



Ontario's Approach to Federal Cannabis Legalization

April 2018

Background

On December 12, 2017, Ontario passed legislation to ensure the safe transition to federal cannabis legalization, including the ***Cannabis Act, 2017***, and the ***Ontario Cannabis Retail Corporation Act, 2017*** (OCRCA).

Ontario's Key Priorities

Protecting Youth and
Young People

Community and Road
Safety

Eliminating the Illegal
Market

Overview

Ontario's legislative approach aligns with the proposed federal legislative framework.

Cannabis Act, 2017

- Prohibits the sale of recreational cannabis to anyone under the age of 19.
- Prohibits the use of recreational cannabis in all public places, workplaces and motor vehicles.
- Prohibits youth (under 19) from possessing, cultivating, consuming and sharing any amount of recreational cannabis.
- Addresses illegal selling, including storefront dispensaries.
- It is expected that the Cannabis Act, 2017 will come into force at the same time as federal legalization occurs.

OCRCA

- Established a new Crown corporation, the Ontario Cannabis Retail Corporation (OCRC), operating as the Ontario Cannabis Store, which has a subsidiary relationship to the Liquor Control Board of Ontario (LCBO).
- The Ontario Cannabis Store will:
 - sell cannabis and related products through a network of dedicated storefronts and an online channel;
 - determine the types of cannabis products it sells; and
 - promote social responsibility with respect to cannabis.

Retail and Distribution System

In Ontario, recreational cannabis will be sold exclusively by the Ontario Cannabis Store through a network of dedicated storefronts and an online channel.

Ontario Cannabis Store

- Ontario's approach to retail and distribution is designed to promote public safety and social responsibility, while responding to consumers and eliminating the illegal market.
- Approximately 150 standalone Ontario Cannabis Stores will be opened by the end of 2020, starting with about 40 stores by summer 2018, and rising to 80 within the first year. Stores will sell cannabis and related products, not alcohol.
- Stores will be complemented by an online channel that will provide Ontarians across the province with a safe and secure way to legally purchase cannabis. At a minimum, the same safeguards that exist now for online LCBO beverage alcohol sales will apply to cannabis, including ID checks, signatures required upon delivery and no packages left unattended at the door.
- Trained and knowledgeable staff will sell products in stores in a safe and socially responsible manner, including strict requirements for age verification, so youth access to the product is restricted and consumers have the information that they need.
- Ontario's approach was guided by experience from the sale of alcohol, input from key public health experts and law enforcement, and lessons learned from other jurisdictions.

Store Siting and Municipal Implementation Funding

Store Siting

- Twenty nine municipalities were identified for initial stores by considering geographical distribution across the province and the presence of illegal stores currently in operation.
- In fall 2017, officials from the Ministry of Finance and the LCBO met with municipalities identified for initial cannabis stores to discuss the siting process, guidelines and local interests.
- The LCBO is using guidelines to identify specific store locations, which include:
 - Adhering to municipal zoning by-laws
 - Equitable access for consumers within municipalities
 - Minimizing proximity to schools
 - Addressing, where present, illegal storefront activity

