

The public option: a responsible plan for cannabis

A submission to the Standing Committee on Social Policy of the Legislative Assembly of Ontario on Bill 36, the Cannabis Statute Law Amendment Act

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Introduction

The Ontario Public Service Employees Union (OPSEU) is Ontario's largest public sector trade union with over 155,000 members. OPSEU represents 8,300 people who work at the Liquor Control Board of Ontario (LCBO). These workers are experts in the socially responsible sale of alcohol. In 2016-17, they challenged more than 14 million customers and refused service to more than 250,000 people, the majority for reasons of age.

Our union supports the legalization of cannabis in Ontario. We believe the most effective way for governments to keep cannabis out of the hands of children and youth and minimize the black market is through a public retail model, similar to the model that exists today for alcohol distribution.

In September 2017 following extensive consultations which OPSEU participated in,¹ the Ontario government announced a responsible plan for adult-use cannabis: the LCBO would oversee the legal sale of cannabis through retail stores and online sales, ensuring there would be one legal retail distributor of cannabis in Ontario.

A significant amount of work was then done to build a public retail network: locations were chosen, a management structure was created, marketing and promotional material were created, and a number of publicly owned and managed Ontario Cannabis Store storefronts were set to open this year.

In the final days of the election campaign in May 2018, the Ontario Progressive Conservative (PC) Party posted its campaign platform, *For The People*, on the party's website. Nowhere did the platform announce the party's intention to abandon the safe and responsible public retail model for a privatized model run by cannabis profiteers. In fact, Conservative leader Doug Ford promised to maintain the public retail model for cannabis during a TV debate with the other party leaders.

In August 2018, the newly-elected Conservative government dramatically reversed the province's course and plunged Ontario into the unknown.

The government announced its intention to limit the Ontario Cannabis Store to distribution and online sales only. (The Ontario Cannabis Store is the brand name of the Ontario Cannabis Retail Corporation, a subsidiary of the LCBO.) The government announced it would only allow private for-profit operators to open bricks-and-mortar stores across Ontario, following a licensing process that would delay stores opening until April 1, 2019, at the earliest. Further, the government said it would give municipalities a one-time option to opt out of private cannabis retail stores in their communities.

In September 2018, the Conservative government introduced Bill 36, the *Cannabis Statute Law Amendment Act*. If passed, this law will transfer oversight of the Ontario Cannabis Retail Corporation (OCRC) to the Minister of Finance so that the OCRC is no longer a subsidiary of the LCBO, limit the OCRC to online sales and distribution only, establish the licensing process for private operators and stores, outline the inspection and enforcement powers of the re-named Alcohol, Cannabis and Gaming Commission of Ontario, provide an opt-out deadline for municipalities, and establish the rules around the consumption and promotion of cannabis products.

When cannabis is legalized on October 17, 2018, Ontario will be entering unknown territory. No longer will the province and its 14 million people have the decades-long track record of the socially responsible LCBO to rely on for the retail sale of cannabis. Instead, the Conservative government is trying to force an untested and unknown private model on this province, a model whose sole objective is making profit for its owners.

Cannabis Use: An Overview

Cannabis is not a benign substance. Its use carries health risks including problems with thinking, memory or physical co-ordination, impaired perceptions or hallucinations, fatal and non-fatal injuries due to impairment and mental health problems and cannabis dependence.²

The rates of past-year cannabis use in Canada are 12 per cent in the general population, (15 years and older), 25.5 per cent in youth aged 15 to 24, and 10 per cent in adults, 25 years and older. In other words, the rate of past-year use of cannabis is over two times higher in youth compared to adults. The median age of initiating cannabis use is 17 years.³

Public health experts tell us that adolescents are particularly at risk for the harms associated with cannabis use as their brains are undergoing active development into their early 20s.⁴ The health risks associated with cannabis dependence are particularly found among those who began using cannabis in early adolescence. There is also an association between cannabis use and the risk of psychosis, depression and anxiety in adolescents although no causal relationship has been established.⁵

Cannabis use is associated with an increased risk of a motor vehicle crash especially for fatal collisions.⁶ Cannabis is the most commonly found drug among fatally-injury drivers in Canada.⁷ A 2017 review of the data found that while 16 to 34 year-olds represent only 32 per cent of the Canadian population, they represent 61 per cent of the cannabis-attributable fatalities.⁸

Ontario has been plunged into the unknown

Canada is the first Group of Seven country to legalize adult-use cannabis. There are many reasons to be cautious: the health risks of cannabis use, issues of public safety and drug-impaired driving, and exposing kids to cannabis.

