

SENSIBLE POLICING ACT

WHEREAS the criminal prohibition of cannabis (marijuana) has produced enormous social and economic costs, much of which is borne by British Columbia's provincial treasury;

AND WHEREAS the criminal prohibition of cannabis including the enforcement of federal cannabis prohibition by provincially-funded police forces, have created black markets in cannabis that enrich and support the growth of dangerous criminal organizations.

AND WHEREAS the black markets created by prohibition also cause crime, violence, death and disease all of which impose substantial costs on British Columbia's provincial treasury, thus impacting many provincial interests, including health, policing resources, community stability and family welfare.

AND WHEREAS the criminal prohibition of cannabis has failed to control the use or availability of cannabis in our society including failing to control or reduce consumption of cannabis by minors, making enforcement of the cannabis laws by provincially-funded police forces an ineffective use of limited provincial resources;

AND WHEREAS the utilization and/or expenditure of police resources, including member time, enforcing the prohibition on possession, sale and manufacture of cannabis for adult use is counter-productive and does not achieve any valid provincial purpose.

AND WHEREAS a reallocation of police resources would generate significant savings to provincially funded public institutions and allow police to more effectively perform their functions and therefore ensure that an adequate and effective level of policing and law enforcement is maintained throughout British Columbia;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Definitions

1. "cannabis" means cannabis, its preparations, derivatives and similar synthetic preparations, including

(1) Cannabis resin

(2) Cannabis (marijuana)

(3) Cannabidiol (2-[3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol)

- (4) Cannabinol (3-n-amy-6,6,9-trimethyl-6-dibenzopyran-1-ol)
- (5) Nabilone ((±)-trans-3-(1,1-dimethylheptyl)-6,6a, 7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one)
- (6) Pyrahexyl (3-n-hexyl-6,6,9-trimethyl-7,8,9, 10-tetrahydro-6-dibenzopyran-1-ol)
- (7) Tetrahydrocannabinol (tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol)
- (7.1) 3-(1,2-dimethylheptyl)-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran-1-ol (DMHP)
- (8) Cannabis seed.

Purpose

2. The purpose of the Act is to reform and strengthen the oversight of policing in British Columbia and to ensure that an adequate and effective level of policing and law enforcement is maintained throughout British Columbia. The Act does so by prioritizing use of police resources toward substantive and serious criminal offences by re-directing the use of those limited resources in regards to simple possession of cannabis; by initiating a provincial commission to study how the government of British Columbia can properly tax and regulate cannabis once it is removed from the federal Controlled Drugs and Substances Act; and by calling on the Government of Canada to allow the Province to regulate cannabis using lessons learned from alcohol and tobacco.

Effective allocation of provincial police resources, establishment of commission to study cannabis policy and request to Government of Canada to allow Provincial regulation of cannabis

3. The following sections are added to the Police Act, RSBC 1996, chapter 367:

(a) “76. No member of any police force(s) as defined in section 1.1 of this Act may utilize and/or expend any police resources, including member time, on investigations, searches, seizures, citations, arrests and/or detentions related solely to actual or alleged violations of section 4 of the Controlled Drugs and Substances Act (S.C. 1996, c.19) (hereafter “CDSA”), if such violations relate solely to cannabis.”

(b) “77. Any member that utilizes and/or expends any police resources, including member time, on investigations, searches, seizures, citations, arrests and/or detentions related solely to actual or alleged violation of section 4 of the CDSA if such violations relate solely to

substances set out in Schedule II to the CDSA must, within seven days after the utilization and/or expenditure of such resource(s), prepare a detailed report to the minister describing the nature, circumstances and outcome of each such utilization of resource(s) including a detailed narrative of the event and the reasons that any member of any police force(s) found the utilization of resource(s) necessary in light of the provisions of section 76 of this Act. The minister shall, within seven days of the preparation of the report, publish the detailed report, with any personal information identifying any member of the public removed, in the manner that the Ministry publishes press releases, on the website of the Ministry and shall keep each report on that website for a minimum of six (6) months.

(c) “78. Within three (3) months from the date of Royal Assent of this Act, the Minister shall write to the Prime Minister of Canada, copying the Attorney General for Canada and the Minister of Health for Canada, calling upon the federal government to issue an exemption pursuant to section 56 of the CDSA or to take whatever legislative steps are necessary so that the British Columbia government can tax and regulate cannabis using lessons learned from the regulation of alcohol and tobacco.”

(d) “79. Within three (3) months from the date of Royal Assent of this Act, the Minister shall establish a commission to (a) study the impact of the federal prohibition of cannabis and repeal of that prohibition; (b) draft and publish a report setting out the conclusions reached during the study; and (c) recommend changes to provincial and federal law necessary to achieve a legal and regulated model for the production, distribution and possession of cannabis for medical and non-medical consumption by adults.”

Retaining police power to seize cannabis from minors in possession

4. The following section is added to the Liquor Control and Licensing Act, [RSBC 1996] chapter 267:

(a) “34.1. A minor who has cannabis in his or her possession without lawful excuse commits an offence punishable by no more serious sanction than if the minor had alcohol in his or her possession.”

Commencement

5. This Act comes into force on the date of Royal Assent.

Severability

6. If any portion of this Act is determined by a court of competent jurisdiction, after all appeals are exhausted, to be ultra vires the authority of the provincial government or otherwise unenforceable or invalid, that section

and that section only shall be severed and all remaining provisions shall continue to be in full force and effect.

Explanatory Note

This Act provides a framework under which British Columbia can achieve its provincial purposes of reducing and deterring crime, minimizing the costs of crime, compensating past victims of crime and maximizing the health of residents of the Province. It does so by amending the Police Act to no longer utilize and/or expend provincial resources on investigations, searches, seizures, citations, arrests and/or detentions related solely to actual or alleged violations of the prohibition on simple possession of cannabis. It does not repeal or seek to repeal the federal prohibition on cannabis but, rather, allocates the use of police resources and discretion effectively and in a manner determined by the provincial government. It also sets up a system by which police officers must report any police activity related to simple possession of cannabis and explain why that activity was necessary, and where the Minister is required to make those reports available to the public. It calls upon the Minister to urge the federal government to remove cannabis from the Controlled Drugs and Substances Act and to allow provinces to implement non-criminal regulations governing the production and distribution of cannabis and requires the establishment of a commission to study the impact of cannabis prohibition and its repeal. Finally, it ensures that minors in possession of cannabis remain subject to police enforcement in the same manner that minors unlawfully possessing alcohol are subject to enforcement.