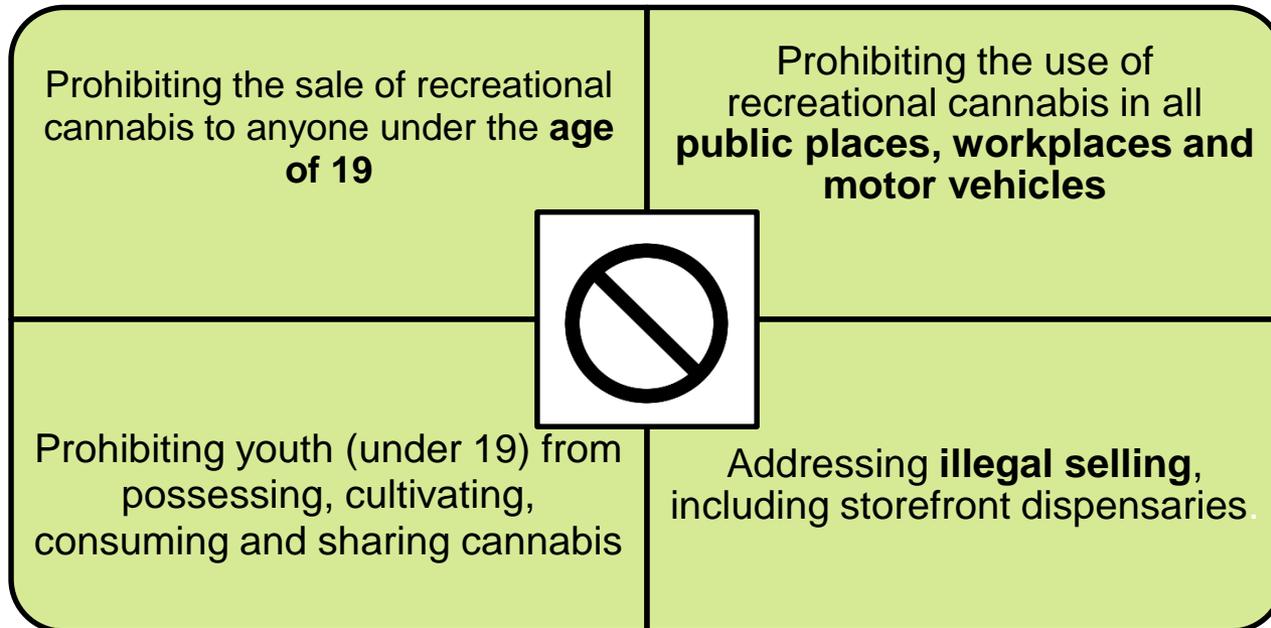
Implementation Funding

- Ontario will be providing \$40 million in funding over two years to help municipalities with incremental implementation costs related to the legalization of cannabis.
- This funding approach was developed through an engagement with the Association of Municipalities of Ontario and the City of Toronto.
- Funding will be distributed to municipalities on a per household basis, adjusted to ensure that each municipal government receives no less than \$10,000.
- If the province's portion of revenue from the federal excise duty on recreational cannabis for the first two years of legalization exceeds \$100 million, the province will provide municipal governments with 50 per cent of the surplus.
- Ontario will distribute half of the funding as soon as possible following federal Royal Assent and before legalization begins in 2018, and the other half one year later in 2019.
- This approach provides municipalities with the certainty of funding in advance of legalization.

Cannabis Act, 2017

Prohibitions

The Cannabis Act, 2017, contains a series of prohibitions including:



- Penalties under the Cannabis Act, 2017 are presented later in the presentation.

Possession

In Ontario, the legal age to purchase, possess, consume and grow recreational cannabis will be 19.

This will allow police to confiscate small amounts of cannabis from young people.

- Under Bill C-45, adults could possess up to 30 grams of legal cannabis.
 - Ontario agrees that the proposed federal adult possession limit strikes the right balance and has set the **adult possession limit to 30 grams**.
- Bill C-45 would also decriminalize youth possession of up to 5 grams, while youth possession of more than 5 grams would be dealt with under the Youth Criminal Justice Act.

Youth Diversion



In order to help prevent youth from unnecessarily being brought into the justice system, the Cannabis Act, 2017 provides police, prosecutors and courts with the opportunity to **refer young people to prevention and education programs** that are approved by the Attorney General.

Places of Use

Ontario is creating restrictions on recreational cannabis use that align with both tobacco and alcohol

- Under this approach, individuals would:



- **Only be able to use recreational cannabis* in private residences.**
 - Not be able to use recreational cannabis* in any public space, workplace and motor vehicle.
- Under the Smoke-Free Ontario Act, 2017, smoking and vaping of medical cannabis would not be allowed in enclosed workplaces, enclosed public spaces, and other areas where tobacco smoking is currently banned. Limited exemptions for smoking and vaping of medical cannabis are being proposed.

* Applies to all forms of recreational cannabis (smoking, vaping, edibles and extracts)

Places of Use Regulatory Proposal

- The Ministry of the Attorney General is considering regulations under the Cannabis Act, 2017 that would:
 - Prescribe restrictions on where medical cannabis can be used in a form that is not smoked or vaped
 - Clarify the places of use rules for recreational cannabis
 - Provide exemptions to permit the consumption of cannabis in hotel, motel and inn rooms, vehicles and boats that are used as residences and in private residences that are also workplaces
- The Ministry also sought early feedback on prospective proposals to potentially:
 - Permit licensed and regulated cannabis consumption lounges/venues (requires legislative change); and
 - Permit owners or operators of multi-unit dwellings to designate outdoor areas for the smoking or vaping of recreational cannabis.

