

B.C.'S BUDDING INDUSTRY: PROVINCIAL GOVERNMENT ANNOUNCES NEW KEY POLICY DECISIONS ON CANNABIS

Posted on February 19, 2018

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On February 5, 2018, B.C.'s provincial government announced additional key policy decisions on the regulation of consumer cannabis in the province.^[1] While the federal government's proposed *Cannabis Act* (Bill C-45)^[2] sets up the framework for the regulation of consumer cannabis across Canada, it has been left to each province and territory to determine how cannabis will be distributed and sold in their respective jurisdictions, subject to certain minimum requirements set forth in the proposed Cannabis Act.

The provincial government's announcement follows hot on the heels of the general policies announced at the end of last year, which established that the B.C. Liquor Distribution Branch will be the exclusive wholesale distributor for consumer cannabis in the province, and that cannabis will be sold in both public and private retail spaces. Prior to releasing its policy decisions, the provincial government undertook an extensive province-wide public consultation process during the fall of 2017 that engaged various stakeholders in an effort to help shape B.C.'s approach to the regulation of consumer cannabis.

Given the Province's overarching policy goals of protecting youth, promoting health and safety, eliminating the black market and keeping roads safe, the most recent announcement focuses on five key areas including: (i) retail, (ii) personal possession limits, (iii) places of use, (iv) personal cultivation and (v) drug-impaired driving.

Retail

Consumer cannabis will be distributed through both private and government-run retail stores, as well as online via the provincial government's e-commerce platform. The B.C. Liquor Distribution Branch will operate the network of public retail stores, and the B.C. Liquor Control and Licensing Branch will both regulate and monitor licensed private stores. It is anticipated that the rules for retail stores will be similar to what is already in place for liquor stores. At this point, the provincial government has not put any plans in place to license cannabis lounges, music festivals and other such events, though this may be considered in the future.

Retailers will not be able to sell cannabis alongside liquor or tobacco. In urban areas only, cannabis accessories may be sold alongside cannabis, but no other items will be permitted for sale (including food, clothing, gas and lottery tickets). Minors will not be allowed to enter cannabis retail stores, even if accompanied by a guardian

who is of legal age. The provincial government anticipates that there will be exceptions to these requirements in rural areas, which may require a different approach to that used in urban areas – similar to the different treatment given to urban versus rural liquor stores. For example, in rural retail stores the provincial government may allow cannabis to be sold alongside products such as food and gas.^[3] It is expected that the provincial government will make further announcements to this effect.

This spring, B.C. will launch an early registration process for cannabis retail licenses. The provincial government does not anticipate that there will be a cap on the number of licenses issued for private retail stores, however, municipalities will have the ability to put their own restrictions in place based on community need. ^[4]

The B.C. Liquor Distribution Branch is aiming to open the first public consumer cannabis retail store by the end of summer 2018, following anticipated federal legalization in July of 2018. While an e-commerce platform has been proposed, the B.C. Liquor Distribution Branch has yet to establish the platform and will be seeking public input before providing further details regarding its timeline for launch.

Possession

As previously announced, the minimum age to possess, purchase and consume cannabis will be 19 – this is in line with the current age of majority in B.C., which is also the minimum age to possess, purchase and consume alcohol and tobacco in the province. The possession limit for non-medical cannabis in public places is 30 grams, consistent with the threshold set out in the proposed Cannabis Act.

Similar to the rules regarding alcohol, any cannabis in motor vehicles must either be contained in a sealed package or inaccessible to the vehicle's occupants.

Places of Use

To minimize exposure to youth, smoking and vaping of non-medical cannabis will be banned in any areas frequented by children, such as parks, playgrounds and beaches. Use of cannabis in any form in a motor vehicle (in operation or not) will also be banned for all occupants. Outside of these restrictions, adults will be permitted to use consumer cannabis in public spaces where tobacco smoking and vaping would normally be allowed, with the caveat that local governments will be able to set additional restrictions.

Of particular significance in this announcement is the rights of landlords and strata councils, who will now be able to prohibit smoking, vaping and cultivation of consumer cannabis in tenanted and strata properties.

Personal Cultivation

Adults over the age of 19 will be allowed to grow up to four cannabis plants per household, subject to the requirement that the plants must be grown on private property and not be visible from public spaces. As

mentioned, landlords and strata councils will be able to restrict or prohibit tenants' cultivation of cannabis. Additionally, consumer cannabis cannot be grown in dwellings used as daycares.

Drug-Impaired Driving

Cannabis-impaired driving will remain illegal. To combat impaired driving, the provincial government has proposed a new 90-day administrative driving prohibition for drug-affected driving, along with modifications to the impairment restrictions under B.C.'s Graduated Licensing Program, which will now specify a zero tolerance for the presence of THC. The provincial government has also proposed the introduction of additional training for law enforcement.

Conclusion

As B.C.'s framework for the regulation of consumer cannabis begins to take shape in advance of the federal government's August or September 2018 legalization target^[5], we anticipate further announcements will be made by the provincial government providing more detail on its cannabis policy decisions. While these announcements bring some clarity to what the future regulatory scheme in B.C. might look like, the recent announcements should not be treated as final and it remains to be seen what the regulations will look like when they are tabled this spring.

It is recommended that companies in the industry seek legal counsel to help them navigate the evolving cannabis industry in respect of legal issues they may face.

About McMillan's Cannabis Practice Group

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[1] Ministry of Public Safety and Solicitor General, News Release, "Cannabis retail, driving laws amongst new firm-on-safety policy decisions" (5 February 2018).

[2] 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).

[3] *Supra* note 1.

[4] [B.C. Cannabis Private Retail Licensing Guide – Applications and Operations](#) (February 2018) Province of British Columbia.

[5] It was recently announced that Senate leaders have reached a timeline that would result in a vote on Bill C-45 on or before June 7, 2018. This pushes the target date for implementation to sometime in August or September 2018, as it is anticipated that if Bill C-45 is passed it could still take 8-12 weeks for cannabis retail systems to become operational. See: Government Representative Office, News Release, "[Senate leadership agrees to timetable on cannabis bill](#)" (15 February 2018).