or vape tobacco. Depending on the regulatory scheme established by the Province, local governments may also be able to establish additional restrictions, such as prohibiting cannabis smoking and vaping in public parks.
- BC could prohibit public cannabis smoking altogether, but allow cannabis vaping wherever tobacco smoking and vaping are allowed. Compared to smoking, vaped cannabis has a reduced odour and is less likely to be a nuisance to passersby. In addition, banning public cannabis smoking could help avoid normalizing cannabis use.

- BC could also prohibit public cannabis smoking and vaping altogether and establish a licensing scheme to allow designated consumption areas, e.g. cannabis lounges. However, it is unlikely that such a licensing scheme could be implemented in time for legalization.

Other forms of consumption:

While edible, drinkable, and topical forms of cannabis will not be commercially available immediately upon legalization, the federal government intends to regulate the production and manufacturing of these products for sale at some point. In addition, adults will be allowed to make their own edible and other products at home.

Public consumption of non-inhaled forms of cannabis would be very difficult to detect and enforce. While BC could legislate restrictions on public consumption of these forms of cannabis, it may be more practical to rely on public intoxication and disorderly conduct laws to manage intoxication issues related to public consumption.

Drug-impaired Driving

With 17% of British Columbians reporting cannabis use within the previous year¹, we know that it's very likely that a number of British Columbians are already driving with cannabis in their system, whether they are impaired or not. In 2016, drugs (cannabis or otherwise) were a contributing factor in fewer than 8% of BC road fatalities; however, legalization raises legitimate concerns about the potential for cannabis-impaired driving to increase, and make our roads less safe.

Drug-impaired driving is already prohibited under the *Criminal Code*, but Bill C-46 would overhaul existing impaired driving provisions and specifically address cannabis impairment. The amendments will provide authority for the federal government to set a blood tetrahydrocannabinol (THC) limit beyond which a person can be criminally charged with cannabis-impaired driving. This is similar to the blood alcohol limits in place for alcohol-impaired driving.

The proposed federal criminal penalties for drug-impaired driving range from a minimum of a \$1,000 fine to up to a maximum of 10 years in jail.

In BC, police who stop an alcohol-impaired driver can charge the driver criminally, but they also have the option of issuing an [Immediate Roadside Prohibition](#) (IRP) or an Administrative Driving Prohibition (ADP) under the *BC Motor Vehicle Act*. Sanctions can include licence prohibitions, monetary penalties, vehicle impoundment, and license reinstatement fees. These programs have been very effective in reducing the number of road fatalities on BC roads.

While the IRP and ADP schemes do not currently apply to drug-impaired driving, police officers in BC do have the option to issue a 24-hour roadside prohibition to a suspected drug-affected driver, with or without a criminal charge.

¹ Canadian Tobacco, Alcohol and Drugs Survey, 2015

One key challenge is that unlike with blood alcohol, there is not enough scientific evidence to link a particular blood THC level with impairment. In fact, it is known that THC can remain in the blood after any impairment has resolved, particularly for frequent users. An IRP or ADP-type scheme would therefore have to rely on other ways to assess impairment, such as a Standard Field Sobriety Test (SFST) conducted by a trained police officer, or evaluation by a Drug Recognition Expert (DRE). The approval of oral fluid screening devices and/or the setting of per se limits by the federal government could also influence the introduction of an administrative regime for drug-impaired driving.

BC could consider one or more of the following to address the risk that cannabis legalization could lead to increased impaired driving:

- BC could launch a public education and awareness campaign to inform British Columbians about the risks and potential consequences of cannabis-impaired driving.
- BC could set a zero-tolerance standard in respect of blood THC content for drivers in the Graduated Licensing Program (drivers with an “L” or “N” designation) and/or for drivers under a specific age threshold.
- BC could invest in SFST and DRE training for more police officers.
- BC could expand the IRP and/or ADP programs to include drug-impaired driving.

Personal Cultivation

Bill C-45 allows adults to grow up to 4 cannabis plants per household, up to a maximum plant height of 100 centimetres. Bill C-45 does not place restrictions on where plants can be located (indoor vs. outdoor) and does not require home growers to put any security measures in place, but it is open to provinces and territories to establish such restrictions.

In considering personal cultivation, the Task Force acknowledged concerns about risks such as mould, fire hazards associated with improper electrical installation, use of pesticides, and risk of break-in and theft. However, it noted that these concerns were largely shaped by experience with large scale illegal grow operations, and found that on balance, allowing small-scale home cultivation of up to four plants was reasonable.

The Task Force recognized the need for security measures to prevent theft and youth access, and for guidelines to ensure that cannabis plants are not accessible to children. The Task Force also suggested that local authorities should establish oversight and approval frameworks, such as a requirement that individuals be required to notify local authorities if they are undertaking personal cultivation.

In thinking about possible restrictions on personal cannabis cultivation, it may be helpful to keep in mind that it is legal in Canada to grow tobacco and to produce wine or beer at home for personal use with

very few restrictions. In particular, the law does not require specific security measures to prevent theft, or access by children and youth.²

BC has several options to consider regarding restrictions on home cultivation of non-medical cannabis:

- BC could adopt a lower limit than 4 plants per household for non-medical cannabis cultivation.
- BC could set restrictions regarding where and how non-medical cannabis can be grown at home. For example, it could: prohibit outdoor cultivation; allow outdoor cultivation but require that plants not be visible from outside the property; and/or require that any outdoor plants be secured against theft.
- BC could establish a registration requirement for persons who want to grow non-medical cannabis at home. However, there would be significant costs associated with administering a registration requirement, and the benefits may be questionable, since those who do not plan to comply with laws on home cultivation may be unlikely to register in the first place.
- If BC decides not to implement one or more of the above measures, local governments could be authorized to do so.

Distribution Model

Under Bill C-45, each province or territory will decide how cannabis will be distributed in its jurisdiction. Distribution is the process by which goods are supplied to retailers that sell to consumers. Distributors are often called wholesalers.

There are three basic models for the warehousing and distribution of cannabis to retailers in BC: government, private, or direct.

- Government distribution – In this model, government would be responsible for warehousing and distribution of cannabis. Licensed producers would send cannabis products to a government distributor, which would then fill orders from cannabis retailers. Government distribution allows for direct control over the movement of cannabis products, but requires significant up-front investment and set-up. The Task Force heard strong support for government distribution, noting that it has proven effective with alcohol.
- Private distribution – In this model, one or more private businesses could be responsible for the physical warehousing and distribution of cannabis. However, significant government oversight would be required in the form of licensing, tracking and reporting requirements, as well as regular audits and inspections.
- Direct distribution – In this model, the province would authorize federally licensed producers to distribute their own products directly to retailers. This model would also require significant

² Parents have a general legal duty to supervise and keep their children safe, but the law does not create specific requirements to protect children from all of the potential dangers that may be present in a home (e.g., alcohol, prescription drugs, and poisons).

government oversight and could make it challenging for smaller producers to get their products to market.

Retail

Under Bill C-45, each province or territory will decide the retail model for cannabis in its jurisdiction. Recognizing that the July 2018 timeline may not give provinces or territories enough time to establish their retail regimes before legalization, the federal government will implement an online retail system as an interim solution.

BC has a number of options for retail:

- BC could establish a public or private retail system, or potentially a mix of both, as currently exists for alcohol. A public system would require significant up-front investment in retail infrastructure, but there could also be additional revenue generated from retail sales. A private system would require a more robust licensing, compliance and enforcement system, but the associated costs could be recovered through licensing fees.

In a private retail system, it could be possible to allow some existing illegal dispensaries to transition into the legal system; in a public system such as that planned in Ontario, this would not be possible.

- BC could require that cannabis be sold in dedicated storefronts, or it could allow cannabis to be sold out of existing businesses such as liquor stores or pharmacies.

One public health concern about co-locating cannabis with other products is that it could expose significant numbers of people to cannabis products who might not otherwise seek them out; this could contribute to normalization or more widespread use. In addition, the Task Force strongly recommended against allowing co-location of alcohol or tobacco sales with cannabis, but recognized that separating them could be a challenge in remote communities where a dedicated cannabis storefront might not be viable.

- BC could establish a direct-to-consumer mail-order system. This could help provide access to legal cannabis for those in rural and remote locations and persons with mobility challenges.

Conclusion

Cannabis legalization presents complex policy challenges for the Province. We expect that, as in other jurisdictions that have legalized, it will take several years to develop, establish, and refine an effective non-medical cannabis regime that over time eliminates the illegal market. The information gathered through this engagement will inform the Province's policy decisions. We appreciate your interest and feedback.

