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Province of Prince Edward Island
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Chapter 20

(Bill No. 29)

An Act to Respond to the Legalization of Cannabis

Hon. J. Heath MacDonald
Minister of Finance

GOVERNMENT BILL

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Charlottetown, Prince Edward Island



AN ACT TO RESPOND TO THE LEGALIZATION OF CANNABIS Chapter 20

(Assented to June 12, 2018)

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. Contents of this Act

This Act consists of this section and section 2 and the Schedules to this Act.

2. Commencement

- (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.
- (2) The Schedules to this Act come into force as provided in each Schedule.
- (3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

SCHEDULE 1 CANNABIS CONTROL ACT

PART I - INTERPRETATION AND APPLICATION

1. Definitions

In this Act,

- (a) “**approved program**” means a program approved by the Minister under section 4;
- (b) “**authorized vendor**” means the Prince Edward Island Cannabis Management Corporation, established under section 3 of the *Cannabis Management Corporation Act* R.S.P.E.I. 1988, Cap. C-1.3;
- (c) “**boat**” means any type of boat, ship, vessel or other craft that is designed or used to travel on water;
- (d) “**bus**” means a bus as defined in the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5;
- (e) “**cannabis**” means cannabis as defined in the *Cannabis Act* (Canada);
- (f) “**cannabis plant**” means cannabis plant as defined in the *Cannabis Act* (Canada);
- (g) “**court**” means the Provincial Court;
- (h) “**cultivation**”, in respect of cannabis, includes propagation and harvesting;
- (i) “**distribute**” includes administer, give, transfer, transport, send, deliver, provide or otherwise make available in any manner, whether directly or indirectly, and offer to distribute;
- (j) “**federal law**” means an Act of the Parliament of Canada and a regulation made pursuant to an Act of the Parliament of Canada;
- (k) “**hotel**” means any place where the public may, for consideration, obtain sleeping accommodation with or without meals;
- (l) “**inspector**” means an inspector appointed under section 5;
- (m) “**lessee**” means a lessee as defined in the *Rental of Residential Property Act* R.S.P.E.I. 1988, Cap. R-13.1;
- (n) “**lessor**” means a lessor as defined in the *Rental of Residential Property Act*;
- (o) “**licensed producer**” means a person licensed under the *Cannabis Act* (Canada) to produce cannabis for commercial purposes;
- (p) “**medical use cannabis**” means cannabis used for medical purposes
 - (i) within the meaning of the Access to Cannabis for Medical Purposes Regulations under the *Controlled Drugs and Substances Act* (Canada), or
 - (ii) in accordance with a court order;
- (q) “**Minister**” means the Minister of Justice and Public Safety, and includes any person designated by the Minister to act on the Minister’s behalf;
- (r) “**occupant**” includes
 - (i) a lessee or owner of a private dwelling or vacant land, and
 - (ii) a person who has responsibility for and control over the condition of a private dwelling or vacant land, or the activities carried on there, or control of persons allowed to enter the private dwelling or vacant land;

- (s) “**owner**” includes
 - (i) a person who is registered as the owner of a freehold estate in possession of land,
 - (ii) a person who has purchased or otherwise acquired land and has not become the registered owner of it, and
 - (iii) an agent of a person referred to in subclause (i) or (ii);
- (t) “**package**” means package as defined in the *Cannabis Act* (Canada);
- (u) “**police officer**” means a member of a police service as defined in the *Police Act* R.S.P.E.I. 1988, Cap. P-11.1;
- (v) “**private dwelling**” means a place that is occupied and used by the owner or lessee as a residence, together with adjacent lands or buildings that are normally used for the convenience and enjoyment of the occupant, and includes
 - (i) any house, dwelling, apartment, flat, tenement or other place that is occupied by or may be occupied by a person as a residence, or that part of any such place that is or may be occupied by a person as a residence,
 - (ii) a motor home or a camper van that is parked at a place other than a place referred to in section 14,
 - (iii) a trailer or tent,
 - (iv) a boat that
 - (A) is moored, anchored or otherwise secured to a stationary dock or land,
 - (B) has permanent sleeping accommodations, permanent cooking facilities and permanent sanitary facilities, and
 - (C) is not used to carry passengers for hire,
 - (v) a private guest room in a hotel that is occupied, in good faith, by a guest of the hotel who is duly registered in the office of the hotel as an occupant of that guest room, and who has baggage and effects belonging to him or her in the guest room, and
 - (vi) any other place specified in the regulations;
- (w) “**promote**” means promote as defined in the *Cannabis Act* (Canada);
- (x) “**sell**” includes offer for sale, expose for sale and have in possession for sale;
- (y) “**smoke**” means smoke as defined in the *Smoke-free Places Act* R.S.P.E.I. 1988, Cap. S-4.2;
- (z) “**taxicab**” means taxicab as defined in the *Highway Traffic Act*;
- (aa) “**vehicle**” means a vehicle as defined in the *Highway Traffic Act*, and includes an off-highway vehicle as defined in the *Off-highway Vehicle Act* R.S.P.E.I. 1988, Cap. O-3.

