

Preparing Alberta for the Legalization of Cannabis

Issue

On April 13, 2017, the federal government introduced legislation to legalize cannabis in all provinces and territories by July 2018. This will make the possession of cannabis for personal recreational use legal across the country. Adults will be allowed to possess up to 30 grams of legally produced cannabis and grow up to four cannabis plants per household.

Background

Although cannabis is being legalized by the federal government, many of the regulatory decisions are being left up to the provinces and territories. The Government of Alberta has released its draft Alberta Cannabis Framework, focused on four policy priorities: keeping cannabis out of the hands of children; protecting public health; promoting safety on roads, in workplaces, and in public places; and limiting the illegal market for cannabis. The Framework outlines the Province's intention to create standalone cannabis retail outlets, but does not indicate who will operate these outlets. Retail outlets might be operated by government, as proposed Ontario and Quebec. Alternatively, Alberta could allow private retail outlets, which would be similar to existing liquor stores in the province.

The Benefits of a Private Retail Cannabis Sector

The pending legalization of cannabis will create business opportunities for those entering the new legal marketplace, especially for small businesses. A private cannabis retail model, based on the model used to oversee Alberta's private alcohol retailers, would provide Alberta with robust business and job creation while supporting economic diversification.

Evidence from other jurisdictions suggests that a private cannabis retail model represents a huge potential market for Alberta's entrepreneurs. Denver's legal cannabis industry now has more than 1,100 business licenses operating out of nearly 500 locations. In 2016 alone, Denver realized more than \$500.1 million in cannabis sales (\$288.3M in retail and \$211.8M in medical). At the state level, Colorado realized over \$1 billion worth of sales in 2016, with \$875.3 million generated from the private retail sector.⁵⁷

The overall economic impact derived from the private cannabis model used in Colorado is even larger. It is estimated that legal cannabis activities in Colorado generated \$2.39 billion in state output, with over 18,000 jobs (Full Time-Equivalents) created in 2015.⁵⁸

By allowing private cannabis retailers, the Province can capitalize on the administrative expertise of Alberta's private liquor model. Unlike those provinces which sell alcohol in publicly operated retail stores, Alberta does not have the infrastructure to efficiently set up and operate a province-wide retail model.

⁵⁷ https://www.denvergov.org/content/dam/denvergov/Portals/782/documents/Collaborative_Approach_PDF.pdf

⁵⁸ <http://www.mjpolicygroup.com/pubs/MPG%20Impact%20of%20Marijuana%20on%20Colorado-Final.pdf>

Transforming the Alberta Gaming and Liquor Commission (AGLC) into a retail operator would require an extraordinary capital investment and a significant organizational shift. Estimating the precise cost of this transition is difficult absent further information from the Province on its intended retail structure, but existing estimates of these start-up costs range from \$168 million to \$1.7 billion.⁵⁹⁶⁰ This cost would come at a time where the province's debt is expected to reach \$71 billion by 2019-20.

A private retail system could also lead to higher revenues for the Government of Alberta compared to a public system. In 2014, the C.D. Howe Institute reported that provinces with a competitive marketplace for alcohol, like Alberta, saw seven percent higher per-capita provincial alcohol revenues than provinces that had only government-operated retail stores.⁶¹ In the 2015/2016 fiscal year, the AGLC generated \$2.26 in return to government for every litre of alcohol sold, whereas the Liquor Control Board of Ontario (LCBO) only generated \$1.80 per litre.⁶²⁶³ This shows the incredible efficiency of Alberta's liquor system, especially considering liquor-related operating costs of the AGLC are mere \$34.9 million, compared to the LCBO's operating costs of \$870 million.⁶⁴⁶⁵

Plainly stated, the AGLC made 26% more money for each bottle of liquor sold, with no AGLC-operated retail locations, than the LCBO did with over 650 retail locations.⁶⁶

Private retail systems in other jurisdictions have also been highly successful at raising government revenues. In Colorado in 2015, cannabis was the second-largest excise revenue source, with \$121 million in combined sales and excise tax revenues being generated. In fact, cannabis tax revenues were three times larger than alcohol revenues and 14 percent larger than casino revenues. This evidence suggests that a private cannabis retail model can be highly successful at raising government revenues, which can then be used to fund other public programs.

When considering Alberta's lack of public retail capacity, the province's current fiscal position, and the relative efficiency with which a private retail model can generate tax revenue, it is clear that a private cannabis retail model should be established in Alberta.

