

October 20, 2017

Dear Members of the Alberta Cannabis Secretariat:

On behalf of 126 member community chambers representing over 24,000 businesses across Alberta, the Alberta Chambers of Commerce (ACC) appreciates the opportunity to provide comments and input regarding Alberta's Cannabis Framework. Our submission is enclosed for your consideration and was developed in partnership with several of our members.

The recently released Framework contains important aspects and will set the tone for the cannabis industry in Alberta for years to come. For this reason, and as has been highlighted by members of the Secretariat, it is vital the Framework effectively achieve necessary safety, health, and economic outcomes. The sale and consumption of cannabis products must be done in a way which, crowds out the existing black market, ensures public safety from impairment by drivers and in workplaces, and supports job creation and economic diversification.

To ensure it facilitates these outcomes, we have worked with our members to identify areas within the proposed Framework which require improvement. We are particularly concerned with the undetermined direction regarding how cannabis will be sold, the lack of workplace safety guidelines and regulations, and a lack of tenancy agreements regulations and considerations. We do support the proposed Framework's prohibition on public use in non-residential indoor spaces and within prescribed distances from doorways, windows and air intakes.

If you have any questions regarding this submission. Please contact me at 780-425-4180 Ext. 5 or kkobly@abchamber.ca to arrange a meeting as soon as possible.

Sincerely,



Ken Kobly
President and CEO

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Joint Submission on the Proposed Alberta Cannabis Framework

Authored by the Alberta Chambers of Commerce, Calgary Chamber of Commerce, Edmonton Chamber of Commerce and the Fort Saskatchewan Chamber of Commerce



Alberta's approach to cannabis legalization

The Alberta chambers are non-partisan, member-based business associations that exist to help make businesses more successful, and in doing so, make Alberta the best province in the country to live, work, and grow a business.

Thank you for the opportunity to provide feedback on Alberta's approach to cannabis legalization. The Chambers support the Alberta Government's efforts to implement a cannabis framework that will keep cannabis out of the hands of children and youth, protects safety on roads, in workplaces and in public spaces, promotes public health objectives, and limits the illegal market. We encourage the Alberta Government to consider the business community's concerns when developing legislation that governs Alberta's cannabis retail model, along with potential workplace safety, home growing and public use issues.

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. We strongly encourage a private retail system for the sale of recreational cannabis. 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.¹

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 2015.²

Along with encouraging economic growth, we believe that implementing a private cannabis retail model will help achieve objectives within the Government of Alberta's Three-Year Strategic Business Plan.³ By encouraging new entrepreneurs to create small retail businesses, a private model will aid in stabilizing and diversifying Alberta's economy, while creating new job opportunities. The new industry will represent a large step towards diversifying the economy, creating new business opportunities in the agribusiness, tourism, and technology spaces.

¹ City of Denver 2017 Annual Report, https://www.denvergov.org/content/dam/denvergov/Portals/782/documents/Collaborative_Approach_PDF.pdf

² Marijuana Policy Group, "Impact of Marijuana on Colorado," <http://www.mjpolicygroup.com/pubs/MPG%20Impact%20of%20Marijuana%20on%20Colorado-Final.pdf>.

³ Government of Alberta, Three-Year Strategic Business Plan, August 23, 2017.

We believe that the Province should implement a private retail model to capitalize on the administrative expertise of Alberta's private liquor model. Unlike other provinces who sell alcohol in publicly operated retail stores, Alberta does not have the infrastructure to efficiently set up and operate a province-wide retail model. Transforming the Alberta Gaming and Liquor Commission (AGLC) into a retail operator would require an extraordinary capital investment and a significant organizational shift. Using data from Ontario's proposed model, adjusting for population differences, initial capital and operating costs are estimated at \$1.7 billion to set up a province-wide retail system. This cost would come at a time where the province's debt is expected to reach \$71 billion by 2019-20. Given the large costs associated with creating, and maintaining a public retail system, we believe a private retail model should be implemented.

A private retail system could lead to higher revenues for the Government of Alberta than a public system. In 2014, *C.D. Howe* reported that provinces with a competitive marketplace for alcohol, like Alberta, saw 7 percent higher per-capita provincial alcohol revenues than provinces which had only government-operated retail stores.⁴ 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, and 14 percent larger than casino revenues. According to the Marijuana Policy Group's projections, cannabis tax revenues in Colorado will eclipse cigarette revenues by 2020.⁵ The evidence from Colorado's experience 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.