2. Act not applicable

- (1) This Act does not apply to
 - (a) an activity in respect of medical use cannabis;
 - (b) an activity performed in connection with the enforcement or administration of an Act or federal law;
 - (c) an activity conducted pursuant to a licence, permit, authorization, order or exemption under the *Cannabis Act* (Canada) or the regulations under that Act; or
 - (d) a person performing an activity referred to in clause (a), (b) or (c).



Exception

- (2) Despite clause (1)(a), sections 14 and 15 apply in respect of medical use cannabis.

Exemption for certain purposes

- (3) This Act does not prevent the distribution, possession or consumption of cannabis for research or educational purposes in the circumstances specified in the regulations.

Exemption, prescribed activities and persons

- (4) This Act and the regulations do not apply, to the extent specified in the regulations, to prescribed activities relating to cannabis that are undertaken by or on behalf of prescribed persons acting in accordance with applicable federal law or the *Cannabis Management Corporation Act*.

PART II – ADMINISTRATION

3. Minister’s authority

The Minister is charged with the administration of this Act and may designate persons to act on the Minister’s behalf.

4. Approved program

The Minister may approve programs for the purposes of sections 31 and 34.

5. Appointment by Minister

- (1) The Minister may appoint one or more persons employed in the public service of the province as inspectors for the purposes of this Act.

Authority of inspector

- (2) An inspector may exercise the powers and shall perform the duties assigned to the inspector under this Act and the regulations and the other duties assigned to the inspector by the Minister.

6. Certificate of appointment

The Minister shall issue to every inspector a certificate of appointment and every inspector in the exercise of his or her authority or the execution of his or her duties under this Act or the regulations shall produce his or her certificate of appointment on request.

PART III - PROHIBITIONS RESPECTING CANNABIS

7. Possession

No person under 19 years of age shall have cannabis in his or her possession.

8. Storage

No person shall store cannabis in a private dwelling unless

- (a) the cannabis is stored in a secure space that is inaccessible to any person under 19 years of age who resides in the private dwelling;
- (b) the amount of cannabis stored in the private dwelling does not exceed any amount specified in the regulations; and
- (c) the cannabis is stored in a manner that complies with any standards specified in the regulations.

9. Distribution and sale

No person other than an authorized vendor shall

- (a) operate a store that sells cannabis;
- (b) sell cannabis; or
- (c) distribute cannabis, except as permitted under this Act.

10. Purchase

- (1) No person shall purchase or attempt to purchase cannabis from any person other than an authorized vendor.

Purchasing prohibited

- (2) No person under 19 years of age shall purchase or attempt to purchase cannabis.

11. Gift

No person shall make or accept a gift of cannabis unless

- (a) the donor is in lawful possession of the cannabis; and
- (b) the donee is a person who is 19 years of age or older.

12. Definitions

- (1) In this section,

- (a) “**condominium bylaws**” means bylaws made by a corporation in accordance with section 13 of the *Condominium Act* R.S.P.E.I. 1988, Cap. C-16; and
- (b) “**unit**” means a unit as defined in the *Condominium Act*.

Prohibition - cultivation

- (2) No person shall cultivate, or offer to cultivate, cannabis unless it is cultivated within that person’s private dwelling and

- (a) the person is in lawful possession of the cannabis;
- (b) the cannabis is cultivated in a space that is inaccessible to any person under 19 years of age who resides in the private dwelling;
- (c) the cannabis is cultivated in a space that complies with any requirements specified in the regulations; and
- (d) the cannabis is cultivated in a manner that complies with any standards specified in the regulations.



Prohibition - leased private dwelling, unit

- (3) No person shall cultivate, or offer to cultivate, cannabis in a private dwelling unless
- (a) in the case of a lessee, the lessor has, in writing, permitted the lessee to cultivate cannabis in the private dwelling; and
 - (b) in the case of a private dwelling that is a unit, the owner or lessee is not prohibited from cultivating cannabis in the private dwelling under the condominium bylaws applicable to that unit.

13. Consumption - general

- (1) No person who is 19 years of age or older shall consume cannabis unless the person is in lawful possession of the cannabis and
- (a) is in a private dwelling and is, or has obtained the consent of, the occupant;
 - (b) is on vacant land and is, or has obtained the consent of, the occupant; or
 - (c) is in a place specified in the regulations and in the circumstances prescribed by regulation, if any.

