

Minister of Justice
and Attorney General



Legislative Building
Regina, Saskatchewan S4S 0B3

May 23, 2018

Ms. Shaila Anwar
(shaila.anwar@sen.parl.gc.ca)

Dear Ms. Anwar:

Thank you for your email of April 23, 2018 regarding your request to provide the Senate Committee with information on Saskatchewan's plans on implementing Bill C-45.

Please find attached our response to your request.

Sincerely,

A handwritten signature in black ink, appearing to be 'D. Morgan'.

Don Morgan, Q.C.

Attachment

cc: Premier Scott Moe
Honourable Jim Reiter, Minister of Health
Honourable Greg Ottenbreit, Minister Responsible for Rural and Remote Health

Bill C-45

Submission to the Standing Committee on Social Affairs, Science and Technology House of Commons, Ottawa, Ontario

Submitted by:

The Honourable Don Morgan, Minister of Justice and Attorney General

Thank you for the opportunity for Saskatchewan to provide the Committee with the measures the Province is undertaking to implement Bill C-45, if and when the Bill may receive Royal Assent.

Background

- The Ministry of Justice and Attorney General is leading a provincial working group for the purposes of developing recommendations for legislation and regulation for Saskatchewan. The Ministry and Agencies include:
 - Justice;
 - Government Relations;
 - Economy;
 - Finance;
 - Health;
 - Labour Relations and Workplace Safety;
 - Education and Agriculture;
 - Saskatchewan Government Insurance (SGI);
 - Saskatchewan Liquor and Gaming Authority (SLGA); and
 - The Saskatchewan Associations of Chiefs of Police (SACP).
- In order to prepare Saskatchewan's response to the federal government's Bill C-45, the proposed *Cannabis Control Act*, the Province gathered insight from Saskatchewan residents with respect to provincial responsibilities, by conducting an online cannabis survey from September 8, 2017 to October 6, 2017. The results of the survey are included in *Saskatchewan's Cannabis Framework* (released on March 14, 2018).
- Provincial responsibility has included:
 - Designing and licensing the distribution and retail sale in their respective jurisdictions, and carrying out associated compliance, taxation and enforcement activities;
 - Setting additional regulatory requirements to address issues of local concern such as setting a higher minimum age or more restrictive possession or personal cultivation limits;
 - Working with municipalities, establishing zoning and licensing;

- Engagement regarding retail distribution;
 - Occupational health and safety;
 - Establishing public education and awareness strategies;
 - Restricting where cannabis may be consumed; and
 - Amending provincial traffic safety laws to further address driving after drug use (licence suspensions for drug impairment by new and experienced drivers and zero tolerance for any drug use by new drivers are already existing Saskatchewan laws).
 - Saskatchewan has engaged with our people, businesses, communities, partners and other stakeholders regarding these issues to be able to implement processes and practices should Bill C-45 receive Royal Assent. We have taken steps to implement or deal with:
 - Minimum age of purchase;
 - Legislation, regulation, and statute changes;
 - Regulating cultivation;
 - Regulating distribution;
 - Regulating retail sales;
 - Regulating consumption and possession;
 - Ticketable offences; and
 - Taxation and pricing.
- Saskatchewan introduced a restrictive private (competitive) wholesale and retail sale distribution model for non-medicinal cannabis to be regulated by SLGA.
 - The Province introduced Bill 121 the proposed *Cannabis Control (Saskatchewan) Act* and Bill 122, the proposed *Cannabis Control (Saskatchewan) Consequential Amendments Act, 2018* in the Legislative Assembly on March 14, 2018.
 - Bill 121 and Bill 122 passed second reading on April 30, 2018 and is currently in the Committee Stage with expected passage by end of May 2018.
 - The cumulative work Saskatchewan has undertaken to prepare for cannabis legalization includes specific decisions made falling under provincial responsibility:
 - Minimum Age for possession, consumption and distribution of cannabis to be 19, the same age as alcohol in Saskatchewan;
 - Personal public maximum possession limit of thirty (30) grams of non-medicinal cannabis;
 - Introduction of legislation to prohibit anyone under the legal minimum age from possession etc. of non-medicinal cannabis; possession of more than five (5) grams;
 - Transportation permitted from one legal purchase place to legal place of consumption or to another legal consumption site;
 - Zero tolerance for drugs and driving for all drivers;
 - Consumption prohibited in any vehicle;