Cannabis Legalization and Regulation in British Columbia

Joint Provincial-Local Government Committee on Cannabis Regulation

Ministry of Public Safety & Solicitor General
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FEDERAL CONTEXT

Federal Cannabis
Secretariat

FPT Senior Officials
Working Group

FPT Sub-groups

- Public Education & Awareness
- Seed to Sale Tracking System
- Ticketable Offences
- Drug Impaired Driving
- Data Monitoring
- Taxation
- Labour

Federal Timeline

- Federal Task Force on Cannabis Legalization and Regulation
 - July - Sept 2016: Public & Stakeholder Consultation
 - November 2016: Task Force Report
- April 2017 – *Cannabis Act* (Bill C-45) and Bill C-46 (impaired driving) introduced
- Federal regulations are under development
- July 2018 - Bill C-45 in force date

FEDERAL LEGISLATION – HIGHLIGHTS

Bill C-45

- Adults 18 and over will be able to legally purchase, possess, grow, and use cannabis
- Maximum of four plants per household; adult public possession limit of 30 grams; youth possession limit of 5 grams
- Federal government regulates production and product standards; provinces regulate retail and distribution
- Federal government will establish an interim mail order retail system so that adults can access legal cannabis as of July 2018

FEDERAL LEGISLATION – HIGHLIGHTS

Bill C-45 Continued

- It will continue to be a criminal offence to sell cannabis to a young person
- Promotion/advertising of cannabis will be prohibited with limited exceptions
- A seed to sale tracking system will support product safety and compliance and enforcement activity

Bill C-46

- Significantly amends *Criminal Code* impaired driving offences
- Creates new offences for having specified levels of a drug in the blood within two hours of driving (to be set by regulation)
- Provides regulatory authority to approve roadside oral fluid screening devices

PROVINCIAL GOALS

The following **overarching provincial goals** have guided policy work to date:

- I. Prioritize the health and safety of British Columbians
- II. Reduce crime and the illegal market
- III. Protect children and youth
- IV. Address cannabis-impaired driving
- V. Support economic development

KEY POLICY ISSUES

Key policy decisions for discussion:

- Minimum Age
- Personal Possession
- Public Consumption
- Drug-Impaired Driving
- Personal Cultivation
- Distribution Model
- Retail Model

MINIMUM AGE

- Bill C-45 sets minimum age of 18.
- BC could choose to increase to 19, 21, or higher.

19

- 19 is BC age of majority and minimum age for alcohol and tobacco.
- Minimizes size of illegal market.
- As compared with 18, minimizes number of high school students who can legally buy cannabis.
- May not be supported by medical professions.

21

- Minimum age for cannabis will be higher than for alcohol or tobacco.
- Leaves much of the illegal cannabis market intact.
- More likely to be supported by medical professions (based on emerging evidence of neurodevelopmental health risks).

PERSONAL POSSESSION - Adults

- Bill C-45 allows adults to possess up to 30 grams of dried cannabis in public (with equivalent possession limits for some forms of non-dried cannabis).
- BC can choose to accept the 30 gram limit, or legislate a lower limit.

Establish limit <30 grams

- May be confusing to have different limits across provinces, and different limits for criminal and provincial offences.

Accept 30 gram limit

- Similar to limits established in most other jurisdictions where cannabis is legal (US states, Uruguay).

PERSONAL POSSESSION - Youths

- Bill C-45 seeks to avoid criminalizing youth and therefore allows youth to possess up to 5 grams.
- It is open to the Province to establish a zero limit for persons under the BC minimum age.

Accept 5 gram limit

- Sends mixed messages about government's position on non-medical cannabis use by young persons.
- Law enforcement will not have authority to confiscate cannabis from a young person who is in possession of <5 grams.

Ban youth possession

- Consistent with the overall goals of avoiding criminalization of youth while protecting them from harms.
- Law enforcement will be able to confiscate any amount of cannabis from young persons.

PUBLIC CONSUMPTION

- Bill C-45 does not place restrictions on public consumption.
- Public consumption is prohibited in most jurisdictions where cannabis has been legalized, but there is widespread non-compliance.
- Consumption of edibles in public places is nearly impossible to enforce – public intoxication laws could be used to address problematic public use.
- A full ban on public consumption may make it difficult for some persons to comply with BC law.
- Exceptions would likely be required for medical users.

DRUG-IMPAIRED DRIVING

BC could consider:

- I. Launching a public education and awareness campaign to inform British Columbians about the risks and potential consequences of cannabis-impaired driving.
- II. Setting a zero tolerance standard in respect of blood THC content for drivers in the Graduated Licensing Program (drivers with an “L” or “N” designation).
- III. Investing in SFST and DRE training for more police officers.
- IV. Expanding the IRP and/or ADP programs to address drug-impaired driving.

PERSONAL CULTIVATION

- Bill C-45 allows home cultivation of up to 4 plants, per household.

Three types of restrictions BC could consider:

- I. Further limits on the number of plants
- II. Restrictions on where and how cannabis can be grown
- III. A registration requirement for home growers

DISTRIBUTION

Under Bill C-45, each province will decide how cannabis will be distributed in its jurisdiction:

- Public distribution
- Private distribution
- Direct distribution

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RETAIL

Options for the retail sale of non-medical cannabis include:

- Public retail
- Private retail
- Hybrid retail
- Online retail
- Dedicated cannabis-only storefronts or co-located with other products

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QUESTIONS?

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BRITISH COLUMBIA CANNABIS LEGALIZATION & REGULATION

OVERVIEW

- › Federal Context
- › Highlights of Bill C-45 (*Cannabis Act*)
- › Highlights of Bill C-46 (*Criminal Code* Reform – Alcohol & Drug-Impaired Driving)
- › Cannabis Project Governance Structure
- › Cannabis Project Overarching Goals
- › Key Provincial Policy Considerations

FEDERAL CONTEXT

- › Federal Discussion Paper June 2016
- › Federal Task Force on Cannabis Legalization and Regulation
 - › Public and Stakeholder Consultation July - Sept 2016
 - › Task Force Report November 2016
- › Federal Cannabis Secretariat
- › FPT Senior Officials Working Group
 - › Sub-groups: Public Education/Information, Taxation, Labour, and Ticketable Offenses

HIGHLIGHTS OF BILL C-45

Cannabis Act

Criminal framework, legal and prohibited activities

- › Minimum age set at 18, but PTs could set higher minimum
- › Public possession limit of 30g, maximum four plants per household
- › Promotion of cannabis prohibited except in limited circumstances, similar to restrictions on tobacco promotion

Licensing and oversight of cannabis supply chain

- › Provinces and territories to regulate possession, distribution, and sale of cannabis provided that framework:
 - › Restricts youth access
 - › Provides for a safe supply of cannabis
 - › Prevents diversion to the illicit market

Federal regulatory standards

- › Minimum health and safety standards
- › National seed-to-sale tracking system for cannabis
- › Inspection powers

HIGHLIGHTS OF BILL C-46

Criminal Code Reform – Alcohol & Drug-Impaired Driving

Authorize roadside oral fluid drug screeners

- › Roadside oral fluid drug screeners based upon “reasonable suspicion of drugs in the body”
- › Results would be used to develop “reasonable grounds to believe an offence has been committed”, which are needed by an officer to demand a blood sample for analysis or a drug recognition evaluation

Enact new *Criminal Code* offences

- › Three new offences of having a prohibited level of drugs in blood within two hours of driving:
 - › **First offence** – straight summary conviction offence for drivers with low levels (precautionary) of impairing drugs
 - › **Second offence** – hybrid offence for drivers with higher impairing levels of drugs
 - › **Third offence** – hybrid offence for drivers with impairing levels of drugs in combination with alcohol
- › Proposed drug levels to be set by regulation

PROJECT GOVERNANCE STRUCTURE

- › Deputy Ministers
- › Assistant Deputy Minister Public Safety Issues Committee (ADM PSIC)
- › Cannabis Legalization and Regulation Secretariat
- › Joint Project Team
- › Inter-Ministry Working Group (IMWG)

OVERARCHING PROJECT GOALS

- › Prioritize the health and wellness of British Columbians
- › Reduce crime and the illegal market
- › Protect children and youth
- › Address cannabis impaired driving
- › Support economic development

KEY POLICY CONSIDERATIONS

Local Governments

Finance & Taxation

Indigenous Governments & Organizations

- › Minimum Age
- › Public Consumption
- › Drug-Impaired Driving
- › Distribution Model
- › Retail Outlet Model
- › Advertising and Promotion
- › Production and Economic Development
- › Personal Production
- › Personal Possession
- › Workplace Considerations
- › Housing Considerations
- › Stakeholder and Public Engagement
- › Public Awareness and Education

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QUESTIONS?

