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Trustees' Association

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November 6, 2017

MEMORANDUM

TO: Chairpersons and Directors of Education
- All Catholic District School Boards

FROM: Patrick J. Daly, President

SUBJECT: **Cannabis, Smoke-Free Ontario and Road Safety Statute Law
Amendment Act, 2017**

Further to our memo dated October 10, 2017, on Wednesday November 1, the government of Ontario introduced bill 174 the *Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017* ("bill 174) for first reading. This proposed set of legislative amendments follows through on the government's intention to legalize and regulate the recreational use of cannabis.

Key Aspects of Bill 174

Bill 174 is divided into four "schedules" that enact specific legislation. The *Cannabis Act, 2017* (Schedule 1) and the *Ontario Cannabis Retail Corporation Act, 2017* (Schedule 2). Bill 174 also repeals the Smoke-Free Ontario Act and the Electronic Cigarettes Act, 2015 and replaces them with the *Smoke-Free Ontario Act, 2017* (Schedule 3), and makes amendments to the *Highway Traffic Act* regarding driving with alcohol or drugs present in the body and other matters (Schedule 4). (See the attached explanatory note to Bill 174).

Purposes of the Cannabis Act, 2017

Section 1 of Schedule 1, *The Cannabis Act, 2017* outlines the purpose of the proposed act: To establish prohibitions relating to the sale, distribution, purchase, possession, cultivation, propagation and harvesting of cannabis in order to,

- protect public health and safety,
- protect youth and restrict their access to cannabis, and
- ensure the sale of cannabis in accordance with the Ontario Cannabis Retail Corporation Act, 2017;

- deter illicit activities in relation to cannabis through appropriate enforcement and sanctions; and
- provide for approved youth education or prevention programs as an alternative to enforcement and sanctions.

The Cannabis Act sets out circumstances in which certain provisions or regulations do not apply. For example, the Act and the regulations do not apply to the medical production and use of cannabis.

The prohibitions respecting cannabis that are established by the Act are set out in sections 6 to 13 of the Act. These prohibitions include:

- that no person is permitted to sell cannabis other than the Ontario cannabis retailer established under the Ontario Cannabis Retail Corporation Act, 2017;
- cannabis may not be distributed except by a licenced Ontario cannabis retailer;
- selling or distributing cannabis to persons under 19 years of age and to persons who are or appear to be intoxicated.
- prohibits persons under 19 years of age from possessing, consuming, purchasing or attempting to purchase, distributing, cultivating, propagating or harvesting cannabis or offering to cultivate, propagate or harvest it.
- restricts the places where cannabis may be consumed to private residences;
- restricts the transport of cannabis in a vehicle or boat, unless certain conditions;
- prohibits landlords from knowingly permitting their premises to be used in relation to the unlawful sale or distribution of cannabis.

Compliance and Enforcement of the Cannabis Act, 2017

Key features of the compliance and enforcement rules include:

- prohibits a person from knowingly possessing the proceeds of an offence under the Act,
- creates authority for police officers to seize cannabis or any other thing in specified circumstances.
- provides that a police officer may require that premises be vacated if there are reasonable grounds to believe that the Act is being contravened on the premises, and restricts persons who are required to vacate from re-entering the premises on the same day.
- Provides police officers authority to temporarily close premises, other than premises used for residential purposes;
- sets out the circumstances in which a police officer may arrest a person without a warrant in relation to apparent contraventions of the Act.
- Section 20 provides authority to police officers and prosecutors to refer persons who are charged with an offence by persons under 19 years of age to youth education or prevention programs;
- Contraventions of the Act, the regulations or any order made under the Act constitute an offence under section 22 of the Act. Sections 23 to 25 of the Act set out the applicable

penalties on conviction and other orders that the convicting court may make in relation to an offence under the Act.

Proposed Changes to the Education Act and impacts on School Boards

Key amendments are made to the **Education Act**. Section 30 of the Cannabis Act makes amendments to Part XIII of the Education Act. These changes include:

- Amending the list of purposes of the provincial code of conduct (section 301, Education Act) governing the behaviour of all persons in schools so that it refers to discouraging the use of cannabis, except by a medical cannabis user. New language replaces paragraph 6 of subsection 301 (2) “alcohol, illegal drugs, and, except by a medical cannabis user, cannabis”.
- Revising the list of activities leading to possible suspension (section 306) so that it refers to possessing and being under the influence of cannabis, unless the pupil is a medical cannabis user;
- Changing the list of activities leading to suspension, investigation and possible expulsion so that it refers to giving cannabis to a minor. (section 310)

These changes are significant for school boards. In essence, it gives the Minister of Education the authority to direct boards to revise various policies related to recreational cannabis use. The revisions to the Education Act will require boards to revise their policies in respect of student, staff codes of conduct to actively discourage the use of cannabis for recreational purposes. It will also require boards to revise policies governing suspension and potential expulsions to ensure they capture recreational cannabis use.