A public retail model helps mitigate these risks. It is safe to say that virtually every public health organization in Ontario supported the public retail model for cannabis. They pointed out that government-controlled entities, like the LCBO, with a social responsibility mandate provide an effective means of controlling consumption and reducing harm.⁹

A MADD Canada spokesperson voiced the organization's support back in 2017 for the public retail model: "It's something that we support and that's actually the sales model that we had recommended the government should take, similar to the LCBO, because of the controls on it, making sure it doesn't get to people who are underage, making sure the quality is there," said spokeswoman Carolyn Swinson. "And we consider the similar model to the LCBO to be the best route to go."¹⁰

Municipalities understood that a public retail model is not only better for public health but also for keeping enforcement costs down. An interdivisional working group of city staff including those from Toronto Public Health, Toronto Fire Services and Toronto Police, endorsed the public retail model in 2017:

“...This model is preferred as it is a stronger regulatory mechanism that would allow the province to closely oversee the operations of retailers and ensure that they operate in a responsible and accountable manner to uphold public health and safety.

“A provincially-operated retail model guided by public health objectives and social responsibility would help ensure that public health and safety is paramount, thereby reducing local impacts that would require extensive municipal oversight and enforcement. This model prioritizes the central goals of legalization – to reduce the illegal market and protect youth – potentially more effectively than a profit-driven model. This approach was supported by the Board of Health in June 2017.”¹¹

Ontario has now been plunged into the unknown without the safety net of the LCBO and its trained and qualified staff to fall back on.

How many private, for-profit cannabis stores will end up in our communities and where will they be located? If the government had retrofitted LCBO stores, communities would have a level of security and certainty they do not have now.

How can people feel confident that privately-operated stores will keep cannabis out of the hands of children and youth when making a profit is their primary motive?

Secrecy surrounds privatization

Ontario had a safe and responsible plan for cannabis until the Conservative government overturned it. The question is: what changed and who will benefit?

Just days ago, the union found out that the Ontario Cannabis Store has contracted out the warehouse for the distribution of legalized cannabis to a third party vendor. We are less than one week away from legalization, when online sales will be activated, and we have no details about the warehouse. Who is the third party vendor? On the basis of what criteria was the vendor selected? What oversight mechanisms are in place? How were the warehouse employees recruited and hired? What training have they received?

OPSEU has been in negotiations with the Ontario Cannabis Store on a framework agreement. Are the warehouse employees aware that they are OPSEU members? As part of that agreement, workers would be represented by OPSEU with wages and benefits similar to those of LCBO workers, including a pension plan with the OPSEU Pension Trust.

Have Conservative-connected lobbyists reaped the benefits?

The Conservative government's surprise about-face in August 2018 that cannabis stores will be privately operated may have benefited individuals with connections to the PCs.

The government's decision to overturn an already-established retail network, set up by the previous government, caused turmoil on the financial markets. Did anybody with advance knowledge of the premier's about-face profit from that turmoil? Needless to say, trading on advance or undisclosed information erodes the public's confidence and trust in the capital markets.

At least one person with clear connections to Ford's inner circle has connections with a company that has done very well in the wake of the surprise about-face.

Will Stewart was once a senior aide to John Baird, the former Conservative MPP and MP who was a member of Ford's transition team. After working for Baird, Stewart became a lobbyist and executive for private cannabis companies including the cannabis retailer Hiku Brands. Just weeks before Ford's about-face, Hiku was acquired by Canopy Growth for a reported \$250 million, which represented a reported 33 per cent premium to Hiku shareholders.

Did Stewart have advance knowledge of Ford's about-face? Did that advance knowledge allow him to gain an inappropriate profit?