Consumption in certain places

- (2) Despite subsection (1), no person who is 19 years of age or older shall consume cannabis
- (a) in a private dwelling where a private school registered under the *Private Schools Act* R.S.P.E.I. 1988, Cap. P-20.01, is located, at any time when students are receiving instruction there;
 - (b) in a private dwelling where an early childhood centre as defined in the *Early Learning and Child Care Act* R.S.P.E.I. 1988, Cap. E-.01, is located, whether licensed or unlicensed, at any time when children are receiving early learning and child care services there;
 - (c) on vacant land to which the public has access by express or implied invitation, for consideration; and
 - (d) at or in any other place specified, and at the time specified, in the regulations.

Prohibition - person under 19 years of age

- (3) No person under 19 years of age shall consume cannabis.

Prohibition - permitting consumption by minor

- (4) No person who
- (a) is 19 years of age or older; and
 - (b) has a person under 19 years of age in his or her care or under his or her supervision or control,
- shall knowingly permit the person under 19 years of age to consume cannabis.

14. Consumption – vehicle

- (1) No person shall consume cannabis or medical use cannabis in or on a vehicle
- (a) whether it is in motion or not, that is
 - (i) on a highway as defined in the *Highway Traffic Act*,
 - (ii) on a trail as defined in the *Trails Act* R.S.P.E.I. 1988, Cap. T-4.1; or
 - (b) that is in a place specified in the regulations and in the circumstances prescribed by regulation, if any.

Consumption - boat

- (2) No person shall consume cannabis or medical use cannabis in or on a boat except a boat that is being used as a private dwelling.

15. Cannabis in vehicle or boat

- (1) No person shall operate a vehicle or boat or have the care and control of a vehicle or a boat, whether or not it is in motion, while any cannabis is contained in the vehicle or boat, as the case may be.

Exceptions

- (2) Subsection (1) does not apply with respect to cannabis or medical use cannabis,
- (a) that is contained in the unopened package in which the cannabis was lawfully purchased;
 - (b) that is packed in a container that is fastened closed and is not otherwise readily available to any person in the vehicle or boat;
 - (c) that is located in a vehicle or boat that is being used as a private dwelling; or
 - (d) that is in the possession of a passenger who is being transported, for compensation, in a bus or taxicab.

Exempted transport

- (3) Subsection (1), and the prohibition in clause 9(c), do not apply to a person who transports or distributes cannabis to, from or on behalf of a licensed producer or authorized vendor
- (a) under the authority of a valid purchase order, bill of lading or other shipping document issued by the licensed producer or authorized vendor, as the case may be; and
 - (b) where the cannabis is transported in an unopened package.

Application to medical use cannabis

- (4) This section applies to medical use cannabis in accordance with applicable federal law, except in the circumstances specified in the regulations, if any.

16. Application of *Smoke-free Places Act*

For greater clarity, no provision of this Act or the regulations shall be construed as authorizing any person to smoke cannabis or medical use cannabis in a place where smoking is prohibited under the *Smoke-free Places Act*.

17. Provision to intoxicated, impaired person

- (1) No person shall sell or otherwise provide cannabis to a person who appears to be intoxicated or impaired by alcohol or a drug.

Provision to person under 19 years of age

- (2) No person shall sell or otherwise provide cannabis to a person who is under 19 years of age.

18. Display

No person other than an authorized vendor shall display cannabis, or any package or label of cannabis.

19. Promotion

No person other than an authorized vendor shall promote cannabis.

20. Prohibition

No person shall involve a person under 19 years of age in a contravention of this Act or the regulations.

PART IV – INSPECTION

21. Inspection

- (1) For the purposes of administering this Act and the regulations, an inspector may
- (a) at any reasonable time make any inspection that the inspector considers necessary;
 - (b) conduct any tests, take any samples and make any examinations that the inspector considers necessary;
 - (c) require any person whom the inspector finds at a premises to provide the inspector with any information known or available to the person that may be relevant to the inspection;
 - (d) require the production of, inspect and take copies of any records that may be relevant to the inspection, investigation or inquiry;
 - (e) require the production of any thing, plant or seed for the purpose of the inspection; and
 - (f) subject to subsection (2), remove any records examined under this section for the purpose of making copies.

Records

- (2) If an inspector removes any records for copying under this section, the inspector shall
- (a) provide the owner or occupant of the premises from which the records were obtained with a receipt for the records removed;
 - (b) make copies as soon as possible; and
 - (c) after making copies, return the records to the premises from which the records were obtained or another place agreed to by the inspector and the owner or occupier of the premises.

Consent to enter private dwelling

- (3) No inspector shall enter a private dwelling without a warrant unless the occupant consents to the entry.