Workplace Safety

Workplace safety issues continue to be a major concern for businesses in Alberta. A key recommendation from the federally appointed Task Force on Cannabis Legalization and Regulation recommended that the government implement an "evidence-informed public education campaign" as soon as possible.⁶⁷ As stated in our February 2017 policy on this topic, this must include encouraging adoption of workplace drug and alcohol policies.

⁵⁹ <http://calgaryherald.com/news/politics/alberta-party-says-public-cannabis-stores-too-pricey-for-a-debt-laden-province>

⁶⁰ <https://docsend.com/view/k7kxfsk>

⁶¹ https://www.cdhowe.org/sites/default/files/attachments/research_papers/mixed//Commentary_414.pdf

⁶² CANSIM Table 183-0025

⁶³ CANSIM Table 183-0023

⁶⁴ *ibid*

⁶⁵ https://www.aglc.ca/sites/aglc.ca/files/aglc_files/2015-2016%20AGLC%20Annual%20Report.pdf

⁶⁶ http://www.lcbo.com/content/dam/lcbo/corporate-pages/about/pdf/LCBO_AR15-16-english.pdf

⁶⁷ <http://healthycanadians.gc.ca/task-force-marijuana-groupe-etude/framework-cadre/index-eng.php>

A considerable concern for employers is the lack of best practices on how to develop and enforce policies regarding workplace impairment. Law enforcement protocols and provincial rules and programs on impairment exist but are not well known. These best practices could help employers to develop policies on impairment in general, in addition to addressing specific considerations for cannabis-related impairment in the workplace.

The Province's recent framework lacks detail on workplace policy, education, and other resources to help employers prepare for legalization and to understand their responsibilities and rights in dealing with impairment both generally and specifically regarding cannabis. It also lacks details on how the Province intends to deal with conflicts between employer rights and the privacy rights of their employees. The Framework states that "...before July 2018 we will review occupational health and safety regulations and work with employers, labour groups, and workers to ensure the rules continue to address impairment issues."⁶⁸ The intention to collaborate on workplace safety is appreciated but these intentions need to be put into action now to ensure businesses are as well-prepared as possible and are equipped to guarantee their employees safety.

Addressing Indoor Growing Operations

The Province has proposed allowing each household to grow up to four plants. While this is consistent with federal guidelines, it creates considerable issues related to indoor growing in commercial rental units, residential rental units and multi-family units. Growing cannabis inside a unit can create considerable mold-related damage to the property, can lead to the invalidation of insurance or skyrocketing insurance costs, and can create unwelcome odors for neighboring homes and businesses.

The issues related to indoor growing cannot be mitigated by simply growing outdoors, as the proposed Alberta Cannabis Framework prohibits outdoor growing.

The Province has proposed using landlord-tenant agreements and condo bylaws to limit the smoking of cannabis in rented or multi-family dwellings, as is done currently for tobacco. The Province should also allow these agreements to restrict the growing of cannabis in rented or multi-family dwellings. Just as buildings are currently allowed to prohibit pets or smoking tobacco, they should also be allowed to prohibit the growing of cannabis.

Public Use

Current regulations on tobacco have helped to create smoke-free work environments across Alberta. This includes smoke-free indoor areas and limits on smoking and vaporizing tobacco within prescribed distances from doorways, windows, and air intakes. The Province should extend these rules to the smoking or vaporizing of cannabis.

The Alberta Chambers of Commerce recommends the Government of Alberta:

1. Create a defined private retail model for the physical and digital sale of legal cannabis in Alberta, with government oversight and consumer education.
2. Expedite the review of occupational health and safety regulations to ensure businesses can establish workplace safety policies relating to impairment and cannabis use.
3. Develop policy templates and best practices resources on workplace impairment detection and management in consultation with stakeholders.
4. Use a portion of revenues from the taxation of cannabis to develop and provide expanded education, resources, and programming to support safe workplaces and impairment policies.

⁶⁸ <https://www.alberta.ca/cannabis-framework.aspx#p6241s8>

5. Allow landlord-tenant agreements and condo bylaws to prohibit the smoking, vaporizing and growing of cannabis subject to the Alberta Human Rights Act.
6. Excepting appropriately licensed establishments, prohibit the smoking and vaporizing of cannabis in non-residential indoor spaces and within prescribed distances from doorways, windows, and air intakes.