

# B.C. GOVERNMENT UNVEILS TRIO OF CANNABIS BILLS FOR PROVINCIAL CANNABIS REGULATION

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On April 26, 2018, British Columbia's provincial government unveiled its draft legislation on the regulation and implementation of non-medical (consumer) cannabis in the province, which arrives hot on the heels of the provincial government's announcement in February 2018 of its key cannabis policy decisions (see our previous bulletin [here](#)). The proposed legislation was tabled in three different bills:

- Bill 31 - *Cannabis Distribution Act* ("CDA"),<sup>[1]</sup> which, if enacted, will regulate the wholesale distribution of consumer cannabis and public retail sales, but for greater certainty does not apply to medical cannabis;
- Bill 30 - *Cannabis Control and Licensing Act* ("CCLA"),<sup>[2]</sup> which is intended to regulate the possession, sale and supply of consumer cannabis, the licensing of private retailers, consumption, possession and personal cultivation of cannabis, and will also, among other things, institute a compliance and enforcement regime; and
- Bill 17 - *Motor Vehicle Amendment Act, 2018* ("MVAA"),<sup>[3]</sup> which is intended to amend B.C.'s *Motor Vehicle Act*<sup>[4]</sup> and associated legislation in order to limit drug-affected driving.

Coinciding with the release of this draft legislation, the British Columbia Liquor Distribution Branch ("**BCLDB**") announced that public consumer cannabis stores and online retail for consumer cannabis will operate under its newly established brand "BC Cannabis Stores", akin to its "BC Liquor Stores" brand for its retail of alcohol. <sup>[5]</sup> The BCLDB anticipates opening online sales and its first public consumer cannabis stores by the end of summer 2018, pending the enactment of the federal government's Bill C-45 (the *Cannabis Act*).<sup>[6]</sup>

## Bill 31 - *Cannabis Distribution Act*

Bill 31 establishes a public wholesale distribution monopoly under the control of the BCLDB as well as government-run retail stores and online sales, in line with what the B.C. government had previously announced as one of its key policy decisions. The CDA authorizes the provincial government to buy and sell consumer cannabis (from federally licensed producers only) and cannabis accessories and to establish and operate warehouses, stores and an online sales system. As previously announced, the provincial government (through the BCLDB) will be the province's only online consumer cannabis retailer, however retail stores will be

a mix of public and private.

The bill also requires that the provincial government abide by certain reporting and record-keeping requirements, and, among other things, sets a maximum penalty of \$10,000 and 6 months of imprisonment for an individual who commits an offence under the CDA (with a maximum fine of \$50,000 for a corporation).

### **Bill 30 - Cannabis Control and Licensing Act**

The CCLA is the centrepiece of the legislative framework for consumer cannabis, and sets out rules with regards to cannabis (both medical and consumer) control and licensing.

#### *Cannabis Control*

Part 3 of the CCLA regulates the possession, sale, promotion, supply and production of consumer cannabis. For example, a person is required to provide information to the government for cannabis brought into B.C., and consumer cannabis may only be sold by the provincial government online or in government-run retail stores (through the BCLDB), through a private licensed retail store, or if the person or the cannabis is prescribed. In B.C., federally licensed producers can only sell cannabis directly to the provincial government or to other federally licensed producers. Part 5 – *Special Rules Relating to Cannabis* sets the provincial minimum age at 19 to purchase, sell or consume cannabis, and allows adults to possess up to 30 grams of cannabis in a public place. In addition, adults may grow up to four cannabis plants per household for consumer use (growing for medical use is largely addressed federally under the Access to Cannabis for Medical Purposes Regulations,<sup>[7]</sup> though additional specifications are set out in the CCLA). The bill also provides restrictions for where a person can consume cannabis, prohibits a person from being intoxicated by cannabis in a public place, and prohibits the use or possession of cannabis in a vehicle, subject to some exceptions.

#### *Cannabis Licensing*

Part 4 of the CCLA establishes a licensing scheme for the retail sale of consumer cannabis in private retail stores and for agents involved in the purchase and sale of consumer cannabis. Prior to the issuance of a licence, the local government or Indigenous nation for the area in which the establishment is proposed to be located must be consulted, and such local government or Indigenous nation may impose assessment fees on an applicant for the consultation. To successfully apply for a licence, the applicant must be the owner of the proposed establishment or have an arrangement that would give the applicant a degree of control over the establishment such that they can comply with the requirements of the CCLA.

In addition, a license may be suspended, rescinded or amended with special terms and conditions in the public interest and without prior notice. A licensee may be required to make reports and provide other information, and licensees may not sell cannabis or cannabis accessories by self-service or dispensing devices, and must not

sell cannabis to persons intoxicated by alcohol or cannabis.