Application for warrant

- (4) An inspector may make an *ex parte* application for a warrant to enter and search a private dwelling or other premises.

Issuance of warrant

- (5) Where an inspector makes an application under subsection (4), a justice or judge may issue a warrant authorizing the inspector named in the warrant to enter and search any premises named in the warrant, if the justice or judge is satisfied, on information under oath, that there are reasonable and probable grounds to believe that

- (a) an offence under this Act or the regulations is being or has been committed and there is evidence of the offence at the premises proposed to be searched; or
- (b) a safety hazard is present at the premises to be searched that is or may become a significant risk to the safety of persons at or near the premises.

22. Assistance from police officer

An inspector may request assistance from a police officer in conducting an inspection under this Act or the regulations and the police officer shall assist the inspector.

23. Prohibition - hindering or obstructing

- (1) No person shall hinder or obstruct an inspector or a person assisting an inspector in the conduct of an inspection, investigation, inquiry or search under this Act or the regulations.

Exception - refusal of consent

- (2) A refusal of consent to enter a private dwelling is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (1), except where an entry warrant has been obtained.

Tampering

- (3) No person shall tamper with
 - (a) any equipment or materials used by an inspector or a person assisting him or her in the course of an inspection, investigation, inquiry or search under this Act or the regulations; or
 - (b) any results obtained from an inspection, investigation, inquiry or search under this Act or the regulations.

24. Assistance by other persons

An inspector may be accompanied by another person for any purpose mentioned in subsection 21(1), and those persons may carry out inspections, examinations, tests and inquiries and take any samples or do other things as directed by the inspector.

25. Responsibility of occupant, etc.

An occupant of a place or premises and any employees or agents of the owner or occupant

- (a) shall give all reasonable assistance to the inspector to enable the inspector to carry out his or her duties and functions under this Act and the regulations; and
- (b) shall furnish the inspector with the information that he or she reasonably requires for the purposes referred to in subsection 21(1).

26. Onus on person claiming exemption

A person who attempts to rely on an exemption under this Act, or on the non-application of any provision of this Act or the regulations, shall, on the demand of an inspector,

- (a) provide to the inspector the document or other thing specified by the regulations to confirm the exemption or non-application; or
- (b) if no document or other thing is specified by the Act or regulations with respect to the exemption, demonstrate to the inspector's satisfaction the applicability of the exemption or non-application.

PART V - ENFORCEMENT

27. Investigation

- (1) An inspector or a police officer who has reasonable grounds to believe that a contravention of this Act or the regulations has occurred or is occurring in a place or premises may conduct any investigation or inquiry that the inspector or police officer considers necessary.

Powers

- (2) For the purposes of an investigation or inquiry, a police officer has, in addition to the powers and authority of a police officer under the *Police Act* R.S.P.E.I. 1988, Cap. P-11.1, and the specific authority set out in this Part, all of the powers of an inspector under Part IV.

Proof of age

- (3) An inspector or a police officer may request any person who is or appears to be in possession of, consuming or smoking cannabis to produce proof in accordance with the regulations that the person is 19 years of age or older.

Compliance required

- (4) A person referred to in subsection (3) shall comply with the request.

Seizure of cannabis

- (5) An inspector or police officer may seize cannabis from a person referred to in subsection (3) who fails or refuses to comply with the request to produce proof of age.

Seizure related to contravention

- (6) An inspector or police officer may seize anything, including cannabis, if the inspector or police officer has reasonable grounds to believe that
- (a) the thing will afford evidence of a contravention of this Act;
 - (b) the thing was used or is being used in connection with a contravention of this Act, and unless the thing is seized it is likely it would continue to be used or would be used again in a contravention of this Act; or
 - (c) the thing is proceeds of a contravention of this Act.

Seizure - further contravention

- (7) Where a contravention appears to have been committed under this Act and an inspector or police officer has reasonable grounds to believe, in view of the nature of the contravention and the presence of cannabis, that a further contravention is likely to be committed, the inspector or police officer may seize the cannabis and any packages in which it is kept.

Presumption

- (8) In the absence of evidence to the contrary, where an inspector or a police officer seizes a package in circumstances that create a reasonable inference that the contents of the package are or contain cannabis, the contents are deemed to be cannabis.

Presumption respecting sale

- (9) In a proceeding, evidence that an individual left the premises of an authorized vendor with cannabis in the individual's possession is proof, in the absence of evidence to the contrary, that the authorized vendor gave, sold or otherwise supplied the cannabis to the individual.

28. Application to court

- (1) The court may, on the application of a person made within 30 days of the seizure under subsection 27(5), (6) or (7), order that the thing seized be restored without delay to the applicant if the court is satisfied that,
- (a) the applicant is entitled to possession of the thing seized;
 - (b) the thing seized is not required as evidence in any proceeding;
 - (c) continued detention of the thing seized is not necessary to prevent a further contravention of this Act; and
 - (d) it is unlikely that the thing seized will be forfeited on conviction in accordance with an order made under subsection (4).