The headlines tell us that a number of other people connected with Ford and his supporters in the federal and provincial Conservative parties now have a financial stake in the cannabis industry.

Are former Conservative politicians like Julian Fantino, Gary Goodyear, Joe Oliver and John Baird now profiting personally because of Ford's about face on cannabis retail sales?

The need for an investigation is clear. Members of the public – along with investors who don't enjoy insider connections to the premier of the day – deserve to know that the market is truly free, fair and efficient. OPSEU has written to the CEO and President of the Ontario Securities Commission, asking for an investigation.¹²

Poll shows Ontarians want a responsible plan

A strong majority of Ontarians are worried about cannabis being sold to children and youth. In a poll conducted by Nanos Research in September 2018 on behalf of OPSEU, 69 per cent of Ontarians are "concerned" or "somewhat concerned" about cannabis being sold to underage children. Women (74 per cent) and people older than 55 years of age (77 per cent) are particularly concerned about cannabis being sold to kids.¹³

Ontarians don't think private retailers will keep our communities as safe as the LCBO. 65 per cent of Ontarians think the LCBO would have "a more positive impact" on preventing cannabis sales to underage children compared to only 6 per cent who believe this of private retailers. This means Ontarians are 11 times more likely to think the LCBO would have a more positive impact on preventing sales to children. They are nine times more likely to think the LCBO would have "a more positive impact" on keeping communities safe.

Ontarians are significantly more likely to think a responsible retailer like the LCBO would generate higher revenues to invest in health care, highways and other public services. Ontarians are almost four times more likely to think the LCBO would get more revenue from the sale of cannabis than private stores.

The poll results also send a clear signal to the Conservative government to put a halt on the privatization of alcohol sales.

The poll found that Ontarians are 12 times more likely to say the LCBO would have “a more positive impact” than private stores on keeping beer and wine out of the hands of children. As well, 53 per cent of Ontarians think it’s a “bad idea” to sell spirits such as vodka and whiskey in box stores, grocery stores and convenience stores, nearly twice as many as those who think it’s a “good idea”. 70 per cent of Ontarians think it is better to have the LCBO sell alcohol and generate public profits for schools, hospitals, and other public services, instead of allowing private companies to sell alcohol for private profit.

A give-away of billions of dollars in public revenue

The Conservative government has stated that the province’s dire financial picture will require “everyone to make sacrifices without exception.”¹⁴ After a review of the province’s books, the government is projecting a provincial deficit of more than \$15 billion.

If Ontario’s finances are as bad as the PCs would have us believe, why is the government potentially giving away tens of millions of dollars, even billions of dollars, in revenues that Ontario would get if cannabis sales were handled through a public retail model?

In 2016-17, the LCBO contributed \$2.06 billion to provincial coffers to pay for schools, hospitals and other public services.¹⁵ As stated earlier, the public have confidence in the LCBO. Ontarians are almost four times more likely to trust the LCBO to generate more public revenue from the sale of cannabis than private stores.

Conclusion

The Conservative government claims it is giving cities and towns a choice on cannabis, but it’s really a choice between private retailers and the black market. A choice between bad and worse is no choice at all.

It’s no wonder that cities and towns across Ontario have expressed concern about private retailers. Leaders in Markham and Richmond Hill are so worried that they’re already talking about opting out of this privatization plan. With all the risks that come with legalized cannabis – especially for our children and youth – cities and towns shouldn’t have to choose between bad and worse.

The public retail model – where the workforce is properly trained and qualified – is less risky. Ontarians trust a public retail model for cannabis. It’s safer, and we’ve already got LCBO store locations across the province that can easily be retrofitted.

That's why the government should offer a third option, a public option. Bill 36 must be amended so that a public option is implemented in cities and towns that opt-out of the private retail plan. Otherwise, the black market will flourish. Specifically, OPSEU is calling for an amendment to Schedule 2, section 41 so that the public option is provided to municipalities and an amendment to Schedule 3, sections 2 and 5, ensuring that the Ontario Cannabis Retail Corporation is **not** prohibited from operating retail stores directly or indirectly.

With a public option on the table, municipalities can choose what's truly best for their own communities.

Endnotes

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