The Residential Tenancies Act, 2006 and Cannabis

- The Residential Tenancies Act, 2006 does not address cannabis consumption or home cultivation
- Landlords and tenants can agree to rules about smoking, consumption and cultivation of cannabis in the residential complex (including the rental unit) in their tenancy agreement
- Smoking or cultivating cannabis in violation of a term in the lease is not, in itself, a ground for eviction under the Residential Tenancies Act, 2006
- A landlord may give notice to end a tenancy if the tenant's smoking or cultivation of cannabis:
 - Substantially interferes with reasonable enjoyment of the landlord or other tenants
 - Causes undue damage
 - Impairs safety
 - Substantially interferes with another lawful right, privilege or interest of the landlord, or
 - Constitutes an illegal activity
- Only the Landlord and Tenant Board can order an eviction of a tenant

Enforcement Strategy – Illegal Selling

Ontario is pursuing a coordinated law enforcement approach with federal and municipal partners, to eliminate the illegal market

- The Cannabis Act prohibits any person from selling or distributing cannabis, other than the Ontario Cannabis Retail Corporation or persons authorized under applicable federal law. The Act would also prohibit landlords from knowingly permitting such activities on their premises.
- Individuals and corporations convicted of these offences would be subject to **high maximum fines** upon first conviction, with additional fines for each day on which the offence occurs or continues on subsequent convictions. Individuals may also face a potential jail sentence of up to two years less a day. Minimum fines would apply to corporations convicted of these offences.
- In order to address illegal storefronts, the Act provides an **interim closure authority** which would allow for the immediate closure by police, upon charges being laid, of premises that are suspected of being used for the illegal sale or distribution of cannabis.



Prevention and Harm Reduction

Ontario is developing cannabis prevention and harm reduction initiatives that focus on programs and services, and service provider education and training.

Goals



Prevent/delay cannabis use among youth and young adults



Reduce the harms associated with cannabis use among the general population

Objectives



Promote awareness of cannabis related health harms and help people make informed decisions about use



Develop new or update existing programs and services to support prevention and harm reduction in youth and young adults



Provide training and/or resources to education, health, and social service providers

Alignment



Supported by the broader cannabis legalization framework; will adopt a public health approach to protect and educate youth, maximize public health and road safety, and reduce harm

Ministries will ensure alignment with relevant provincial initiatives such as:



Patients First:
Action Plan for Health Care



Mental Health and Addictions Strategy



Ontario Public Health
Standards Modernization



Opioid Strategy



Achieving Excellence: Promoting Student
Well-Being

¹ Youth is considered to be up to the minimum age decided for cannabis retail

² Young adults is up to the age of 25

Additional Initiatives

Ontario is also implementing a number of other initiatives to ensure a safe and sensible transition for communities and people

- ✓ Increasing the capacity of local law enforcement, including the Ontario Provincial Police, by funding sobriety field test training for police officers to help detect impaired drivers
- ✓ Creating a specialized legal team to support drug-impaired driving prosecutions
- ✓ Increasing capacity at the province's Centre of Forensic Sciences to support toxicological testing and expert testimony
- ✓ Providing public health units with support and resources to help address local needs related to cannabis legalization
- ✓ Creating a Cannabis Intelligence Coordination Centre to shut down illegal storefronts and help fight the unsafe and illegal supply of cannabis products
- ✓ Raising awareness of the new provincial rules that will take effect when cannabis is legalized federally.

Engaging with Indigenous Communities and Organizations

Ontario has and will continue to engage with Indigenous people, communities and organizations to discuss interests, perspectives and concerns, and consider opportunities for collaboration.

- Ontario recognizes the need to engage meaningfully and to work with Indigenous communities and organizations about cannabis legalization.
 - The Cannabis Act, 2017 includes flexibility to accommodate community specific on-reserve approaches, including authority for the Attorney General to enter into agreements with First Nations communities related to cannabis regulation including: minimum age, places of use and other matters within the scope of the Cannabis Act, 2017.
 - The Ontario Cannabis Retail Corporation Act, 2017, allows the Lieutenant Governor in Council to prescribe where cannabis may not be delivered following a request made by a First Nations band council, and authorizes the Minister of Finance to enter into agreements with First Nations communities related to cannabis retailing on reserve.

Appendix

Federal Framework

- The proposed federal Cannabis Act would establish the legislative framework for cannabis, identifying permitted and prohibited activities. The proposed Act provides for:
 - Federal regulation and licensing of cannabis producers;
 - Provincial responsibility for retail and distribution, provided that minimum federal conditions are met (e.g. sell only legal product from licensed producers; no sales to young persons; appropriate record-keeping and “adequate measures” to prevent diversion to illegal market; no “self-service”; no product display where youth can view; and restrictions on marketing / advertising);
 - A minimum age of 18 for possession and sharing of cannabis; and
 - Public possession limit of 30 grams for adults; and possession limit of five grams for youth.
- Commercial production of edible cannabis products will not initially be authorized.
- Medical cannabis continues to be federally regulated.