Order with delayed effect

- (2) Where the court is satisfied that an applicant under subsection (1) is entitled to possession of the thing seized but is not satisfied as to all of the matters mentioned in clauses (1)(b), (c) and (d), it shall order the thing seized to be restored to the applicant,
- (a) on the expiration of three months after the date of the seizure, if no proceedings in respect of an offence have been commenced; or
 - (b) on the final conclusion of any such proceeding.

Forfeit to Crown

- (3) Where no application has been made for the return of a thing seized under subsection 27(5), (6) or (7), or an application has been made but on the hearing of the application no order of restoration has been made, the thing seized is forfeited to the Crown.

Forfeit on conviction

- (4) Where a person is convicted of a contravention of this Act, the court that convicts the person shall order that anything seized under subsections 27(5), (6) or (7) in connection with the offence be forfeited to the Crown, unless the court considers the forfeiture would be unjust in the circumstances.

Application for relief

- (5) Any person with an interest in a thing forfeited under this section may apply to the court for relief against the forfeiture and the court may make an order for any relief that it considers just, including, but not limited to, one or both of the following orders:
- (a) an order directing that the thing or any part of the thing be returned to the applicant;
 - (b) an order directing that any interest in the thing be vested in the applicant.

Restriction on order

- (6) The court shall not order any relief under subsection (5) unless it is satisfied that the applicant did not, directly or indirectly, participate in, or benefit from, any contravention in connection with which the thing was seized.

29. Immediate forfeiture – persons under 19 years of age

Despite sections 27 and 28, where an inspector or police officer seizes cannabis and any package in which it is kept from a person who is under 19 years of age, the cannabis and any package in which it is kept is forfeited to the Crown immediately.



30. Warning or caution

- (1) An inspector or police officer shall, before taking any measures under this Act against a person under the age of 19 years who is alleged to have contravened a provision of this Act, consider whether it would be sufficient
- (a) to take no further action;
 - (b) to warn the young person; or
 - (c) to administer a caution to the young person.

Effect of failure to consider

- (2) The failure of an inspector or police officer to consider the options specified in subsection (1) does not invalidate any subsequent charge against the young person for the contravention.

31. Diversion – persons under 19 years of age

- (1) A inspector or police officer who has reasonable grounds to believe that a person who is under 19 years of age has contravened any section of this Act or the regulations may refer the person to an approved program.

Diversion on stay of proceedings

- (2) A prosecutor may, in exercising a power to stay a proceeding, refer a person under 19 years of age who is charged with a contravention of any provision of this Act or the regulations to an approved program.

PART VI – OFFENCES AND PENALTIES

32. Penalty on conviction

- (1) Every person who contravenes a provision of this Act or the regulations for which no other penalty is provided under this Act is guilty of an offence and liable on summary conviction
- (a) for a first offence, to a fine of not less than \$200 and not more than \$400; and
 - (b) for any subsequent offence, to a fine of not less than \$400 and not more than \$700.

Penalty - unauthorized vendor

- (2) Every person who contravenes section 9 is guilty of an offence and is liable on summary conviction
- (a) for a first offence, to a fine of not less than \$5,000 and not more than \$10,000; and
 - (b) for any subsequent offence, to a fine of not less than \$10,000 and not more than \$20,000.

Penalty, contraventions involving persons under the age of 19 years

- (3) Every person who contravenes clause 11(b), subsection 13(4) or 17(2) or section 20 is guilty of an offence and is liable on summary conviction
- (a) for a first offence, to a fine of not less than \$500 and not more than \$1,250; and
 - (b) for any subsequent offence, to a fine of not less than \$1,250 and not more than \$2,500.

33. Defence, where reasonable steps taken

It is not a defence to a charge arising out of a contravention or failure to comply with clause 11(b), subsection 13(4) or 17(2) or section 20 that the accused believed that a person was 19 years of age or older, unless the accused took reasonable steps to ascertain the person's age.

34. Approved program for person under 19 years of age

Where a person under 19 years of age pleads guilty to or is found to be guilty of an offence under this Act relating to the possession or consumption of cannabis, a provincial court judge, after hearing medical or other evidence, instead of convicting the person, may order that the person be discharged on conditions described in a probation order, including a condition respecting the person's attendance at an approved program.

PART VII – GENERAL

35. Limitation of liability

No action, application or other proceeding lies or shall be instituted against any of the following persons in relation to anything done or purported to be done in good faith, or in relation to anything omitted in good faith, under this Act by the person:

- (a) the Government, the Minister, an employee of Government or a person designated by the Minister to act on the Minister's behalf;
- (b) an inspector or police officer;
- (c) any other person who exercises a power or performs a duty under this Act.