As noted in our October 10th memorandum, the Ministry of Education will also be assisting boards in developing resources to ensure students make informed choices about recreational cannabis use, supports for teachers, principals and parents on prevention of cannabis use and its possible impacts on student learning.

Next Steps

OCSTA is continuing to consult with the Ministry of Education as it develops its consultation strategy and will participate in any process established. We are also in the process of developing a submission on cannabis legalization and its impact on Catholic school boards. The association will also make a submission on Bill 174 at the appropriate time.

If you have any questions, please contact me or Stephen Andrews at sandrews@ocsta.on.ca.

Attachments

Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017

EXPLANATORY NOTE

The Bill enacts the Cannabis Act, 2017 (Schedule 1) and the Ontario Cannabis Retail Corporation Act, 2017 (Schedule 2). It also repeals the Smoke-Free Ontario Act and the Electronic Cigarettes Act, 2015 and replaces them with the Smoke-Free Ontario Act, 2017 (Schedule 3), and makes amendments to the Highway Traffic Act regarding driving with alcohol or drugs present in the body and other matters (Schedule 4).

Schedule 1 Cannabis Act, 2017

The Schedule enacts the Cannabis Act, 2017.

Section 1 of the Act sets out the purposes of the Act, which include establishing prohibitions respecting cannabis, within the meaning of section 2 of the Act, in order to protect youth, public health and safety, as well as to deter illicit activities in relation to cannabis through appropriate enforcement and sanctions. Sections 2 to 4 of the Act deal with definitions and interpretive matters. Section 5 of the Act sets out circumstances in which certain provisions of the Act or regulations do not apply. For example, subject to certain exceptions, the Act and the regulations do not apply with respect to cannabis produced for medical purposes under applicable federal law. Other exemptions from the Act or the regulations may be specified by regulations made by the Lieutenant Governor in Council.

The prohibitions respecting cannabis that are established by the Act are set out in sections 6 to 13 of the Act. Section 6 provides that no person is permitted to sell cannabis other than the Ontario cannabis retailer established under the Ontario Cannabis Retail Corporation Act, 2017, and that cannabis may not be distributed unless it has been or is intended to be sold by the Ontario cannabis retailer. Sections 7 and 8 set out prohibitions on selling or distributing cannabis to persons under 19 years of age and to persons who are or appear to be intoxicated. Under section 9, cannabis may only be purchased from the Ontario cannabis retailer. Section 10 prohibits persons under 19 years of age from possessing, consuming, purchasing or attempting to purchase, distributing, cultivating, propagating or harvesting cannabis or offering to cultivate, propagate or harvest it. Section 11 restricts the places where cannabis may be consumed. Section 12 restricts the transport of cannabis in a vehicle or boat, unless certain conditions are met. Section 13 prohibits landlords from knowingly permitting their premises to be used in relation to the unlawful sale or distribution of cannabis.

Sections 14 to 21 of the Act address compliance and enforcement. Under section 14, a police officer may require a person who attempts to rely on an exemption under the Act to provide specified confirmation of the exemption. Section 15 prohibits a person from knowingly possessing the proceeds of an offence under the Act, and section 16 creates authority for police officers to seize cannabis or any other thing in specified circumstances. Section 17 provides that a police officer may require that premises be vacated if there are reasonable grounds to believe that the Act is being contravened on the premises, and restricts persons who are required to

vacate from re-entering the premises on the same day. Section 18 gives police officers authority to temporarily close premises, other than premises used for residential purposes, if a charge is laid under section 6 or 13 of the Act that implicates the premises. Section 19 sets out the circumstances in which a police officer may arrest a person without a warrant in relation to apparent contraventions of the Act. Section 20 provides authority to police officers and prosecutors to refer persons who are charged with an offence under section 10 (prohibited activities by persons under 19 years of age) to youth education or prevention programs that are approved under section 27 for the purpose by the Minister responsible for the administration of the Act.