BRITISH COLUMBIA'S APPROACH TO FEDERAL CANNABIS LEGALIZATION

Update

UPDATE ON ACTIVITIES

Federal

- › Release of Federal Task Force Report
- › Continued work with FPT Senior Officials Working Group & Federal Secretariat
- › Oral fluid screening device pilot/testing

Provincial

- › Continued FPT engagement
- › Development of regulatory framework
- › Target date for introduction of provincial legislation: Fall 2017/Spring 2018

FEDERAL TASK FORCE RECOMMENDATIONS

Minimizing Harms of Use

- › National minimum age of 18, provinces could raise
- › Restrictions on advertising and promotion
- › Plain packaging for cannabis products
- › Evidence-informed public education campaign

Establishing a Safe and Responsible Supply Chain

- › Federal regulation of production and processing
- › Provincial regulation of distribution and retail
- › No co-location of liquor or tobacco and cannabis sales
- › Personal production (limit of 4 plants), local government oversight

FEDERAL TASK FORCE RECOMMENDATIONS

Enforcing Public Safety and Protection

- › Prosecution limited to serious offenses
- › 30 gram limit for personal possession
- › Regulations on smoking and vaping
- › Impaired driving: per se limit; develop roadside drug screening devices and invest in Drug Recognition Experts and Standardized Field Sobriety Test

Medical Access

- › More research on cannabis-based medicines

Implementation

- › Surveillance and monitoring system, funding for research and coordination of governments

KEY ISSUE:

PROVINCIAL MINIMUM AGE

Option 1: Set minimum age at 18

Pros: Aligns with Federal Task Force recommendation

Cons: Inconsistent with liquor and tobacco in BC

Option 2: Set minimum age at 19

Pros: Consistent with liquor and tobacco in BC:

- › One minimum age for all three products makes it easier to adhere to
- › Similar violations and sanctions for consumption in public place can be used

Cons: Health advocates (e.g., CMA, Chief Medical Officers) suggest increasing minimum age to 21 or above to mitigate risks associated with neurodevelopment during adolescence

Option 3: Set minimum age at 21 years or above

Pros: Reduces health-related risks for youth and young adults

Cons: Inconsistent with liquor and tobacco in BC

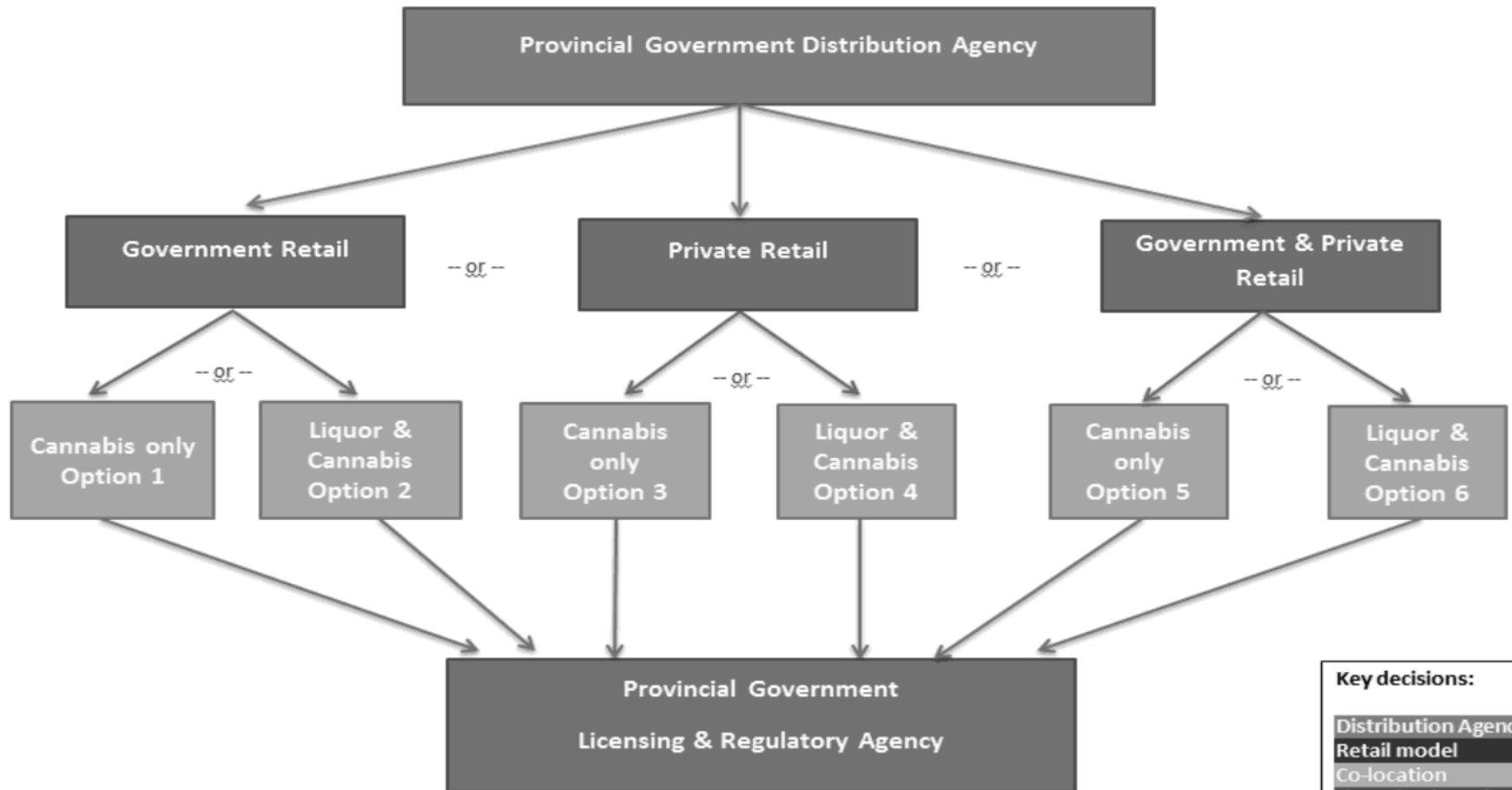
DISTRIBUTION & RETAIL

MODEL: US JURISDICTIONS

	COLORADO	WASHINGTON STATE	OREGON	ALASKA
LICENSING BODY	Colorado Department of Revenue	Washington State Liquor and Cannabis Board	Oregon Liquor Control Commission	Alcohol and Marijuana Control Office
TYPES OF LICENSES ISSUED	Cultivation Product Manufacturing Store (Retail) Testing Facility	Producer Processor Retailer	Producer Processor Wholesaler Retailer Laboratory	Cultivation Manufacturing Retail Testing
CO-LOCATION WITH LIQUOR	Not permitted	Not permitted	Not permitted	Not permitted
PUBLIC CONSUMPTION	Not permitted	Not permitted	Not permitted	Not permitted
ON-PREMISE CONSUMPTION	Not permitted	Not permitted	Not permitted	Yes, if separate space within shop is provided
HOME DELIVERY	Not permitted	Not permitted	Yes; max \$3000 value	Not permitted
PERSONAL PRODUCTION	Up to 6 plants (maximum 3 mature) that must be in an enclosed, locked space	Not permitted	Up to 4 plants per household (not regulated by the OLCC)	Up to 6 plants per household (maximum 3 mature)

KEY ISSUE: DISTRIBUTION & RETAIL MODEL OPTIONS

GOVERNMENT DISTRIBUTION



RETAIL MODEL OPTIONS

GOVERNMENT RETAIL	PRIVATE RETAIL	GOVERNMENT & PRIVATE RETAIL
<ul style="list-style-type: none"> › More effective control of sale of cannabis › Staff training policies set by government and applied consistently across province › Allows price uniformity across province › Significant infrastructure costs › Criticism from private industry › Existing dispensaries would continue to be illegal 	<ul style="list-style-type: none"> › No infrastructure costs to government › Private retail licenses granted upon meeting conditions (e.g., fit and proper/security check) › Creation of a new provincial licensing body › Lack of price uniformity across province › Existing dispensaries not granted a license would continue to be illegal 	<ul style="list-style-type: none"> › Aligns with existing liquor retail system › Private retail licenses granted upon meeting conditions (e.g., fit and proper/security check) › Infrastructure costs to government › Creation of a new provincial licensing body › Existing dispensaries not granted a license would continue to be illegal

ADDITIONAL CONSIDERATIONS

Impact on local governments

- › Proposed local government oversight and enforcement of personal production
- › Zoning authority to regulate retail

Economic benefits

- › Policy interests in ensuring economic benefits to BC (e.g., BC as a preferential place to invest in legal commercial cannabis production)

Time required to build and implement regulatory regime post enactment but prior to proclamation.

