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BLOG

**SMOKE SIGNALS: CANNABIS TASK FORCE REPORT
A SIGN OF WHAT'S IN STORE FOR LOCAL GOVERNMENTS**

The Task Force on Cannabis Legalization and Regulation has released its final report, [*A Framework for the Legalization and Regulation of Cannabis in Canada*](#). In anticipation of tabling new legislation on this issue this spring, the report summarizes the results of the Task Force's consultation initiative and provides over 80 recommendations to the federal government.

These recommendations are likely to be influential in establishing what the legalization of marijuana and cannabis in Canada will look like. However, until new legislation is passed, the laws regarding marijuana have not changed. The [*Access to Cannabis for Medical Purposes Regulations*](#), released in August 2016, remains the authority for what type of cannabis production and possession is permitted. Currently, marijuana may only be grown by licensed producers, unlicensed possession of marijuana is illegal, and cannabis dispensaries are not authorized businesses under the *ACMPR*.

As a sign of what may be in store, the recommendations for the legalization of marijuana draw some parallels with the existing frameworks for tobacco and alcohol. Such recommendations include restrictions on the advertising of cannabis products, stringent product labeling requirements, extending the current restrictions on public smoking of tobacco products to the smoking of cannabis products and to cannabis vaping products, establishing a national minimum age of purchase at 18, and public education and awareness initiatives about the impact of cannabis consumption.

For local governments, the recommendations on the location of cannabis retail stores, the enforcement of the regulatory framework, and the duty to accommodate are of particular relevance and are summarized below.

1. Location of Retail Stores

The Task Force recommends that the wholesale distribution and retail sale of cannabis be regulated by the provinces 'in close collaboration with municipalities.' If this approach is adopted, it would be up to each province to implement a private (ie: dispensaries) or public (ie: BC Liquor store) retail system. The Task Force further recommends that the retail environment include:

- No co-location of alcohol or tobacco and cannabis sales, wherever possible.
- Limits on the density and location of storefronts, including appropriate distance from schools, community centres, public parks, etc.
- Access via a direct-to-consumer mail-order system

These recommendations reflect the approach taken by some local governments, such as the City of Vancouver, in regulating the location of dispensaries.

2. Public Safety & Enforcement

The Task Force recommends expanding the permission to grow cannabis for non-medical purposes with the following conditions:

- A limit of four plants per residence
- A maximum height limit of 100 cm on the plants
- A prohibition on dangerous manufacturing processes
- Reasonable security measures to prevent theft and youth access
- Oversight and approval by local authorities

Currently, the regulatory enforcement of licensed marijuana production falls under the purview of Health Canada. In the recommendations, the Task Force calls for an expanded regulatory role for local governments, including that local authorities establish 'their own oversight and approval frameworks, such as requiring individuals to notify local authorities if they are undertaking personal cultivation.'

This suggestion is a response to local government concerns about how an increase in personal cultivation can increase the risks associated with growing cannabis, such as mould growing in buildings that are not designed to support a growing operation, fire hazards associated with improper electrical installation, as well as nuisance issues like odours and pollen. However, the Task Force does not outline what the oversight and approval framework by local authorities entails, or how it should relate to the federal framework. Further, a funding model to support any increase in a local government's regulatory responsibilities has not been recommended.

3. The Duty to Accommodate & Workplace Safety

As employers, local governments are obliged to accommodate disabilities and to ensure a safe workplace. As [outlined in our firm's recent paper on this issue](#), one of the most important considerations in the accommodation of employees who use medical marijuana is to not make decisions based on assumptions about the use of marijuana and its impact on an employee's ability to do their job duties. The Task Force supports this approach. It also acknowledges that

cannabis consumption may affect psychomotor skills and judgment, although there is significant disagreement about the level at which cannabis consumption may cause impairment. A *per se* limit for THC blood levels as a mechanism to establish impairment has been considered, similar to blood alcohol content, however there is little agreement on what that limit should be. Ultimately, the Task Force recommends further research to better link cannabis consumption to impairment, including the development of effective tools to detect impairment.

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