

TO: Chair and Members of the Board of Health

FROM: Christopher Mackie, Medical Officer of Health / CEO

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## **THE SMOKE-FREE ONTARIO ACT, 2017 – CHANGES TO CANNABIS, VAPING, AND SMOKING LAWS IN ONTARIO**

### ***Recommendation***

*It is recommended that the Board of Health receive Report No. 068-18 re: “The Smoke-Free Ontario Act, 2017 – Changes to Cannabis, Vaping, and Smoking Laws in Ontario” for information.*

### **Key Points**

- On October 17, 2018, [Bill 36, the Cannabis Statute Law Amendment Act, 2018](#) received Royal Assent to support the provincial government’s plan to privatize cannabis retail sales and to regulate the use of cannabis under the [Smoke-Free Ontario Act, 2017](#).
- Public health agencies across Ontario have expressed concern that the promotion of vapour products has not been banned within retailers that are accessible to minors.
- Health Unit staff will continue to work with municipal partners and community stakeholders to address shared concerns regarding the normalization of cannabis use and vaping, second-hand smoke exposure, and unintentional impairment.

### **Background**

On October 17, cannabis was legalized in Canada. While there are potential health implications related to cannabis use, prohibition has not been effective in curbing use, nor in reducing these harms. Moreover, the criminalization of cannabis use has had a significant negative impact on many people, disproportionately affecting those facing systemic disadvantages. Legalization and regulation of cannabis is consistent with established public health approaches. The federal government has legalized non-medical cannabis; however, each province has developed its own unique rules on cannabis, including where it can be consumed, the minimum age of possession, and where it can be purchased.

### **Ontario’s Cannabis Legislative Framework**

At the July Board of Health meeting, [Report No. 048-18](#) outlined the government’s decision to delay implementation of the *Smoke-Free Ontario Act, 2017* (SFOA 2017) to allow for reexamination of evidence related to vaping as a cessation tool. On September 27, the Government of Ontario introduced new legislation to support their plan to privatize cannabis retail sales and to regulate the use of cannabis. [Bill 36, the Cannabis Statute Law Amendment Act, 2018](#) outlined amendments to several Ontario statutes, including the [SFOA 2017](#) and its regulation, the [Cannabis Act, 2017](#), the [Ontario Cannabis Retail Corporation Act](#), and many others. The [proposed changes](#) to Regulation 268/18 under the SFOA 2017 were posted to the [regulatory registry](#) on September 27, with a deadline for comment of Monday, October 8. The Health Unit’s submission for government consideration is attached as [Appendix A](#). On October 17, 2018, Bill 36 received Royal Assent and came into effect.

### **Ontario Rules for Possession and Privatization of Cannabis Retail Sales**

The minimum age for possession, consumption, and purchase of cannabis in Ontario is 19 years of age. In alignment with Canadian legislation, an adult in Ontario can have a maximum of 30 grams (about one

ounce) of dried cannabis, or equivalent, in public at any time, and up to four plants per residence (not per person) may be grown. The Ontario Cannabis Retail Corporation, operating as the Ontario Cannabis Store (OCS), is a crown agency established under the *Ontario Cannabis Retail Corporation Act, 2017*. On October 17, the OCS became operational, providing Ontarians 19 and older with access to non-medical cannabis through the online store. All cannabis products available for sale by the OCS are sourced from producers licensed by Health Canada. By April 1, 2019, privatized retail storefronts will become operational under a robust provincial licensing system implemented and enforced by the Alcohol and Gaming Commission of Ontario (AGCO), with all products sourced from the OCS as the exclusive wholesale distributor. The Government of Ontario has indicated that there will not be a cap on the number of licenses issued provincially; however, there will be a cap on the number of store licenses that a licensed operator can hold to limit the volume of market share per operator. The AGCO is well positioned to regulate the operators and stores selling cannabis, and will be the retail regulatory authority. Provincial guidelines will be set related to store siting and store operations, including a fifteen-day public notice/community consultation process to provide community and municipal input on store sites, and a buffer/set-back from schools. The deadline for municipalities and First Nations communities to opt out from retail sales is January 22, 2019.

### **Enactment of the *Smoke-Free Ontario Act, 2017***

The SFOA 2017 will regulate the smoking and vaping of cannabis (medical and non-medical) by restricting its use in places where tobacco use is already prohibited. In addition, the SFOA 2017 will ban the use of all vapour products (e-cigarettes) in the same places where tobacco and cannabis use is prohibited. Individuals will not be able to consume cannabis (smoking, vaping, eating) in a vehicle or boat that is being driven or is at risk of being put into motion, and smoking tobacco and the use of e-cigarettes is banned in a vehicle with a passenger under the age of 16. A summary of these prohibitions can be found in [Appendix B](#).

### **Public Health Considerations**

The SFOA 2017 prohibits the display of vapour products in places where such products are sold or offered for sale; however, the legislation does not prohibit the promotion of vapour products using posters and large exhibits in retailers that are accessible to minors, such as convenience stores, gas-station kiosks, and grocery stores. The Association of Local Public Health Agencies (alPHA) submitted a letter to the Minister of Health and Long-Term Care ([Appendix C](#)) to express concern about pervasive marketing tactics and the mixed messages that young people are receiving about vaping and nicotine-infused vape liquids.

Additionally, allowing cannabis to be consumed wherever tobacco can be consumed raises concerns regarding the risk of normalization, second-hand smoke exposure, and unintentional impairment. Municipalities may choose to develop bylaws to enact additional restrictions that exceed provincial legislation. Health Unit staff intend to convene a meeting with representatives from municipalities across Middlesex-London later this year to review the SFOA 2017 and its employer/proprietor obligations, to collate education, signage, and enforcement needs, and to identify how we may best work together to address those public spaces of shared concern not covered under the provincial smoking and vaping laws.

This report was prepared by the Healthy Living Division.



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