British Columbia's Approach to Federal Cannabis Legalization

Update

Ministry of Public Safety and Solicitor General
Confidential

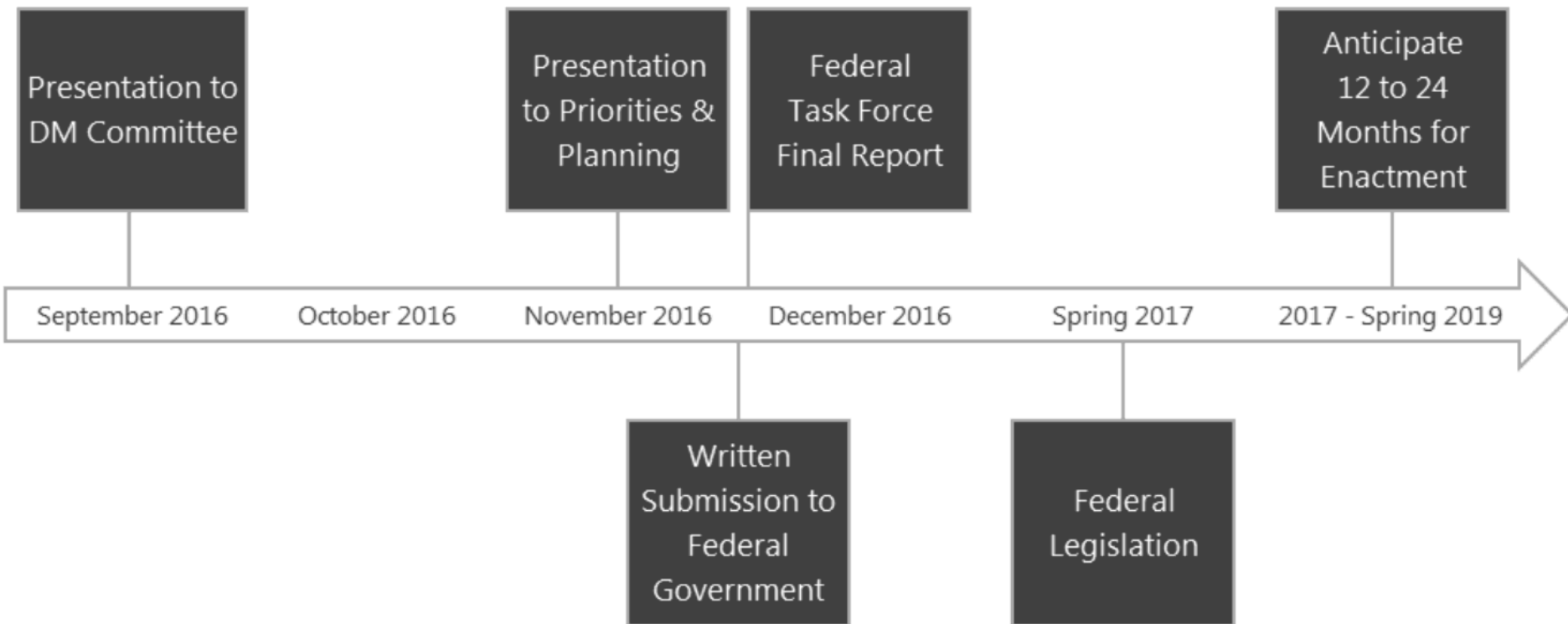
Presentation to Deputy Ministers Committee

September 23, 2016

Purpose

- ✓ To provide an update on timelines and activities
- ✓ To seek direction on key decision points to bring forward to the Priorities and Planning Cabinet Committee in November to inform a formal submission to the Government of Canada

Timelines



Update on Activities

Federal

- Created the Federal Task Force:
 - Completed public engagement
 - Met with BC Senior Officials and Roundtable of BC Experts
- FPT Senior Officials Working Group & Federal Secretariat
- Health Canada baseline survey and exploratory focus groups
- Introduced new Access to Cannabis for Medical Purposes Regulations

Provincial

- Continued FPT engagement
- Ongoing inter-ministry work
- Initiated establishment of the Secretariat
- Completed GCPE public engagement (survey and focus groups)
- Collaboration with inter-ministry subject matter experts for the identification of key decisions

IPSOS Public Affairs

Non-medical Marijuana Policy Survey

- ✓ 53% approve grown at home for personal use; 30% disapprove
- ✓ 44% approve government restrictions on production, sale and consumption of some forms of marijuana; 35% disapprove
- ✓ 51% support government and privately run stores; 34% support government run stores only; 8% support privately run stores only
- ✓ 40% support 19 years as the minimum age for purchase and consumption; 36% over 19 years; and 20% under 19
- ✓ 66% perceive driving under influence of marijuana equally dangerous as alcohol; 10% more dangerous; 17% less dangerous
- ✓ Desired penalties for drug impaired driving: 70% should be the same

Health Canada

Baseline Survey and Focus Groups

- ✓ Degree of harm different depending on age: more harmful for younger people, especially youth 13-15
- ✓ Greater negative impact on memory and attention (60%), performance at school/work (59%) ; lesser impact on physical and mental health (47%)
- ✓ Impairs one's ability to drive a vehicle (86%) but less dangerous than driving under influence of alcohol
- ✓ 27% have driven under the influence of marijuana

Key Decisions

Topic	Options
Regulation of commercial production	1. Government of Canada* 2. Provincial/Territorial governments
Permission of personal production (i.e., home grows) for non-medical purposes	1. Permit home cultivation ** 2. Do not permit home cultivation **
Regulation of personal production (if personal production is permitted)	1. Government of Canada* 2. Provincial/Territorial governments

* Highlighted option depicts primary responsibility however it is recognized other levels of government will/may have related responsibilities

** Requires further analysis

Key Decisions

Topic	Options
Regulation of the processing of legal cannabis and derivatives	<ol style="list-style-type: none">1. Government of Canada*2. Provincial/Territorial governments3. Government of Canada and Provincial/Territorial Governments share the responsibility
Regulation of retail distribution	<ol style="list-style-type: none">1. Government of Canada2. Provincial/Territorial governments*
Preferred distribution model if provincial distribution is recommended	<ol style="list-style-type: none">1. Government controlled regulatory body2. Privately operated distributors, licensed through a governing body

* Highlighted option depicts primary responsibility however it is recognized other levels of government will/may have related responsibilities

Key Decisions

Topic	Options
Preferred provincial retail model**	<ol style="list-style-type: none">1. Sell legal cannabis through existing government and privately operated liquor stores2. Sell legal cannabis only through existing government operated liquor retail stores3. Sell legal cannabis through stand-alone government operated cannabis retail stores4. Sell legal cannabis through privately operated retail stores, which have been licensed through a governing body to sell cannabis

**Requires further analysis

Key Decisions

Topic	Options
Determination of the minimum age for legal purchase and possession of cannabis	<ol style="list-style-type: none">1. Government of Canada*2. Provincial/Territorial governments
Minimum age to sell/purchase, possess and consume legal non-medical cannabis	<ol style="list-style-type: none">1. 192. 21 & above3. Below 19
Determination of the tolerance for cannabis-impaired driving	<ol style="list-style-type: none">1. Government of Canada*2. Provincial/Territorial governments

* Highlighted option depicts primary responsibility however it is recognized other levels of government will/may have related responsibilities

Other Considerations

- Role of Local Government?
- Primary responsibility for BC's regulatory regime?

Potential Impacts – BC Legislation/Regulation

Ministry	Legislation
Ministry of Public Safety and Solicitor General	<ol style="list-style-type: none"> 1. <i>Motor Vehicle Act</i> and Regulations 2. <i>Offence Act</i> 3. <i>Police Act</i> 4. Approved Screening Device Regulations
Community, Sport and Cultural Development	<ol style="list-style-type: none"> 1. <i>Community Charter</i> 2. <i>Local Government Act</i> 3. <i>Vancouver Charter</i> 4. <i>Classification of land as a Farm Regulation</i> 5. Other regulations under these acts
Small Business and Red Tape Reduction	<ol style="list-style-type: none"> 1. <i>Liquor Control and Licensing Act</i>
Agriculture	<ol style="list-style-type: none"> 1. <i>Agriculture Land Commission Act</i> 2. Agriculture Land Reserve Use, Sub-Division and Procedure Regulation

Potential Impacts – BC Legislation/Regulation

Ministry	Legislation
Health	<ol style="list-style-type: none"> 1. <i>Public Health Act</i> 2. <i>Food Premises Regulation</i> 3. <i>Food Safety Act</i> 4. <i>Community Care and Assisted Living Act</i> 5. <i>Tobacco Control Act</i> 6. <i>Tobacco and Vapour Product Control Act</i> 7. <i>Tobacco Vapour Products Control Regulation</i> 8. <i>Medicare Protection Act</i> 9. <i>Pharmacy Operations and Drug scheduling Act</i> 10. <i>Health Professions Act</i> 11. <i>Hospital Act</i>
Justice and Attorney General	<ol style="list-style-type: none"> 1. <i>Offence Act</i>
Housing	<ol style="list-style-type: none"> 1. <i>Residential Tenancy Act</i> 2. <i>Building Act</i>
Finance	Tax related amendments once regulatory scheme has been established



Next Steps

- ✓ Present to Priorities & Planning (Nov. 16)
- ✓ Provide written submission to the Federal Government based on Cabinet direction
- ✓ Continue analysis of policy options for BC's regulatory framework

Questions?

Page 145 to/à Page 158

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BC'S APPROACH TO FEDERAL CANNABIS LEGALIZATION

Project Plan Update

October 4, 2017

Ministry of Public Safety & Solicitor General

ESTABLISHING THE REGULATORY FRAMEWORK

- Target date for BC to have legislation authorizing government to regulate cannabis is May 31, 2018.
- This presentation focuses on Key Milestones that must be achieved to have legislation in place for the anticipated July 2018 legalization date.