36. Regulations

The Lieutenant Governor in Council may make regulations

- (a) specifying additional places for the purposes of the definition of "private dwelling";
- (b) prescribing the circumstances under which this Act does not prevent the distribution, possession or consumption of cannabis for research purposes, for the purposes of subsection 2(3);
- (c) specifying activities and persons or classes of persons that are exempt from the application of a provision of this Act for the purposes of subsection 2(4);
- (d) specifying the content of an approved program for the purposes of section 4;
- (e) specifying the maximum amount of cannabis that may be stored in a private dwelling for the purposes of clause 8(b);
- (f) specifying standards for the purposes of clauses 8(c) and 12(2)(d);
- (g) specifying requirements for cultivation of cannabis for the purposes of clause 12(2)(c);
- (h) specifying places and prescribing circumstances where consumption of cannabis is permitted for the purposes of clause 13(1)(c);
- (i) specifying places where consumption of cannabis is prohibited for the purposes of subsection 13(2);
- (j) specifying places where consumption of cannabis in a vehicle is prohibited for the purposes of clause 14(1)(b);
- (k) prescribing circumstances under which section 15 does not apply with respect to medical use cannabis;



- (l) exempting a person or class of persons from the application of a provision of this Act;
- (m) specifying documents or other things to be provided to an inspector for the purposes of section 26;
- (n) specifying acceptable forms of identification and proof of age;
- (o) defining a word or expression used, but not defined, in this Act;
- (p) respecting any other matter that may be necessary for the proper administration of this Act.

PART VIII - COMMENCEMENT

37. Coming into force

- (1) Subject to subsection (2), this Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.

Condition

- (2) No provision of this Act shall be proclaimed before the day that Bill C-45, introduced in the first session of the forty-second Parliament and entitled *An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts*, receives Royal Assent.

SCHEDULE 2 CANNABIS MANAGEMENT CORPORATION ACT

PART I - INTERPRETATION AND PURPOSES

1. Definitions

In this Act,

- (a) “**Board**” means the board of directors of the Corporation;
- (b) “**cannabis**” has the same meaning as in the *Cannabis Act* (Canada);
- (c) “**Corporation**” means the Prince Edward Island Cannabis Management Corporation established under section 3;
- (d) “**Crown**” means Her Majesty the Queen in right of the Province of Prince Edward Island;
- (e) “**distribute**” includes administering, giving, transferring, transporting, sending, delivering, providing or otherwise making available in any manner, whether directly or indirectly, and offering to distribute;
- (f) “**federal law**” means an Act of the Parliament of Canada and a regulation made pursuant to an Act of the Parliament of Canada;
- (g) “**licensed producer**” means a person licensed under the *Cannabis Act* (Canada) to produce cannabis for commercial purposes;
- (h) “**Minister**” means the Minister of Finance;
- (i) “**prescribed**” means prescribed by the regulations;
- (j) “**sell**” includes offer for sale, expose for sale and have in possession for sale.

2. Purposes

The purposes of this Act are

- (a) to establish the necessary framework for socially responsible management of the distribution and sale of cannabis and related products; and
- (b) to facilitate and promote the responsible consumption of cannabis and related products in Prince Edward Island.

PART II - CANNABIS MANAGEMENT CORPORATION

3. Corporation established

- (1) On the day at least three directors are appointed under section 9, a corporation without share capital is established under the name Prince Edward Island Cannabis Management Corporation.

Composition

- (2) The Corporation is composed of the members of its board of directors.

Ceases to be a member of the Corporation

- (3) A person ceases to be a member of the Corporation when he or she ceases to be a director.

Power to contract

- (4) The corporation may contract in its corporate name without specific reference to the Crown.

Property

- (5) Property acquired by the Corporation is the property of the Crown and title to the property may be vested in the name of the Crown or in the name of the Corporation.

4. Head office

- (1) The head office of the Corporation is at the City of Charlottetown or another place in the Province as the Corporation may determine.

Agent of Crown

- (2) The Corporation is a Crown corporation and for all purposes of this Act is an agent of the Crown and its powers may be exercised only as an agent of the Crown.

5. Exclusive rights

- (1) The Corporation has the exclusive right, in Prince Edward Island,
- (a) to purchase cannabis, other than medical use cannabis, from a licensed producer; and
 - (b) to conduct retail sales of cannabis.

Exceptions

- (2) For greater certainty, subsection (1) does not apply with respect to sales of cannabis
- (a) for medical purposes in accordance with applicable federal law; or
 - (b) to the Corporation in accordance with applicable federal law.