Alberta's private alcohol retail model has also generated significant tax revenue when compared with other jurisdictions. A 2005 study showed that Alberta raised a higher dividend per litre of alcohol than Ontario and Quebec, where both provinces use a public model.⁶ In 2008, Alberta's per capita revenue from the sale of alcohol tied with British Columbia for the highest of the six provinces surveyed.⁷ In fact, a 2009 study published by the *Frontier Centre for Public Policy* concluded that "there is no evidence that retail monopolies raise more revenue. The most efficient way for governments to raise revenue from alcohol sales is to tax at the wholesale level rather than sell the alcohol."⁸

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

⁴ https://www.cdhowe.org/sites/default/files/attachments/research_papers/mixed//Commentary_414.pdf

⁵ Marijuana Policy Group, "Impact of Marijuana on Colorado," <http://www.mjpolicygroup.com/pubs/MPG%20Impact%20of%20Marijuana%20on%20Colorado-Final.pdf>.

⁶ Valentin Petkantchin, "Is Government Control of the Liquor Trade Still Justified?" Montreal Economic Institute, 2005.

⁷ Dave Snow, "Ending Saskatchewan's Prohibition-Era Approach to Liquor Stores," Frontier Centre for Public Policy, <https://fcpp.org/files/9/70.%20Ending%20Saskatchewan%27s%20Prohibition-Era%20Approach%20to%20Liquor%20Stores.pdf>.

⁸ Dave Snow, "Ending Saskatchewan's Prohibition-Era Approach to Liquor Stores," Frontier Centre for Public Policy, <https://fcpp.org/files/9/70.%20Ending%20Saskatchewan%27s%20Prohibition-Era%20Approach%20to%20Liquor%20Stores.pdf>.

Achieving Policy Objectives through the Private Retail Sale of Cannabis

Creating a private retail model will also help Alberta reach its stated policy objectives. The key elements needed to eliminate Alberta's existing illicit cannabis market are access and cost. If prices are too high, consumers will continue to purchase cannabis illegally, as is done currently. The illegal market will continue to thrive if retail outlets are not easy to access, especially in rural areas. Creating a private retail model will increase the number of cannabis outlets, especially in rural areas, and the resulting competition will help to keep prices low enough to eliminate the illicit market.

Support for a public retail model tends to rely on the claim that a private market will encourage greater substance consumption, violence and substance-related crimes, and a higher probability that youth will be able to purchase the substance. However, there is little evidence to show that a private retail model will limit Alberta's ability to achieve social objectives. When considering Alberta's private alcohol model, and private cannabis models used internationally, it is clear that a private retail system, subject to government regulation, can achieve social objectives.

While private competition results in more stores and products (which could help reduce the black market in rural and underserved areas), privatization of the alcohol industry in Alberta did not result in higher consumption. Following privatization of alcohol, Alberta's sales rate dropped from 8.7 litres of absolute alcohol per person over the age of fifteen in 1993-1994 to 8.1 litres per person in 1996-1997. In contrast, per capita sales in Saskatchewan (which had a public retail model) during the same period held steady (6.6 litres in 1993-1994 and 1996-1997). Furthermore, in the decade following privatization in Alberta, both Saskatchewan (+5.2%) and Quebec (+~10%) experienced a substantially higher growth in number of drinkers than Alberta (+3.1%).⁹ The data shows that a private retail model should not be blamed for increases in substance use.

In terms of cannabis use, there is also little evidence to suggest that a private retail model leads to overconsumption. A report published by the Amsterdam Law Forum found that despite the easy access to cannabis, soft drug consumption in Amsterdam was below the European average.¹⁰

There is also no definitive evidence that private retail models tend to increase crime. In the decade following privatization, Alberta's impaired driving rate declined by a higher percentage than any other province – 73 percent reduction in Alberta, compared to a 50 percent reduction for Canada as a whole.¹¹ Furthermore, a 2003 Calgary Police Service report found that the rate of liquor store crime actually went down in the city following privatization.¹² Finally, there is no evidence to support any claim that

⁹ Dave Snow, "Ending Saskatchewan's Prohibition-Era Approach to Liquor Stores," Frontier Centre for Public Policy, <https://fcpp.org/files/9/70.%20Ending%20Saskatchewan%27s%20Prohibition-Era%20Approach%20to%20Liquor%20Stores.pdf>.