■ s.13

KEY MILESTONES

October 2017

Public & Initial Stakeholder Engagement completed

November 2017

Cabinet gives direction on key policy decisions
(e.g., minimum age, retail)

November 2017

Cabinet decides on government responsibility centre

December 2017

Minister of Finance makes cannabis tax policy decisions
(for inclusion in Budget 2018)

KEY MILESTONES

January 2018

Treasury Board Submission
Approved

January 2018

Requests for Legislation
Approved

April 2018

Legislative Drafting complete

- Key Dependency – Federal government drafts and shares its regulations by Feb/March 2018

TBD

Regulations Drafting complete

- Timelines will depend on complexity and federal regulations

KEY MILESTONES

April 2018

Legislative Review Committee approves draft legislation for introduction

May 2018

Legislature enacts legislation

TBD

Cabinet approves regulations

- May be multiple sets of regulations approved on different dates

IMPLEMENTATION – Key Milestones

Cannabis Secretariat is working across government to establish implementation timelines for:

- Developing and implementing public education campaign(s)
- Procuring warehouse space and IT systems required to distribute cannabis to retailers
- Developing retail licence classes and criteria
- Hiring and training staff to assess applications for retail licenses and inspect retail operations
- Training and support for road safety response (Bill C-46)
- Developing & implementing online retail system; procuring product
- Developing and implementing a training program for retail staff
- Completing security checks on retail license applicants and employees
- Training for police, and others with enforcement responsibilities
- Establishing/certifying labs for product testing

ASSUMPTIONS

- Federal implementation timeline remains July 2018
- Bill C-45 is not substantially amended
- Early and comprehensive consultation on federal regulations
- BC creates a provincial regulatory framework that aligns with the federal regime
- Further legislation may be required to enhance the provincial regulatory framework in future legislative sessions

NEXT STEPS

- Complete Public and Initial Stakeholder Engagement
- Return to Cabinet November 2017 for:

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QUESTIONS?

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LEGALIZATION & REGULATION OF CANNABIS

Policy Options

Distribution Model

KEY POLICY DECISION(S) REQUIRED:

1. WILL THE PROVINCIAL GOVERNMENT TAKE OWNERSHIP OVER CANNABIS PRODUCTS PRODUCED WITHIN THE PROVINCE AND THAT COME WITHIN PROVINCIAL BORDERS?
2. WILL CANNABIS PRODUCTS BE DISTRIBUTED THROUGH A GOVERNMENT OPERATED DISTRIBUTION MODEL, THROUGH PRIVATE ORGANIZATIONS OR THROUGH DIRECT DISTRIBUTION FROM MANUFACTURERS TO RETAILERS?
3. WHICH GOVERNMENT BODY WILL BE RESPONSIBLE FOR DISTRIBUTING AND/OR REGULATING THE WAREHOUSING AND DISTRIBUTION OF CANNABIS?

FEDERAL TASK FORCE RECOMMENDATIONS

- Distribution should be regulated by provinces and territories which could leverage and tailor existing liquor distribution networks to meet their needs.

BILL C-45

- Provinces and territories will oversee the distribution of non-medical cannabis and the associated compliance and enforcement activities, subject to minimum federal conditions.

The policy analysis on a non-medical cannabis model is based on Liquor Distribution Branch (LDB) experience with liquor distribution.

DECISION #1 – WILL THE PROVINCIAL GOVERNMENT TAKE OWNERSHIP OVER CANNABIS PRODUCTS PRODUCED WITHIN THE PROVINCE AND THAT COME WITHIN PROVINCIAL BORDERS?

BACKGROUND

Similar to liquor, the provincial government could take notional title, or ownership, over cannabis products produced within the province and that come within provincial borders. This decision will impact government's ability to impose a price mark-up.

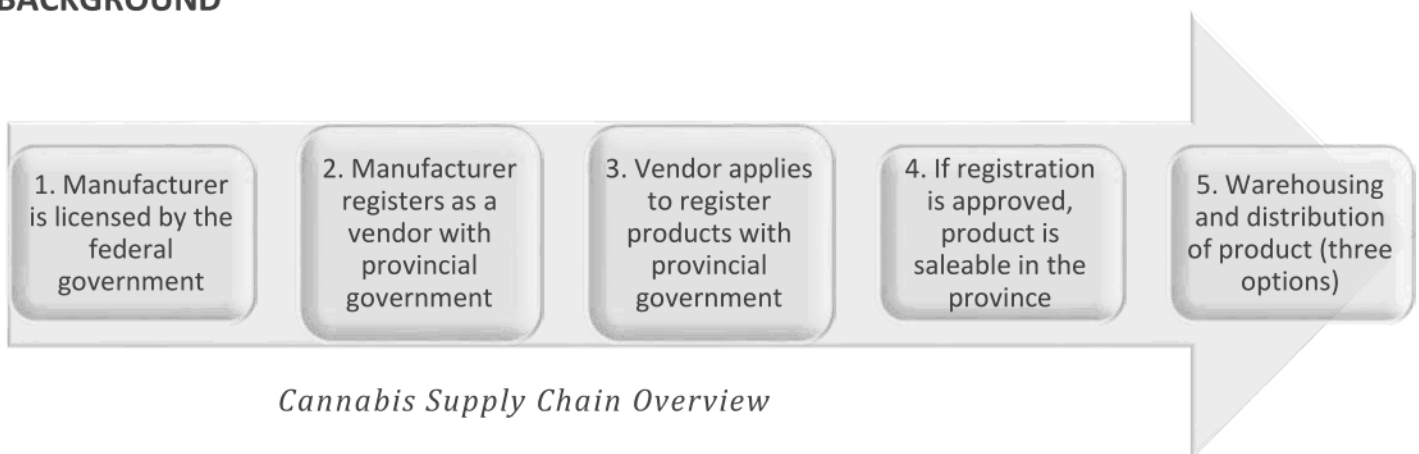
Mark-ups are proprietary charges and for a mark-up to be charged on cannabis, the provincial government would need to take ownership of the product. Similar to liquor, cannabis products could also be subject to a combination of mark-ups and a sales tax. However, the total amount of a mark-up and sales tax would need to be within the level the legal cannabis market can bear to avoid diversion to the illegal market.

Price markups vs. taxes

- Price mark-ups are built into the price of a product and collected during the distribution stage whereas taxes are imposed at the retail end. As a result, there are fewer avoidance opportunities with mark-ups than taxes.
- Unlike taxes, price markups are set by policy and do not require legislative approval.
- Mark-ups provide more flexibility to address public health and safety goals because they allow for tiered social reference pricing (for example, different mark-up rates could be applied to different types of cannabis or different THC levels).

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DECISION #2 – WILL CANNABIS PRODUCTS BE DISTRIBUTED THROUGH A GOVERNMENT OPERATED DISTRIBUTION MODEL, THROUGH PRIVATE ORGANIZATIONS OR THROUGH DIRECT DISTRIBUTION FROM MANUFACTURERS TO RETAILERS?

BACKGROUND

Regardless of the distribution model selected, the provincial government would be involved in: (1) setting up manufacturers who wish to distribute their product in British Columbia, (2) registering products that can be sold in British Columbia, and (3) regulating the warehousing and distribution industry. This would provide the provincial government with some oversight and control over the manufacturers and the products that will be distributed in the province, as well as those who are warehousing and distributing product.

The three options identified, government, private and direct distribution from manufacturers to retailers, articulate how cannabis products could get from a federally-licensed producer to a provincially-licensed or operated retailer. All models can be structured in a manner that will seek to maximize the benefits of the established provincial goals, such as mitigating the risk of diversion to the illegal market and achieving public health and safety.

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DECISION #3 – WHICH GOVERNMENT BODY WILL BE RESPONSIBLE FOR DISTRIBUTING AND/OR REGULATING THE WAREHOUSING AND DISTRIBUTION OF CANNABIS?

s.13

BRITISH COLUMBIA'S APPROACH TO FEDERAL CANNABIS LEGALIZATION

Ministry of Public Safety & Solicitor General

FEDERAL CONTEXT

- November 2016 – Report issued by the Federal Task Force on Cannabis Legalization and Regulation
- April 2017 – *Cannabis Act* (Bill C-45) and Bill C-46 (impaired driving) introduced
- Bill C-45 generally aligns with the Task force report. Goals include:
 - Allow legal production of cannabis to reduce illegal activities
 - Allow adults to access regulated, quality controlled, legal cannabis
 - Restrict youth access to cannabis
 - Enhance public awareness of risks associated with cannabis use
 - Protect public health through strict product safety & quality requirements
 - Reduce the burden on the criminal justice system
- Federal regulations are under development
- Planned in force date for Bill C-45 – July 2018; Bill C-46 – upon enactment

FEDERAL LEGISLATION – HIGHLIGHTS

Bill C-45

- Adults 18 and over will be able to legally buy, possess, grow, and use cannabis
- Maximum of four plants per household; adult public possession limit of 30 grams; youth possession limit of 5 grams
- Federal government will regulate production and product standards; provinces will regulate retail and distribution
- Recognizing that provinces may not have their own cannabis regimes established and implemented by July 2018, the federal government will establish a mail order retail system so that adults can access legal cannabis when it is legal