Sale of accessories

- (3) The Corporation may sell other items, including but not limited to, lighters, storage containers and rolling papers, that are related to or used in the consumption of cannabis.

6. Objects of Corporation

- (1) The Corporation's objects are
- (a) to undertake, implement, organize, conduct and manage the purchase, distribution and sale of cannabis and related products;
 - (b) to determine the varieties, forms or types of cannabis it sells and at what prices;
 - (c) to engage in other activities specified in the regulations or assigned to the Corporation under this or any other Act.

Function of Corporation

- (2) The Corporation has the associated function of facilitating and promoting responsible consumption of cannabis in the province.

7. Powers

- (1) The Corporation,
- (a) except as limited by this Act and the regulations, has the capacity, rights, powers and privileges of a natural person for carrying out its objects; and



- (b) may exercise any powers conferred on a company incorporated under the *Companies Act* R.S.P.E.I. 1988, Cap. C-14, except where those powers are inconsistent with this Act.

Subsidiaries

- (2) The Corporation shall not create or acquire a subsidiary.

Staff

- (3) The Corporation may,
 - (a) subject to the *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8, employ officers, clerks and other employees required for its operations; and
 - (b) suspend any officer, clerk or employee appointed or employed under this Act.

Limitation, acquisition of real property

- (4) The Corporation shall only purchase real property
 - (a) that meets the criteria specified in the regulations; and
 - (b) with the written approval of the Minister.

Terms, conditions

- (5) An approval under clause (4)(b) may be subject to any terms or conditions considered advisable by the Minister.

8. Duties of Board

- (1) The Board shall manage or supervise the management of the Corporation's affairs.

Delegation

- (2) The Board may delegate to a committee of the Board or to an officer or employee of the Corporation any of the Board's powers other than the power to
 - (a) approve the Corporation's budget, including the budget for capital expenditures and staffing;
 - (b) approve the Corporation's business plan, annual report and financial statements;
 - (c) establish committees of the Board and fill vacancies on those committees;
 - (d) make, amend or repeal bylaws; or
 - (e) do any other thing specified in the regulations.

Further delegation

- (3) The Board may authorize that powers delegated to an officer or employee of the Corporation may be further delegated to an employee of the Corporation on any terms that the Board specifies.

9. Composition

- (1) The Board shall consist of five members appointed by the Lieutenant Governor in Council.

Term of office

- (2) A member of the Board shall be appointed for a term not to exceed three years and may be reappointed for a further term not to exceed three years.

Maximum consecutive service

- (3) Subject to subsection (4), a member of the Board shall not serve for more than six consecutive years.

Holdover

- (4) A member of the Board whose term has expired continues to hold office until the member is reappointed under subsection (2) or the member's successor is appointed.

Chair

- (5) The Lieutenant Governor in Council shall designate one of the members of the Board as the chair of the Board.

Vice-chair

- (6) The Board shall designate a vice-chair from among its members.

Vice-chair acts

- (7) If the chair is absent or unable to act, or if the office of the chair is vacant, the vice-chair
- (a) shall act as chair; and
 - (b) may exercise all the powers and authority of the chair.

Acting chair

- (8) If the chair and vice-chair are absent, the members present shall appoint an acting chair from among their number.

Quorum

- (9) A majority of the members of the Board constitutes a quorum.

Remuneration

- (10) The members of the Board shall be paid the remuneration and reimbursed for their expenses as determined by the Lieutenant Governor in Council.

Publication

- (11) The Corporation shall publish on its website the name of each member of the Board and the member's expenses.

10. Bylaws

- (1) The Board may by resolution make, amend or repeal any bylaw governing its proceedings and generally for the conduct and management of the Corporation's affairs.

Financial bylaws

- (2) The Board shall not make, amend or repeal a bylaw relating to borrowing, investing or managing financial risks unless the bylaw, amendment or repeal has been approved by the Minister.

Effective date of bylaws

- (3) A bylaw, an amendment to a bylaw or the repeal of a bylaw is effective from
- (a) in the case of a bylaw referred to in subsection (1), the date specified in the bylaw;
 - (b) in the case of a bylaw referred to in subsection (2), the later of the date the bylaw has received the required approval or the date specified in the bylaw; and
 - (c) in the case of any other bylaw, the date specified in the bylaw.



11. Chief executive officer

- (1) The Lieutenant Governor in Council shall appoint a chief executive officer of the Corporation, who shall
 - (a) have the status of a deputy minister for the purpose of the *Civil Service Act*;
 - (b) supervise the administration and operations of the Corporation; and
 - (c) be paid the remuneration determined by the Lieutenant Governor in Council.

Service at pleasure

- (2) The chief executive officer shall hold office for the term specified in the appointment.