¹⁰ Boermans, "An Economic Perspective on the Legalization Debate," 30

¹¹ Dave Snow, "Ending Saskatchewan's Prohibition-Era Approach to Liquor Stores," Frontier Centre for Public Policy, <https://fcpp.org/files/9/70.%20Ending%20Saskatchewan%27s%20Prohibition-Era%20Approach%20to%20Liquor%20Stores.pdf>.

¹² Calgary Police Service, "Liquor Stores and Crime: A Study of Crime at Privatized Liquor Stores,"

privatization may result in greater underage consumption. As a 2009 *Frontier Centre for Public Policy* report concludes, “The theory that privatization may lead to underage drinking has not been proven in Canada. There is simply no evidence.”¹³

When considering crime and cannabis sales, the story remains the same. There is no evidence to suggest that a private retail model increases crime, limits a jurisdiction’s ability to achieve social objectives, or increases underage consumption. In Denver, which operates under a private retail model, cannabis-related crime – as a percentage of overall crime – has steadily fallen since 2012.¹⁴ Regarding underage consumption, a recent study has found that compliance with laws restricting cannabis sales to individuals age 21 years or older with a valid ID is extremely high in Colorado.¹⁵ This implies that strictly regulated private sector retailers have done an extremely diligent job at refusing to sell to underaged individuals.

Recommendations

1. Create a private retail model for the sale of legal cannabis in Alberta, with government oversight and consumer education.

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.¹⁶ In our view, this must include encouraging adoption of workplace drug and alcohol policies. Given the normalizing effect of legalizing cannabis use, we can expect employers will see increased instances of use in the workplace. This will create difficulty for employers, who have a legal duty to accommodate medical cannabis users, a duty to accommodate individuals struggling with addiction, and a duty to provide a safe work environment. In *Calgary v CUPE, Local 37* management’s poor understanding of medical cannabis considerations, and poor application of workplace drug policies, led to a medical cannabis user being reinstated as a heavy equipment operator.¹⁷ This case demonstrates the importance of employers adopting a workplace drug and alcohol policy that is reasonable, clearly sets out expectations to employees, and is consistently enforced.

A lack of understanding regarding cannabis usage is exacerbated by a lack of best practices amongst employers 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

1993-2002,” 2003

¹³ Dave Snow, “Ending Saskatchewan’s Prohibition-Era Approach to Liquor Stores,” *Frontier Centre for Public Policy*, <https://fcpp.org/files/9/70.%20Ending%20Saskatchewan%27s%20Prohibition-Era%20Approach%20to%20Liquor%20Stores.pdf>.

¹⁴ “2017 Denver Annual Report.”

¹⁵ David B. Butler et al, “Pseudo-Underage Assessment of Compliance With Identification Regulations at Retail Marijuana Outlets in Colorado,” *Journal of Studies on Alcohol and Drugs*, <http://www.jsad.com/doi/pdf/10.15288/jsad.2016.77.868>.

¹⁶ <http://healthycanadians.gc.ca/task-force-marijuana-groupe-etude/framework-cadre/index-eng.php>

¹⁷ <http://www.canlii.org/en/ab/abgaa/doc/2015/2015canlii61755/2015canlii61755.pdf>

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 how to address impairment both generally and specifically regarding cannabis. 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."¹⁸ 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 equipped to guarantee their employees safety.

Recommendations

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.
4. Utilize 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.

Addressing home growing

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 home growing in rental 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 units in a multi-family dwelling.

The issues related to indoor growing cannot be mitigated by simply growing outdoors, as the proposed framework would only allow growing cannabis inside a residence.

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

Recommendation

5. Allow residential tenancy agreements and condo bylaws to prohibit the smoking and growing 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. We strongly encourage the Province to extend these rules to the smoking or vaporizing of cannabis.

¹⁸ <https://www.alberta.ca/cannabis-framework.aspx#p6241s8>

Recommendation

6. Prohibit the smoking and vaporizing of cannabis in non-residential indoor spaces and within prescribed distances from doorways, windows and air intakes.

Thank you for the opportunity to provide feedback on Alberta's cannabis framework. If you have any questions regarding the content in the submission, or would like to discuss our recommendations in further detail, please feel free to contact Ken Kobly, President and CEO of the Alberta Chambers of Commerce at kkobly@abchamber.ca or 780.425.4180 ext. 5.