- Driving while impaired/above the legal limit or refusing to provide a sample or submit to testing: significant license suspension, roadside vehicle seizures, mandatory drug and alcohol educational programming, and stiff administrative penalties;
 - Standard Field Sobriety Test (SFST) if driver drug use is suspected;
 - Drug Recognition Evaluation (DRE) if grounds;
 - Home cultivation maximum limit of four (4) cannabis plants per household;
 - Introduction of the *Residential Tenancies Amendment Act* to provide landlords with rights to prohibit possession, use, growth and sale of cannabis in a rental unit;
 - Publish online education material regarding risks of cannabis use and resource list;
 - Collaboration with other jurisdictions and partner organizations to develop clear, creditable and consistent public education materials with a focus on impaired driving and higher risk populations;
 - Cannabis consumption in public spaces and around minors will be restricted similar to tobacco and alcohol restrictions;
 - In addition to Occupational Health and Safety requirements, additional ways to address impairment in the workplace are being explored;
 - SLGA issuing up to sixty (60) retail permits to private operators in as many as 40 Saskatchewan communities and First Nations with the option of municipalities and First Nations communities being able to opt out of having a retail cannabis store in their community;
 - Saskatchewan will extend its Provincial Sales Tax (PST) of six (6) percent to apply to all retail sales of cannabis, medicinal or non-medicinal, which follows the federal government's proposed taxation treatment to cannabis.
- Saskatchewan continues to prepare by diligently working to enable cannabis enforcement including a range of set fines and penalties for cannabis offences.

Issues of concern to Saskatchewan

- Ticketable Offences

Saskatchewan agrees that a cannabis "ticket" as set out in Part 2 of the federal Act is a criminal matter. A conviction for such an offence is a criminal conviction and that is where the issue lies. We appreciate the effort at increasing justice efficiencies through the use of a ticket, but because of that format, is an individual being led to believe that their payment of the fine is the end of the matter? Do they appreciate that they would then have a criminal conviction that could affect their ability to cross a border, for example? The ticket itself must make this very clear. Perhaps sections 51(3), 52 or 53 should also include a provision that the conviction is a criminal one.

A second issue concerns s. 52 (b) respecting its requirement that the judicial record kept by a province must be kept separate and apart from other judicial records. As the conviction is a criminal one, we do not see the need for this requirement. Should we have to create a separate record keeping system for just these offences, not only will Saskatchewan have to re-design our system at great cost, it will take considerable time to do so.

Lastly, use a federal ticket for minor offending may preclude the opportunity to use an alternative measure. Many adult possession charges in Saskatchewan are referred to alternative measures instead of proceeding through court. A ticket cannot be 'diverted' in this fashion and the offender would have to proceed to either pay the ticket or have the matter appear in court.

- Enforcement and Regulation

Cannabis legalization is being implemented without enough scientific foundation. Is there a consistent blood drug concentration that equates to an individual's impairment? Can all the toxicology experts agree that at "X" nanogram % of THC in blood, everyone is impaired? We are designing a criminal law system through the interaction of Bills C-45 and 46, yet the science has not quite caught up to us.

Moreover, roadside testing is still in its infancy. Recognized practice rules are not yet in place, nor are there any approved roadside devices. While developments in this area are promising, finalization is far from complete. The cost of these devices is likely to be significant and our law enforcement and municipal officials are very concerned that the combination of training needs, device procurement and the on-going per-test and analysis cost, will be much greater than they can absorb.

Concerns respecting requirements of blood analysis, are our laboratories capable of handling a large influx of samples? Are there enough labs or technicians to conduct testing in a timely manner? We are left with a situation where a sample may be taken one day and it takes weeks or months to be analyzed.

Saskatchewan police authorities are concerned that enforcing a four plant grow provision will be very difficult, especially if the cultivation is being done inside or away from view.

