

Ontario proposes legislation to prepare for the federal legalization of cannabis

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Authors: [Michael Watts](#), [Rob Lando](#), Marty Putyra

On November 1, 2017, Ontario announced new legislation to safely regulate the use and sale of recreational cannabis in the province. Bill 174, the *Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017*^[1] (the Bill), follows the conclusion of province-wide consultation in preparation for the proposed federal legalization of cannabis for recreational use expected on July 1, 2018.^[2] If passed, the Bill would enact the *Cannabis Act, 2017* and the *Ontario Cannabis Retail Corporation Act, 2017* while replacing the *Smoke-Free Ontario Act* and the *Electronic Cigarettes Act, 2015* with the *Smoke-Free Ontario Act, 2017*. The proposed legislation would also amend the *Highway Traffic Act* to address, among other matters, drug-impaired driving.^[3] According to Yasir Naqvi, the Attorney General of Ontario, the key focus of the Bill is to help eliminate the illicit market, protect young people and keep impaired drivers off the road.^[4]

Creation of a new provincial retailer

The *Ontario Cannabis Retail Corporation Act, 2017* would create a new provincial retailer as a subsidiary of and overseen by the Liquor Control Board of Ontario (the LCBO).^[5] The legal name of this new provincial retailer is the "Ontario Cannabis Retail Corporation," however the Attorney General indicated that the business name and branding would be announced at a later date.^[6] The new provincial retailer would be charged with the retail sale of recreational cannabis through stand-alone stores, complemented by an online ordering service. The province has previously indicated an expectation that 40 stores will be opened by July 2018, 80 by July 2019, and 150 by 2020.^[7] The LCBO has also launched the website "LCBO Cannabis Updates" where it is expected updates in regards to the retail of cannabis will be posted.^[8]

Regulation of use

The proposed legislation will also address the use of cannabis. Consumption of cannabis will be limited to private residences, defined as "private self-contained living quarters in any multi-unit building or facility" and ban the use of cannabis in public places, workplaces, motor vehicles, boats and any other prescribed place.^[9] The proposed legislation does provide for limited exemptions for medical users of cannabis, however, allowing for medicinal use in designated rooms in certain facilities. These facilities include long-term care homes, retirement homes, supportive housing residences, psychiatric facilities, veterans facilities, hotels, motels and inns.^[10]

The proposed legislation will also amend the *Highway Traffic Act* to address drug-impaired driving. This includes establishing drug-impaired driving laws, including a zero-tolerance approach for young, novice and commercial drivers.^[11] Violations can lead to fines ranging from \$60 to \$500. In addition, the licence of a young driver would be suspended for 30 days while a novice may face suspension, cancellation or change of his or her licence.^[12]

Elimination of the illicit market

To help eliminate the illicit market, including targeting illegal storefront dispensaries, the Bill proposes new provincial offences with strict penalties for violations. Under this regime, an individual could be fined up to \$250,000, face a jail term of two years less a day or both. Subsequent convictions would result in fines of up to \$100,000 per day, jail or both. Corporations would face fines between \$25,000 and \$1 million, with subsequent convictions resulting in fines between \$10,000 and \$500,000 per day. The province has explicitly stated that current illegal cannabis storefronts (dispensaries) are not, and will not be legal retailers.^[13]

Protection of youth and other safety concerns

The Bill aims to further the stated objective of protecting youth by setting a minimum age of 19 to use, buy, possess and cultivate cannabis in Ontario.^[14] In addition, the *Cannabis Act, 2017* would also put in place identification requirements for anyone appearing under the age of 25.^[15] The proposed legislation would also focus on prevention and harm reduction in youth by allowing for the diversion of people under the age of 19 from the justice system into youth education or prevention programs.^[16]

Next steps

Further details of Ontario's approach would be set by regulations after the legislation is passed, as well as additional consultation with municipalities, Indigenous communities, and other stakeholders.^[17] One area that has yet to be addressed definitively is pricing, with the province stating that this will be decided after more detail from the federal government is available. However, the general approach will be to avoid setting high prices that could drive consumers to the illicit market.^[18] The province will also be launching a public information campaign to raise awareness and provide education on the new measures that will take effect.^[19]

^[1] Bill 174, *Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017*, 2nd Sess, 41st Leg, Ontario, 2017 (1st Reading November 1, 2017).

^[2] Ministry of Attorney General, "Ontario preparing for federal cannabis legalization," (November 1, 2017) online: [Government of Ontario](https://www.ontario.ca/government).

^[3] *Supra*, note 1.

^[4] *Supra*, note 2.

^[5] *Supra*, note 2.

^[6] Benzie, Robert, “New provincial marijuana corporation will control weed sales and close illegal ‘dispensaries,’” (November 1, 2017) online: [Toronto Star](#).

^[7] *Supra*, note 2.

^[8] Liquor Control Board of Ontario, “LCBO Cannabis Updates,” (October 27, 2017), online: [LCBO Cannabis Updates](#).

^[9] *Supra*, note 2.

^[10] *Supra*, note 1 at section 13(1).

^[11] *Supra*, note 2.

^[12] *Supra*, note 1 at Schedule 4, section 1.

^[13] *Supra*, note 6.

^[14] *Supra*, note 2.

^[15] *Supra*, note 1 at Schedule 1, sections 6 – 7 and 10.

^[16] *Supra*, note 1 at Schedule 1, section 20 and 27.

^[17] *Supra*, note 2.

^[18] Jones, Allison, “Ontario introduces pot legislation with steep fines for illegal dispensaries,” (November 1, 2017) online: [CTV News](#).

^[19] *Supra*, note 2.