FEDERAL LEGISLATION – HIGHLIGHTS

Bill C-45 Continued

- It will continue to be a criminal offence to sell cannabis to a young person
- Promotion/advertising of cannabis will be prohibited with limited exceptions
- A seed to sale tracking system will support product safety and compliance and enforcement activity

Bill C-46

- Significantly amends Criminal Code impaired driving offences
- Creates new offences for having specified levels of a drug in the blood within two hours of driving (to be set by regulation)
- Provides regulatory authority to approve roadside oral fluid screening devices

PROVINCES AND TERRITORIES

s.16

- Half of provinces/territories have begun or completed public consultation
- PT Working Group on Cannabis Legalization will report to Premiers by November 1, 2017 on common considerations and best practices
- To date, none of the other provinces/territories has communicated policy decisions related to legalization

LESSONS LEARNED – BC DELEGATIONS

Washington (February 2016) & Colorado (July 2017)

- Invest sufficient **time** and **resources** to develop/administer an effective regulatory regime before legalization
- **Conduct rigorous ongoing data collection** – lack of pre-legalization data has been a barrier to assessing the impacts of legalization
- **Drug-impaired driving** – per se blood drug limits are not yet grounded in scientific evidence; very low conviction rates; unclear whether legalization has had an adverse impact on road safety
- **Personal cultivation** for medical purposes created serious **law enforcement challenges** – medical cannabis illegally exported out of state
- **Cannabis usage** – Colorado saw no increase in the number of youth or adult cannabis users after legalization (similar to BC, Colorado had relatively high numbers of users pre-legalization)
- Effective **public education campaigns** are targeted and evidence-based
- Comprehensive **seed to sale tracking** is a critical element of an effective regulatory regime

STAKEHOLDER VIEWS

- **Medical associations** favour a higher minimum age (21/25) and have concerns about normalization of non-medical cannabis use
- Key priorities for **UBCM** and **local governments** are consultation on the provincial cannabis regime and revenue sharing to offset resource demands on local governments and police
- **Law enforcement** concerns include: impaired driving; impact on police resources; and home cultivation (but four plant limit mitigates home cultivation concerns)
- Existing **dispensaries** want to participate in the legal cannabis retail market
- **Pharmacy distributors** are interested in distributing cannabis
- **Private liquor retailers** would like to sell cannabis out of existing liquor stores
- Need to engage with **Indigenous Groups** – anticipate diverse range of views

CHALLENGES & OPPORTUNITIES

Jurisdiction

- The federal government is asserting exclusive jurisdiction over production and product standards ^{s.14,s.16}

s.14,s.16

Timelines

- The planned in force date for Bill C-45 of July 2018 does not give provinces sufficient time to establish and implement comprehensive provincial regimes

Illegal Dispensaries

- BC has a significant number of illegal dispensaries that, in some cases, have been licensed by municipalities

Economic Development

- Cannabis legalization presents economic growth opportunities across the range of the product cycle (production, manufacturing, retail) and will create jobs
- Rules on inter-provincial trade of cannabis will be negotiated under the new Canadian Free Trade Agreement once Bill C-45 is enacted.

PROPOSED PROVINCIAL GOALS

Government may wish to establish provincial goals for the BC cannabis regime. The following goals have guided policy work to date:

- I. Prioritize the health and wellness of British Columbians
- II. Reduce crime and the illegal market
- III. Protect children and youth
- IV. Address cannabis-impaired driving
- V. Support economic development

KEY CONSIDERATIONS & PRIORITY DECISIONS

Overarching Policy Considerations

- Local Governments
- Finance & Taxation
- Indigenous Groups

Priority Policy Decisions

- Minimum Age
- Personal Possession
- Public Consumption
- Personal Cultivation
- Distribution Model
- Retail Model
- Drug-Impaired Driving
- Stakeholder & Public Engagement
- Legislative Timelines
- Division of Powers

SECONDARY DECISIONS

depend on Priority Policy Decisions and include but are not limited to...

- Illegal dispensaries
- Local Government Jurisdiction
- Indigenous Governments
- Agricultural Land Reserve
- Agricultural Economic Development
- Ticketable Offences
- Regulatory Model/Licensing Regime
- Government Responsibility Centre
- Workplace Considerations
- Housing Considerations
- Public awareness and education
- School-based Education
- Data collection
- Taxation and Pricing
- Supply Management
- Allocation of Revenues
- Funding to Local Government
- Training
- Environmental Impact
- Canadian Free Trade Agreement
- Restrictions on Storage/Possession
- Regulatory Capture Prevention
- Hemp Regulation
- Long Term Governance/Oversight
- Impact on Enforcement Resources
- Program Evaluation

EXAMPLES OF COMPLEXITY

Public Consumption

- Treat like smoking? Treat like alcohol? New model?
- Treat vaping and smoking the same or differently?
- Workplace health considerations related to cannabis lounges.
- Whether/how to regulate public consumption of edibles and other forms (creams, tinctures)?
- How to treat medical users?
- Local governments have strong views – consultation required
- Legal challenge – need to allow some public consumption
- Timing challenge – if no BC legislation in place July 2018, public consumption will be unregulated.

EXAMPLES OF COMPLEXITY

Retail

Public retail – co-located with liquor

- Inconsistent with Task Force recommendation.
- Lower start-up costs than public standalone model.

Public retail – standalone

- Significant start-up costs
- Lower risk of diversion, and does not require as extensive regulation and oversight.

Private retail – standalone

- Extensive regulation and oversight required.
- Government will not need to fund retail infrastructure.

Public/private hybrid

- Current model for liquor – but original intent was that Province would withdraw from retail.
- Private retailers view public retail as unfair competition.

Provincial online system

- Limited need for physical infrastructure.
- Lack of storefronts may be attractive to some local governments.
- May create access challenges for visitors/tourists.

Federal mail order system

- May limit Province's options for revenue generation.
- Illegal market may continue to flourish if federal system provides insufficient product diversity.

RETAIL MODEL CHOSEN WILL IMPACT DECISIONS ON...

- **Illegal dispensaries**
- Local Government Jurisdiction
- **Indigenous Governments**
- Agricultural Land Reserve
- Agricultural Economic Development
- **Ticketable Offences**
- **Regulatory Model/Licensing Regime**
- **Government Responsibility Centre**
- Workplace Considerations
- Housing Considerations
- Public awareness and education
- School-based Education
- **Data collection**
- **Taxation and Pricing**
- Supply Management
- Allocation of Revenues
- **Funding to Local Government**
- **Training**
- Environmental Impact
- Canadian Free Trade Agreement
- Restrictions on Storage/Possession
- **Regulatory Capture Prevention**
- Hemp Regulation
- **Long Term Governance/Oversight**
- **Impact on Enforcement Resources**
- **Program Evaluation**

STAKEHOLDER & PUBLIC CONSULTATIONS

Decision Required- Stakeholder & Public Engagement

- ✓ Launch stakeholder engagement with invitation for written submissions to key stakeholders
- ✓ Secretariat to attend First Nations Assembly (Sept 6/7)
- ✓ UBCM workshop – September 26th
- ✓ Public engagement – online and telephone survey
- ✓ Initial public/stakeholder engagement runs to end of October
- ✓ Results to inform priority policy decisions

NEXT STEPS



- Seek cabinet direction on priority policy decisions

- Policy work on secondary policy issues

- Develop detailed plan for legislation

- Seek cabinet approval of Request for Legislation

- Legislative drafting (duration depends on complexity)

- Legislative Review Committee

- First Reading, Second Reading, Committee debate, Third Reading

- Establish government responsibility center(s) (distribution/retail/regulator)

- Acquire space; hire and train staff

- Process retail license applications (dependant on model)

- Public education about BC regulatory regime

TIMELINES

Challenge – the July 2018 legalization date.

Implications of trying to meet that date:

- Limits ability to engage with stakeholders after the initial consultation period.
- Constrains policy choices and requires light touch regulatory regime.
- High risk of gaps in the regulatory regime that could compromise its integrity.
- Requires significant dedicated time on Spring 2018 legislative agenda.
- Very challenging to acquire space and hire and train staff in time.

QUESTIONS?

BRITISH COLUMBIA'S CANNABIS REGIME

Key Policy Decisions

Ministry of Public Safety & Solicitor General

KEY CONSIDERATIONS & PRIORITY DECISIONS

Overarching Policy Considerations

- Local Governments
- Finance & Taxation
- Indigenous Groups

Priority Policy Decisions

- Minimum Age
- Personal Possession
- Public Consumption
- Personal Cultivation
- Distribution Model
- Retail Model
- Drug-Impaired Driving
- Legislative/Regulatory Timeline
- Stakeholder & Public Engagement
- Division of Powers

MINIMUM AGE

- Bill C-45 sets minimum age of 18.
- BC could choose to increase to 19, 21, or other.

19

- 19 is BC age of majority and minimum age for alcohol and tobacco.
- Minimizes size of illegal market.
- As compared with 18, minimizes number of high school students who can legally buy cannabis.
- May not be supported by medical professions.