Applications for consumer cannabis retail licenses will open in the Spring of 2018.<sup>[8]</sup>

#### *Other*

The CCLA also imposes an enforcement regime that permits search and seizures and the inspection of a licensee's premises. The penalties for committing offences under the CCLA for an individual range from a maximum \$100,000 fine (or \$50,000 if the individual is not a licensee) or imprisonment for a maximum of 1 year, or both. For a corporation, the maximum penalty for committing offences under the CCLA is a \$100,000 fine.

Finally, the CCLA also establishes authority to create training programs for licensees and adults who work in consumer cannabis retail stores. Prescribed training is required for licensees, sales staff and supervisors, and registration is required for all consumer cannabis workers.

#### **Bill 17 - Motor Vehicle Amendment Act, 2018**

The MVAA toughens existing law enforcement in the area of drug impaired driving by, among other things, allowing a peace officer to serve a notice of licence suspension if (i) the officer has reasonable grounds to believe that the driver has a prescribed drug in his or her body as a result of an analysis by approved drug screening equipment, (ii) the driver fails or refuses, without reasonable excuse, to comply with a demand to be tested by approved drug screening equipment, (iii) because the driver has a blood drug concentration equal to or exceeding a prescribed blood drug concentration within 2 hours of operating a motor vehicle, or a combination of blood drug and alcohol concentrations exceeding the prescribed combination levels, or (iv) by reason of the peace officer's evaluation of the driver taking into account the circumstances relating to the driver's operation of the motor vehicle and drug screen. It also introduces a new 90-day driving prohibition for those operating a vehicle while affected by a drug or combination of drug and alcohol.

#### **Conclusion**

B.C.'s consumer cannabis bills were tabled with the overarching policy goals of prioritizing public health and safety, protecting youth, eliminating the black market and keeping roads safe, and are a step forward in instituting a regulatory scheme in the province in time for the anticipated legalization of consumer cannabis later this summer.<sup>[9]</sup> The bills must now undergo debate in the province's legislature and may undergo several iterations before being passed into law.

Of note, the bills do not touch on whether there will be required price points for consumer cannabis, as well as regulations around marijuana edibles, which are not expected to be legalized by the federal government until

2019.

We will continue issuing bulletins on these matters as developments occur.

### **About McMillan's Cannabis Practice Group**

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McMillan's Cannabis Practice Group is made up of lawyers who understand the laws, regulations, and business landscape in Canada. Our professionals provide valuable legal solutions for financing, accessing public markets, mergers and acquisitions, licensing and regulation, employment law, workplace issues, and intellectual property, to help businesses succeed in this new and evolving industry.

by James Munro, Lindsay Dykstra and Sally Wong, Articled Student

[1] Bill 31 – 2018: *Cannabis Distribution Act*, 3rd Sess, 41st Parl, 2018, online:

<<https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/41st-parliament/3rd-session/bills/first-reading/gov31-1>>.[ps2id id='1' target=""]

[2] Bill 30 – 2018: *Cannabis Control and Licensing Act*, 3rd Sess, 41st Parl, 2018, online:

<<https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/41st-parliament/3rd-session/bills/first-reading/gov30-1>>.[ps2id id='2' target=""]

[3] Bill 17 – 2018: *Motor Vehicle Amendment Act*, 2018, 3rd Sess, 41st Parl, 2018.[ps2id id='3' target=""]

[4] *Motor Vehicle Act*, R.S.B.C. 1996, c. 318.[ps2id id='4' target=""]

[5] BC Liquor Distribution Branch, News Release, 2018AG0027-000740, "[\*LDB establishes retail brand for non-medical cannabis\*](#)" (26 April 2018).[ps2id id='5' target=""]

[6] Bill C-45, *an Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts*, 1st Sess, 42nd Parl, 2017 (as passed by the House of Commons 27 November 2017).[ps2id id='6' target=""]

[7] *Access to Cannabis for Medical Purposes Regulations*, SOR/2016-230, Part 2.[ps2id id='7' target=""]

[8] For more information on B.C.'s non-medical cannabis retail licenses process, see the [\*BC Cannabis Private Retail Licensing Guide\*](#).[ps2id id='8' target=""]

[9] Minister of Public Safety and Solicitor General, News Release, "[\*BC reaches milestone with introduction of provincial cannabis legislation\*](#)" (26 April 2018).[ps2id id='9' target=""]

### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

The logo for mcmillan, featuring the word "mcmillan" in a lowercase, sans-serif font. The "m" and "c" are in a dark red color, while the "m", "i", "l", "l", "a", and "n" are in a light blue color. The logo is positioned in the upper left corner of a banner image.

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