Contraventions of the Act, the regulations or any order made under the Act constitute an offence under section 22 of the Act. Sections 23 to 25 of the Act set out the applicable penalties on conviction and other orders that the convicting court may make in relation to an offence under the Act.

Section 26 of the Act provides that arrangements and agreements may be entered into with respect to the sale, distribution, purchase, possession, consumption, cultivation, propagation or harvesting of cannabis on a reserve. Regulation-making powers of the Lieutenant Governor in Council are set out in section 28 of the Act.

Proposed Changes to the Education Act and other acts:

Complementary amendments are made to a number of Acts, most significantly to the Education Act and to the Liquor Licence Act. Section 30 of the Act makes amendments to Part XIII of the Education Act to amend the list of purposes of the code of conduct governing the behaviour of all persons in schools so that it refers to discouraging the use of cannabis, except by a medical cannabis user; to amend the list of activities leading to possible suspension so that it refers to possessing and being under the influence of cannabis, unless the pupil is a medical cannabis user; and to amend the list of activities leading to suspension so that it refers to giving cannabis to a minor. The Liquor Licence Act is amended to incorporate referrals to youth education or prevention programs under that Act, as a parallel to the corresponding provisions in the Cannabis Act, 2017.

Schedule 2

Ontario Cannabis Retail Corporation Act, 2017

The Schedule enacts the Ontario Cannabis Retail Corporation Act, 2017.

The Act provides for the establishment of the Ontario Cannabis Retail Corporation. The Corporation has the exclusive right to sell cannabis in Ontario, with the exceptions specified in section 2. The Corporation's objects are set out in section 4.

The Corporation has the capacity, rights, powers and privileges of a natural person, except as limited in the Act and the regulations. The Corporation is an agent of the Crown and is deemed to be a government agency for the purposes of the French Language Services Act. (See sections 5 to 7)

The appointment, composition and duties of the Corporation's board of directors are provided for. An individual who is a member of the Liquor Control Board of Ontario ("LCBO") is eligible to be appointed as a member of the Corporation's board of directors and, if so appointed, does not have a conflict of interest by virtue only of the fact that he or she is also a member of the LCBO. The Corporation must enter into a memorandum of understanding with the LCBO. The Corporation may make by-laws, and the memorandum of understanding with the LCBO may provide that certain by-laws of the Corporation must be approved by the LCBO. (See sections 8 to 11)

The Corporation's officers and staff are provided for, as are certain corporate law rules and immunities. The Corporation may enter into written agreements with the LCBO. Rules are established with respect to personal information and other data to which a written agreement may relate. The Corporation may, if authorized by the Minister, enter into agreements for the sale of cannabis by agents. (See sections 12 to 17)

The Act contains provisions respecting financial matters of the Corporation. (See sections 18 to 23)

The Corporation's accounts and financial transactions are to be audited annually by the Auditor General. The Corporation's annual report and other reports are provided for. (See sections 24 to 26)

Certain restrictions on the Corporation's operations are established in connection with applicable federal law. Also, arrangements and agreements may be entered into with respect to cannabis that is sold and delivered to a purchaser on a reserve. (See sections 27 and 28)

The Lieutenant Governor in Council's regulation making powers are set out. (See section 29)

Complementary amendments are made to the Liquor Control Act with respect to the LCBO. Among other things, the powers and purposes of the LCBO are amended to include powers relating to the oversight of the Ontario cannabis retailer established under the Ontario Cannabis Retail Corporation Act, 2017. The LCBO is authorized to enter into written agreements with the Ontario cannabis retailer. If the agreements or arrangements are for the benefit of both the Board and the Ontario cannabis retailer, the Board must ensure that the costs are apportioned appropriately as between the two. The LCBO's annual report must include information about both the LCBO and the Ontario cannabis retailer. The LCBO must comply with directives issued by the Management Board of Cabinet with respect to the annual report.

Schedule 3

Smoke-Free Ontario Act, 2017

The Smoke-Free Ontario Act and the Electronic Cigarettes Act, 2015 are repealed and replaced by the Smoke-Free Ontario Act, 2017.

The new Act applies to tobacco products, vapour products and medical cannabis, and to other products and substances that may be prescribed in the regulations.

Some of the provisions of the Smoke-Free Ontario Act, 2017 are set out below.