Penalties under the Cannabis Act, 2017

Offences related to illicit market participation:

Unlawful sale and distribution (s. 6)*		
	Minimum	Maximum
Fine upon first conviction (individuals)	N/A	\$250,000 and/or a term of imprisonment of not more than two years less a day
Fine upon first conviction (corporations)	\$25,000	\$1,000,000
For each day or part of a day on which the offence occurs or continues on subsequent offences (individuals)	N/A	\$100,000 and/or a term of imprisonment of not more than two years less a day
For each day or part of a day on which the offence occurs or continues subsequent offences (corporations)	\$10,000	\$500,000
Allowing property to be used for unlawful sale or distribution (s. 13)**		
	Minimum	Maximum
Fine upon first conviction (individuals)	N/A	\$250,000 and/or a term of imprisonment of not more than two years less a day
Fine upon first conviction (corporations)	\$25,000	\$1,000,000
For each day or part of a day on which the offence occurs or continues on subsequent offences (individuals)	N/A	\$100,000 and/or a term of imprisonment of not more than two years less a day
For each day or part of a day on which the offence occurs or continues subsequent offences (corporations)	\$10,000	\$500,000

*Unlawful selling, or distributing illicit cannabis or distribution by a person over the age of 18 of more than 30 grams of dried licit cannabis or its equivalent, would also be an offence under the proposed federal Cannabis Act.

**To aid in the enforcement of offences under sections 6 and 13, the Cannabis Act, 2017 includes an interim closure authority for non-residential premises that are believed to have been used in the commission of the offence (s. 18).

Penalties under the Cannabis Act, 2017, Cont'd

Offences involving individuals under 19 years of age:

Selling or distributing to an individual under 19 years of age (s. 7)*		
	Fine	Imprisonment
Individuals	Maximum: \$200,000	A term of imprisonment of not more than two years less a day, either in lieu of or in addition to a fine
Corporations	Maximum: \$500,000	N/A
Possession and consumption by individual under 19 years of age (s. 10(1))**		
Fine	Imprisonment	
Maximum: \$200	N/A	
Home cultivation by individual under 19 years of age (s. 10(2))***		
Fine	Imprisonment	
Maximum: \$200	N/A	

In lieu of a fine, the court may choose instead to refer a young person convicted of one of these offences to an approved education or prevention program.

*Selling or distributing cannabis to an individual under **18** years of age would be an offence under the proposed federal Cannabis Act.

In addition to the provincial offence, the proposed federal Cannabis Act would make it an offence for an individual under **18 years of age to possession more than 5 grams of dried cannabis, or its equivalent.

*** In addition to the provincial offence, the proposed federal Cannabis Act would make it an offence for an individual under **18** years of age to cultivate, propagate or harvest cannabis.

Unlawful consumption:

Consumption in a public place, workplace, vehicle or boat or prescribed place (s. 11)	
Maximum fine, no previous convictions	\$1,000
Maximum fine, one or more prior convictions	\$5,000

Penalties under the Cannabis Act, 2017, Cont'd

Other Offences:

A general offence provision will apply to the following offences:

- Presenting documentation as proof of age that was not lawfully issued to the person presenting it (s. 7(4));
- Sale or distribution to intoxicated persons (s. 8);
- Unlawfully purchasing cannabis (s. 9);
- Unlawfully transporting cannabis (s. 12);
- Possessing the proceeds of an offence (s. 15);
- Remaining in a premises after being required to vacate (s.17(2));
- Re-entering a premises on the same day that a person is required to vacate (s. 17(2));
- Contravening of any order made under the Act (s. 22); and
- Contravening a provision of a regulation made under the Act (s. 22).

Penalties

23(1) Subject to subsections (2) to (7), on conviction for an offence under this Act,

- (a) a corporation is liable to a fine of not more than \$250,000; and
- (b) an individual is liable to a fine of not more than \$100,000 or to imprisonment for a term of not more than one year or both.

In addition to any other remedy or penalty provided by law the court may make one or more of the following orders:

- An order requiring the person, within the period or periods specified in the order, to do or refrain from doing anything specified in the order.
- An order imposing requirements that the court considers appropriate to prevent similar unlawful conduct or to contribute to the person's rehabilitation.
- An order prohibiting the continuation or repetition of the offence by the person.
- An order under section 25, subject to subsection 25(11) (closure order for premises that are not used for residential purposes).