21

- Minimum age for cannabis will be higher than for alcohol or tobacco, both of which are more dangerous.
- Leaves much of the illegal cannabis market intact.
- Takes a more precautionary approach in respect to emerging evidence of neurodevelopmental health risks.

PUBLIC POSSESSION

- Bill C-45 allows adults to possess up to 30 grams of dried cannabis in public and articulates equivalent possession limits for some forms of non-dried cannabis.
- BC can choose to accept the 30 gram limit, or legislate a lower limit.

Establish limit <30 grams

- Different possession limits for criminal versus BC regulatory offences may create confusion.
- Significant work required to establish alternate limits and develop defensible legal/policy rationale

s.14

s.14

Accept 30 gram limit

- Similar to limits established in most other jurisdictions where cannabis is legal.
- Easy for the public to understand and comply with, particularly if other provinces accept the 30 gram limit.

YOUTH POSSESSION

- Bill C-45 seeks to avoid criminalizing youth and therefore allows youth to possess up to 5 grams.
- It is open to the Province to establish a zero limit for persons under the BC minimum age.

Accept 5 gram limit

- Sends mixed messages about government's position on non-medical cannabis use by young persons.
- In contrast to how BC law deals with alcohol, law enforcement will not have authority to confiscate cannabis from a young person who is in possession of <5 grams.

Ban youth possession

- Consistent with the overall goals of avoiding criminalization of youth while protecting them from harms.
- Law enforcement will be able to confiscate any amount of cannabis from young persons.

PUBLIC CONSUMPTION

- Bill C-45 does not place restrictions on public consumption.
- Public consumption is prohibited in most jurisdictions where cannabis has been legalized, but there is widespread non-compliance.
- Consumption of edibles in public places is nearly impossible to enforce – public intoxication laws could be used to address problematic public use.
- A full ban on public consumption may be challenged as frustrating the intent of the legislation, because it could make it difficult to impossible for renters, tourists, and the homeless to legally consume cannabis.
- A highly restrictive public consumption regime would likely have to make exceptions for medical users.

PUBLIC CONSUMPTION Cont'd

Extend existing restrictions on public tobacco smoking/vaping to cannabis

s.13

Allow cannabis vaping where tobacco smoking and vaping are permitted and prohibit cannabis smoking

s.13

Prohibit public smoking/vaping of all non-medical cannabis except in designated areas

s.13

PERSONAL CULTIVATION

- Bill C-45 allows home cultivation of up to 4 plants, up to 100 cm tall, per household.
- This is a lower number of plants than most jurisdictions where home cultivation is permitted.
- The mould, electrical, and pesticide risks associated with illegal grow operations are not expected to be a significant issue with 4-plant home cultivation.
- Personal cultivation is an area of significant concern for local governments.

Three types of restrictions the Province could consider:

- I. Further limits on the number/height of plants
- II. Restrictions on where and how cannabis can be grown
- III. A registration requirement for home growers

I. Number/Height of Plants

No additional restrictions

s.13

Reduce number/size of plants

s.13

II. Where & How Cannabis Could be Grown

No additional restrictions

s.13

Increase Restrictions

s.13

III. Registration Requirement

No Registration Requirement

s.13

Require Home Growers to Register

s.13

DISTRIBUTION

- Will government take ownership of non-medical cannabis sold in BC, as it does with liquor?
 - Government ownership enables price mark-ups, which are built into the price of a product and collected during the distribution stage.

Yes

■ s.13

No

■ s.13

DISTRIBUTION Cont'd

- How will non-medical cannabis be distributed?

Public Distribution

■ s.13

Private Distribution

■ s.13

Direct Distribution

■ s.13

RETAIL

- Task Force recommended against co-location of cannabis with liquor or tobacco.

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DRUG-IMPAIRED DRIVING

No new administrative sanctions for drug-impaired driving

Establish new administrative sanctions for drug-impaired driving by July 2018

Wait until Bill C-46 is enacted, and for additional relevant information & evidence

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s.13

s.13

Next Steps

- Finalize policy paper specific to **priority** policy decisions; conduct analysis of **future** policy decisions (refer to policy decisions matrix)
- Obtain cabinet endorsement of:
 1. Public and stakeholder engagement plan
 2. Policy direction
 3. Timing/approach

QUESTIONS?

BRITISH COLUMBIA'S APPROACH TO FEDERAL CANNABIS LEGALIZATION

Ministry of Public Safety & Solicitor General

OVERVIEW

- Organizational Structure
- Federal Context
- Federal Legislation – Highlights
- Provinces and Territories
- Lessons Learned
- Stakeholder Views
- Key Challenges
- Overarching Goals
- Key Considerations & Priority Decisions
- Next Steps

ORGANIZATIONAL STRUCTURE

Federal

Federal Cannabis
Secretariat

- FPT Senior Officials Working Group
- FPT sub-groups:
 - Public education & information
 - Seed to sale tracking system
 - Ticketable offences
 - Drug impaired driving
 - Data collection
 - Taxation
 - Labour

BC

ADM Public Safety
Issues Committee

Cannabis Legalization
& Regulation
Secretariat

Inter-ministry
Working Group

FEDERAL CONTEXT

- November 2016 – Report issued by the Federal Task Force on Cannabis Legalization and Regulation
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- Bill C-45 fully aligns with the Task force report. Goals include:
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 - Allow adults to access regulated, quality controlled, legal cannabis
 - Restrict youth access to cannabis
 - Enhance public awareness of risks associated with cannabis use
 - Protect public health through strict product safety & quality requirements
 - Reduce the burden on the criminal justice system
- Federal regulations are under development
- Planned in force for Bill C-45 is July 2018; Bill C-46 upon enactment

FEDERAL LEGISLATION – HIGHLIGHTS

Bill C-45

- Adults 18 and over will be able to legally buy, possess, grow, and use cannabis
- Maximum of four plants per household; adult public possession limit of 30 grams; youth possession limit of 5 grams
- Federal government regulates production and product standards; provinces regulate retail and distribution
- Recognizing that provinces may not have their own cannabis regimes established and implemented by that date, the federal government will establish a mail order retail system so that adults can access legal cannabis by July 2018

FEDERAL LEGISLATION – HIGHLIGHTS

Bill C-45 Continued

- It will continue to be a criminal offence to sell cannabis to a young person
- Promotion/advertising of cannabis is prohibited with limited exceptions
- A seed to sale tracking system will support product safety and compliance and enforcement activity

Bill C-46

- Significantly amends Criminal Code impaired driving offences
- Creates new offences for having specified levels of a drug in the blood within two hours of driving (to be set by regulation)
- Provides regulatory authority to approve roadside oral fluid screening devices

PROVINCES AND TERRITORIES

s.16

- Ontario, Alberta, Newfoundland, New Brunswick, and Northwest Territories have initiated public consultations
- PT Working Group on Cannabis Legalization
 - Alberta (chair), Manitoba (co-chair)
 - Report to Premiers by November 1, 2017 on common considerations and best practices

LESSONS LEARNED – BC DELEGATIONS

Washington (February 2016) & Colorado (July 2017)

- **Invest in effective implementation** – time and resources to develop/administer an effective regulatory regime
- **Conduct rigorous ongoing data collection** – lack of pre-legalization data has been a barrier to assessing the impacts of legalization
- **Drug-impaired driving** – per se blood drug limits are not yet grounded in scientific evidence; very low conviction rates; and Colorado/Washington reports of impacts to road safety differ due to data challenges
- **Personal cultivation, law enforcement challenge** – medical cannabis illegally exported out of state
- **Cannabis usage** – Colorado saw no increase in the number of youth or adult cannabis users after legalization (similar to BC, Colorado had relatively high numbers of users pre-legalization)
- Effective **public education campaigns** are targeted and evidence-based
- Comprehensive **seed to sale tracking** is a critical element of an effective regulatory regime

STAKEHOLDER VIEWS

- **Medical associations** generally favour a higher minimum age (21 or 25) and have concerns about normalization of non-medical cannabis use
- Key priorities for **UBCM** and **local governments** are consultation on the provincial cannabis regime and revenue sharing to offset resource demands on local governments and police
- **Law enforcement** concerns include: impaired driving; impact on police resources; and home cultivation (but the four plant household maximum mitigates the home cultivation concerns)
- Existing **dispensaries** want to participate in the legal cannabis retail market
- **Pharmacy distributors** are interested in distributing cannabis
- **Private liquor retailers** would like to sell cannabis out of existing liquor stores

CHALLENGES & OPPORTUNITIES

Jurisdiction

- The federal government is asserting exclusive jurisdiction over production and product standards – s.14,s.16

s.14,s.16

Timelines

- The planned in force date for Bill C-45 of July 2018 does not give provinces sufficient time to establish and implement comprehensive provincial regimes

Illegal Dispensaries

- BC has a significant number of illegal dispensaries that, in some cases, have been licensed by municipalities

Economic Development

- Cannabis legalization presents economic growth opportunities across the range of the product cycle (production, manufacturing, retail) and will create jobs
- Once Bill C-45 is enacted, rules on inter-provincial trade of cannabis will be negotiated under the new Canada Free Trade Agreement

OVERARCHING GOALS

The following overarching goals have guided policy work to date:

- I. Prioritize the health and wellness of British Columbians
- II. Reduce crime and the illegal market
- III. Protect children and youth
- IV. Address cannabis-impaired driving
- V. Support economic development

KEY CONSIDERATIONS & PRIORITY DECISIONS

Overarching Policy Considerations

- Local Governments
- Finance & Taxation
- Indigenous Groups

Priority Policy Decisions

- Legislative/Regulatory Timeline
- Stakeholder & Public Engagement
- Division of Powers
- Minimum Age
- Personal Possession
- Public Consumption
- Personal Cultivation
- Distribution Model
- Retail Model
- Drug-Impaired Driving

NEXT STEPS

Seek Cabinet Direction on:

Stakeholder & Public Engagement Plan

- ✓ Public – Online/telephone survey, online moderated discussion groups
- ✓ Stakeholder – UBCM, topic targeted sessions
- ✓ Proposed Launch – September 25, 2017

QUESTIONS?