- Public Education, Awareness, Prevention, and Treatment

A position shared across ministries and agencies in Saskatchewan is that one of the primary focal points for this topic has to be youth and young adults. Safe use and awareness of potential consequences caused by the drug must be addressed and although this is an area of joint responsibility, the federal government must lead the way well before implementation and thereafter. We know that cannabis use by young people is amongst the highest in the developed world, yet our youth appear to be ill-informed regarding its dangers. For example, the Canadian Centre for Substance Abuse's recent report *Canadian Youth Perceptions on Cannabis (2017)* noted that youth consider cannabis less harmful than alcohol, yet cannabis use significantly increases the risk of injury or death in vehicular accidents.

The health risks associated with cannabis use are also little known. We can likely expect, however that there will be increased demands for our health resources from addictions, mental health and medical perspectives.

In addition, the Saskatchewan Alliance for Youth and Community Well-Being conducted a youth health survey in 2015 for students in grades 7 to 12. They found that overall, 22% of students used drugs and drug use was more common in the higher than the lower grades. 61% of reported users stated that they had used cannabis in the previous month and 86% had used in the previous year.

We must learn from the tobacco experience; and it is imperative that initiatives associated with prevention, especially by youth and young adults begin early before legalization and subsequently thereafter occurs and behaviour patterns are established.

- **Minimum Age**

Cannabis use during adolescence entails greater risk. It is linked to truancy, lower academic attainments, withdrawal from positive extracurricular activities, family conflict and higher drop-out rates. It is also linked to the onset of mental health issues such as psychosis, depression, anxiety, cannabis use disorder and schizophrenia.

Because adolescent brains continue to develop until around age 24 cannabis use may cause permanent functional and structural impairment to the brain, resulting in memory deficiency, difficulties in planning and decision making, reduce IQ's and regulation of emotions; 17% of the people who begin using cannabis during adolescence develop an addiction.

There are also concerns that students who have legal access to cannabis may share it with underage youth or influence the behaviour of younger students or underage peers.

Setting a minimum age is difficult because that age must maintain an appropriate balance between restricting the illegal market as much as possible while still protecting individuals too vulnerable to cannabis and its dangers simply because of their age.

- **First Nation Sovereignty Claims**

We have been advised that some First Nations or Indigenous groups are considering production and retail schemes whether there is constitutional authority to do so. This will develop into a significant issue unless addressed and it is for the Parliament and Government of Canada to lead the way in this matter.

- **Labelling and packaging**

In order to properly comply with federal regulations in this area, sufficient time to ensure that the requirements can be met must be established. The federal government has advised that between 8 to 12 weeks post royal assent be set before legislation comes into force. We urge that the maximum period of time be used in this respect. This is an area where we must get it right and having as much time as possible in order to do so is very important.

- **Workplace Safety**

This concern is also one virtually universally expressed across Saskatchewan ministries, stakeholders, interest groups and agencies. For example, officials expressed that schools and child care facilities' duty of care for children and youth must incorporate mitigating dangers of use and impairment by care providers in those contexts. Their ability to fulfill their duty to our children must not be compromised.

This type of concern is shared for all of our workplaces. The potential short-term effects caused by using cannabis, including poor memory and attention span, reduced psychomotor functioning, poor judgement and coordination, time distortion and acute sudden psychosis cannot be allowed in a work place. We must ensure that impairing substances such as THC do not adversely affect an individual's work performance, personal safety or that of their client, patient or co-worker, no matter where they work.

This is another area where the federal government should lead by example, establishing clear direction on how to deal with this issue.

Would a phased in, or staged, approach work better?

From a policing or enforcement perspective, phasing in some of these changes may be the best way of implementing the policy changes. Then, there would be a better opportunity to get things right from the start, and if changes were necessitated, they could more easily be made. The magnitude of going from an illegal product or use to virtually full legalization in such a short time period is a huge "ask". Staging, however, would likely mean that only some of the changes would come into effect this fall and others at a later date. Some of this approach is currently being followed as edibles, as an example, are not being permitted until one year after coming into force. Let us just consider adding more items to that list for now. Let us start slow and get it right.

Conclusion

The timetable in which the federal government has set out for Saskatchewan to prepare has been aggressive and a very large undertaking for the Province. Despite Saskatchewan's diligence, to prepare, there are still many unknown issues that will likely arise that will impact the province and our efforts to ensure the health and safety of our people.