It is prohibited to sell or supply tobacco products, vapour products and prescribed products and substances to persons under 19.

Restrictions are placed on the display and promotion of tobacco products, tobacco product accessories, vapour products and prescribed products and substances.

The sale of tobacco products, vapour products and prescribed products and substances is prohibited in certain places. (Some examples: pharmacies, hospitals and schools.)

Prescribed signs in retail stores are required with respect to tobacco products, vapour products and prescribed products and substances.

Tobacco products, vapour products and prescribed products and substances must be packaged in accordance with the regulations.

Restrictions are placed on the sale of flavoured tobacco products and certain flavoured vapour products and prescribed products and substances.

Subject to certain exceptions, vending machines for selling tobacco products, vapour products and prescribed products and substances are prohibited.

The smoking of tobacco or medical cannabis, the use of electronic cigarettes and the consumption of prescribed products and substances is prohibited in a number of places, such as enclosed public places, enclosed workplaces, schools, child care centres, and the reserved seating areas of sporting arenas. This is subject to certain exemptions, such as controlled use areas in long-term care homes, and designated hotels rooms. Obligations are placed on employers and proprietors with respect to the places where the prohibitions apply.

Home health-care workers are protected from the use in their presence of tobacco, medical cannabis, electronic cigarettes and prescribed products and substances.

It is provided that no one shall do any of the following in a motor vehicle:

1. Smoke tobacco or have lighted tobacco while another person who is less than 16 years old is present in the vehicle.
2. Use an electronic cigarette or have an activated electronic cigarette while another person who is less than 16 years old is present in the vehicle.
3. Smoke medical cannabis, have lighted medical cannabis, use an electronic cigarette containing medical cannabis or have an activated electronic cigarette containing medical cannabis.

4. Consume a prescribed product or substance, in a prescribed manner, or have a prescribed product or substance.

Despite the other prohibitions in the Act, the traditional use of tobacco by Indigenous persons is protected.

Enforcement provisions, penalties and regulation-making powers are provided for.

Schedule 4

Amendments to the Highway Traffic Act

The Schedule amends the Highway Traffic Act regarding driving with alcohol or drugs present in the body, as follows:

1. The Schedule provides that it is a condition of the driver's licence of novice drivers and young drivers that there be no drug in the driver's body while driving. If a driver contravenes the condition, the driver is guilty of an offence and on conviction is liable to a fine between \$60 and \$500. In addition, the driver's licence of a young driver is suspended for 30 days, and the driver's licence of a novice driver may be suspended, cancelled or changed by the Registrar in accordance with the regulations.

2. The Schedule provides for administrative driver's licence suspensions for a period between three and 30 days if a novice driver, young driver or driver of a commercial motor vehicle is found to have a drug in his or her body while driving.

3. Exceptions are made to the rules respecting driving with a drug in the body if a police officer is satisfied that the driver is legally authorized to use the drug for medical purposes.

4. Provisions are added regarding the breath testing of drivers of commercial motor vehicles. If a breath test indicates that alcohol is present in a driver's body, the driver may be requested to surrender his or her driver's licence and the driver's licence may be suspended for three days.

The Schedule makes several other amendments, including the following:

1. A new provision states that where both an administrative penalty and an offence arise from the same circumstances, the court may take the amount of the administrative penalty into account when determining the penalty for the offence.

2. Various sections that establish different rules for novice drivers or young drivers are amended to provide that the age distinctions apply despite the Human Rights Code.

3. Penalties are increased for convictions of the offence of driving while a display screen is visible to the driver, or driving while holding a hand-held wireless communication device or similar device. The fine is a minimum of \$500 to a maximum of \$3,000. The driver's licence shall also be suspended for a period between three and 30 days.

4. The Act is amended to provide that a person who drives carelessly and thereby causes bodily harm or death to a person is liable to a fine of between \$2,000 and \$50,000, imprisonment for up to two years and the suspension of his or her driver's licence or permit for up to five years. The court may consider, as an aggravating factor, whether the person who was harmed or killed was a vulnerable person such as a pedestrian or cyclist.

5. Increased and escalating fines are provided for failing to yield to pedestrians at pedestrian crossings, at crosswalks at signalized intersections and at school crossing areas with a school crossing guard.

6. Currently, the maximum fine for a contravention of the Act or regulation, unless otherwise provided, is \$500. The Schedule raises the maximum fine to \$1,000.