LEGALIZATION & REGULATION OF CANNABIS

Policy Options

Retail Model

KEY POLICY DECISION(S) REQUIRED:

1. WILL RETAIL OF CANNABIS BE DONE THROUGH A PUBLIC, PRIVATE, OR A HYBRID STORE MODEL?
2. WHICH GOVERNMENT BODY WILL BE RESPONSIBLE FOR LICENSING, COMPLIANCE AND ENFORCEMENT?

FEDERAL TASK FORCE RECOMMENDATIONS

- Retail sale should be regulated by provinces and territories in a manner that allows consumers to access to non-medical cannabis in a safe manner that minimizes potential risks to consumers and communities, as well as reduce involvement of the illegal market.
- Task Force noted the merits of both government-run and private-enterprise retail models, indicating that each model could achieve the goals of protecting health and safety and controlling youth access;
- Task Force recommended against the co-location of liquor or tobacco and cannabis sales where possible, noting that appropriate safeguards must in be place when co-location cannot be avoided.
- Task Force recommended that there be dedicated storefronts with well-trained and knowledgeable staff, and limits on the density and distance of storefronts from schools, parks, and other areas where youth may be regularly present.

BILL C-45

- Provinces and territories will oversee retail sale of cannabis products and the associated compliance and enforcement activities, subject to minimum federal conditions.

DECISION #1 - WILL RETAIL OF CANNABIS BE DONE THROUGH A PUBLIC, PRIVATE, OR A HYBRID STORE MODEL?

BACKGROUND

This analysis is based on Liquor Control and Licensing Branch (LCLB) experience with regulating private liquor retailers and additional analysis from the Secretariat. Please note that the option of establishing a non-profit retailing scheme is not presented here and would require additional analysis to identify associated issues and opportunities.

All three options identified present a cannabis-only storefront retail model. However co-location of liquor and cannabis could also be considered under a public, private or hybrid model. There are a number of considerations associated with co-location as follows:

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Option 1: Public retail (operated by provincial government)

The Province would own and operate non-medical cannabis retail storefronts, similar to how the Province owns and operates B.C. Liquor Stores (BCLS).

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¹ See Appendix B in *LCLB's Cannabis Retail and Regulatory Options Paper* for all assumptions on which costs were based

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Option 2: Private retail (operated by private enterprise)

Cannabis retail storefronts would be owned and operated by private businesses and licensed by the provincial government. Government would maintain oversight of cannabis retail by developing and implementing a licensing regime, similar to LCLB licenses for private liquor stores. Potential operators would likely be subject to comprehensive initial application and on-going (once licensed) requirements to further provincial public health and safety objectives.

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Option 3: Hybrid retail (combination of public and private)

Cannabis retail storefronts will be owned and operated by both the provincial government and private enterprises, as is currently the case with liquor retail.

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ADDITIONAL CONSIDERATIONS

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DECISION #2 - WHICH GOVERNMENT BODY WILL BE RESPONSIBLE FOR LICENSING, COMPLIANCE AND ENFORCEMENT?

If a private or a hybrid retail model is selected, a government regulatory body will need to be established to license the retail sale of cannabis as per options outlined below. A public retail model would not necessarily require a separate regulatory branch to oversee operations as retail operations could be self-regulating similar to Liquor Distribution Branch and BC Liquor Stores operations prior to private sector involvement in liquor retail.

Option #1: Expand LCLB's mandate to include cannabis

Implications:

Liquor and cannabis may have distinct public health and safety objectives which may be a consideration when determining whether to have a regulator separate from LCLB.

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² See Appendix C in *LCLB's Cannabis Retail and Regulatory Options Paper* for all assumptions on which costs were based

³ See Appendix C in *LCLB's Cannabis Retail and Regulatory Options Paper* for all assumptions on which costs were based

LEGALIZATION & REGULATION OF CANNABIS

Policy Options

Retail Model

KEY POLICY DECISION(S) REQUIRED:

1. WILL RETAIL OF CANNABIS BE DONE THROUGH A PUBLIC, PRIVATE, OR A HYBRID MODEL?
2. WHICH GOVERNMENT BODY WILL BE RESPONSIBLE FOR LICENSING, COMPLIANCE AND ENFORCEMENT?

FEDERAL TASK FORCE RECOMMENDATIONS

- Retail sale should be regulated by provinces and territories in a manner that allows consumers to access non-medical cannabis in a safe manner that minimizes potential risks to consumers and communities, as well as reduce involvement of the illegal market.
- Task Force noted the merits of both government-run and private-enterprise retail models, indicating that each model could achieve the goals of protecting health and safety and controlling youth access;
- Task Force recommended against the co-location of liquor or tobacco and cannabis sales where possible, noting that appropriate safeguards must in be place when co-location cannot be avoided.
- Task Force recommended that there be dedicated storefronts with well-trained and knowledgeable staff, and limits on the density and distance of storefronts from schools, parks, and other areas where youth may be regularly present.

BILL C-45

- Provinces and territories will oversee retail sale of cannabis products and the associated compliance and enforcement activities, subject to minimum federal conditions.

DECISION #1 - WILL RETAIL OF CANNABIS BE DONE THROUGH A PUBLIC, PRIVATE, OR A HYBRID MODEL?

BACKGROUND

This analysis is based on Liquor Control and Licensing Branch (LCLB) experience with regulating private liquor retailers and additional analysis from the Secretariat. Please note that the option of establishing a non-profit retailing scheme is not presented here and would require additional analysis to identify associated issues and opportunities.

All three retail models presented can be either cannabis-only or cannabis and liquor (co-located) storefronts.

In addition to specific implications noted in each retail model storefront type, there are a number of general considerations relating to co-location as follows:

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The province could also consider implementing a B.C. mail order system either in place of, or in addition to storefronts, that would allow cannabis consumers to purchase their cannabis product(s) online with direct delivery to their residence. Please note that this option would require more analysis as implications and issues will differ depending on the distribution model chosen. General considerations relating to the creation of a B.C. mail order system for cannabis are as follows:

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¹ Even though implementation timelines could be expedited, it is unlikely a regime could be in place by July 2018 given the complexity of the project.

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Option 1: Public retail (operated by provincial government)

The Province would own and operate non-medical cannabis retail storefronts that could be either cannabis-only or cannabis co-located with liquor in B.C. Liquor Stores (BCLS).

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² See Appendix B in *LCLB's Cannabis Retail and Regulatory Options Paper* for all assumptions on which costs were based

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Option 2: Private retail (operated by private enterprise)

Cannabis-only or cannabis and liquor retail storefronts would be owned and operated by private businesses and licensed by the provincial government. Government would maintain oversight of cannabis retail by developing and implementing a licensing regime, similar to LCLB licences for private liquor stores, or by amending the existing private liquor store licensing regime to allow for the sale of cannabis.

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Option 3: Hybrid retail (combination of public and private)

Cannabis-only or cannabis and liquor retail storefronts will be owned and operated by both the provincial government and private enterprises. Government would maintain oversight of cannabis retail by developing

and implementing a licensing regime, similar to LCLB licences for private liquor stores, or by amending the existing private liquor store licensing regime to allow for the sale of cannabis. In addition to the implications noted in both options above, the following considerations apply specifically to a hybrid model.

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ADDITIONAL CONSIDERATIONS

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DECISION #2 - WHICH GOVERNMENT BODY WILL BE RESPONSIBLE FOR LICENSING, COMPLIANCE AND ENFORCEMENT?

If a private or a hybrid retail model is selected (cannabis-only), a government regulatory body will need to be established to license the retail sale of cannabis as per options outlined below. A public retail model, or any model where cannabis and liquor are co-located, would not necessarily require a separate regulatory branch to oversee operations as retail operations could be self-regulating similar to Liquor Distribution Branch and BCLS operations or LCLB resources could be utilized for co-located stores.

Option #1: Expand LCLB's mandate to include cannabis

Implications (general):

Liquor and cannabis may have distinct public health and safety objectives which may be a consideration when determining whether to have a regulator separate from LCLB.

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