7. New provisions address the requirements of drivers and streetcar operators when a school bus has its overhead red signal-lights flashing or its stop arm actuated.

8. A new Part is added providing for the use of automated school bus camera systems and evidence obtained from such systems.

9. Currently, certain emergency and enforcement vehicles are permitted to display red flashing lights only. The Schedule permits such vehicles to also display red flashing lights in combination with blue flashing lights.

10. A new regulation-making power is added to permit regulations to be made addressing transitional matters that may arise as a result of amendments to the Criminal Code (Canada).

News Release

Ontario Preparing for Federal Cannabis Legalization

November 1, 2017

Province Introduces New Legislation to Protect Youth, Keep Roads and Communities Safe

Ontario has introduced legislation that would, if passed, safely regulate the use and distribution of recreational cannabis when it is legalized by the federal government in July 2018.

Ontario's proposed *Cannabis Act, 2017* would support the province's safe and sensible transition to the federal legalization of cannabis.

The proposed legislation would:

- Create a new provincial retailer, overseen by the Liquor Control Board of Ontario (LCBO), to ensure safe and socially responsible distribution of recreational cannabis through stand-alone stores and an online order service. Under the proposed approach, approximately 150 standalone stores will be opened by 2020, including 40 stores by July 2018 and rising to 80 by July 2019. Online distribution will also be available to service all regions of the province.
- Protect youth by setting a minimum age of 19 to use, buy, possess and cultivate cannabis in Ontario.
- Focus on harm reduction by allowing for the diversion of people under the age of 19 from the justice system into programs focused on education and prevention, avoiding unnecessary contact with the justice system.
- Ban the use of cannabis in public places, workplaces and motor vehicles, similar to alcohol.
- Regulate the smoking and vaping of medical cannabis under the proposed new *Smoke-Free Ontario Act, 2017*.
- Help eliminate the illicit market including illegal storefront dispensaries, by introducing new provincial offences with strict, escalating penalties.
- Keep Ontario roads safe by establishing [even tougher drug-impaired driving laws](#), including a zero-tolerance approach for young, novice and commercial drivers.

Other details of Ontario's approach would be set by regulation after passage of the legislation, and following consultation with municipalities, Indigenous communities, and other stakeholders.

The province will continue moving forward with its plans to support youth, young adults and other vulnerable populations through an integrated prevention and harm reduction approach. Ontario is also planning a public information campaign, coordinated with the federal government, to raise awareness of this transition and the new measures that will take effect.

QUICK FACTS

- The [LCBO will be engaging with municipalities](#) to discuss the process for siting stores. Updates are available at: lcbocannabisupdates.com.
- This legislation would include a proposed new *Smoke-Free Ontario Act, 2017*, which, if passed, would provide clarity on where medical cannabis can be smoked or vaped.
- The new *Smoke-Free Ontario Act* would also address vaping and the use of e-cigarettes to better protect people from second-hand smoke.
- Ontario's tough new measures to protect road safety would be in addition to penalties for impaired driving convictions under the [Criminal Code of Canada](#).
- The province [recently made changes](#) allowing police to immediately remove drivers from the road who they believe are impaired by drugs, including cannabis.
- According to a [2015 report](#) by the Centre for Addiction and Mental Health, 45 per cent of Ontario adults have used cannabis at least once in their lifetime, while about 15 per cent have used cannabis in the past year.

BACKGROUND INFORMATION

- [Ontario's Plan to Regulate Legalized Cannabis](#)
- [Ontario's Cannabis Retail and Distribution Model](#)
- [Proposed New Measures for Drug-Impaired Driving](#)

- [Protecting People in Ontario from the Health Impacts of Cannabis](#)

ADDITIONAL RESOURCES

- [Ontario Prepares for Cannabis Legalization](#)
- [Engaging Municipalities on Cannabis Store Locations](#)

QUOTES

"Our government has announced a safe and sensible transition to the federal legalization of cannabis. With this bill, we are taking an important step towards implementing an approach that will help eliminate the illegal market, protect young people and keep impaired drivers off the road."

— *Yasir Naqvi, Attorney General of Ontario*

"Our proposed legislation demonstrates to the people of Ontario that we are implementing a controlled and socially responsible recreational cannabis framework. We are focused on getting our plan right, in a way that makes sense for consumers, families and municipalities across the province."

— *Charles Sousa, Minister of Finance*

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