Status as officer

- (3) The chief executive officer is an officer of the Corporation and not a member of the Board.

Responsibilities

- (4) The chief executive officer is responsible for the operation of the Corporation, subject to the supervision and direction of the Board, and for other functions assigned by the Board.

Non-voting attendance

- (5) The chief executive officer may attend and participate at any meeting of the Board but shall not have a vote with respect to any matter to be decided at the meeting.

Exception

- (6) Despite subsection (5), the Board may exclude the chief executive officer from attending any meeting if a matter to be discussed at the meeting involves the position, performance or functions and duties of the chief executive officer.

12. Agreements

- (1) The Corporation may enter into written agreements with any person for the provision of services, advice, assistance, goods or other property to the Corporation.

Personal information

- (2) The Corporation shall take reasonable measures to ensure that any personal information in its custody or control which may be accessed by any person in connection with an agreement referred to in subsection (1) is not collected, used or disclosed by that person except for the purposes of the agreement or as otherwise authorized by law.

Personal information maintained separately

- (3) If an agreement referred to in subsection (1) relates to information technology services or the storing of data belonging to the Corporation, the Corporation shall take reasonable measures to ensure that any of the Corporation's data that includes personal information is maintained separately from any data belonging to the person providing the services.

Interpretation, "personal information"

- (4) In this section, "**personal information**" has the same meaning as in the *Freedom of Information and Protection of Privacy Act* R.S.P.E.I. 1988, Cap. F-15.01.

13. Immunity of employees and others

- (1) No cause of action arises against
- (a) a director, officer or employee of the Corporation as a result of any act done in good faith in the performance or intended performance of his or her duties or any alleged neglect or default in the performance in good faith of his or her duties;
 - (b) the Government, a Minister or an employee of the Government as a result of any act or omission of a person who is not a Minister or an employee, if the act or omission is related, directly or indirectly, to the Corporation's affairs or to the administration of this Act; or
 - (c) a person providing services, assistance or goods to the Corporation as a result of any act or omission of the person, if the act or omission is related, directly or indirectly, to the Corporation's affairs or to the administration of this Act.

No proceeding

- (2) No proceeding, including but not limited to a proceeding for a remedy in contract, restitution, tort or trust, shall be instituted against
- (a) an officer, director or employee of the Corporation by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in clause (1)(a);
 - (b) the Government, a Minister or an employee of the Government by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in clause (1)(b); or
 - (c) a person referred to in clause (1)(c) by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in clause (1)(c).

Liability of Corporation preserved

- (3) Subsections (1) and (2) do not relieve the Corporation of any liability to which it would otherwise be subject.

PART III - FINANCIAL MATTERS AND REPORTING

14. Government property

All property, real or personal, all moneys acquired, administered, possessed or received by the Corporation and all profits earned in the administration of this Act are the property of the Crown, and all expenses, debts and liabilities incurred by the Corporation in connection with the administration of this Act shall be paid by the Corporation from the moneys received by the Corporation in the administration of this Act.

15. Audit

- (1) The accounts of the Corporation shall be audited by the Auditor General or a qualified auditor appointed by the Board, and the audited statements of those accounts shall be included in the Corporation's annual report.

Appointment of auditor

- (2) The Board may appoint a qualified auditor for the purposes of subsection (1).



Annual report to Minister

- (3) The Corporation shall annually make to the Minister a report for the twelve months ending on March 31 in the year in which the report is made, containing
- (a) a report on the Corporation's affairs during the preceding year;
 - (b) the Corporation's audited financial statements, including a statement of its assets and liabilities that includes a profit and loss account, and any other accounts and matters necessary to show the result of the operations of the Corporation for the year;
 - (c) any other information requested by the Minister.

Laying before Legislative Assembly

- (4) The Minister shall lay the annual report before the Legislative Assembly if the Legislative Assembly is then sitting and, if it is not sitting, within 15 days after the opening of the next sitting.

16. Payment of expenses in administration of Act

The Corporation shall make all payments necessary for the administration of this Act, including the payment of

- (a) the remuneration and expenses of the members of the Board;
- (b) the salaries of the officers, directors and employees of the Corporation;
- (c) all expenditures incurred by the Corporation to conduct or support initiatives and programs that promote responsible consumption of cannabis and warn of the harm caused by irresponsible consumption; and
- (d) all expenditures incurred in establishing and maintaining stores and generally in the administration of this Act.

17. Net profits

The net profits of the Corporation remaining from time to time shall be paid into the Operating Fund and be appropriated to the public service of the province.

18. Purchase order

- (1) Every order for the purchase of cannabis shall be authorized by the chief executive officer, and no order shall be valid or binding unless so authorized.

Delegation

- (2) The chief executive officer may in writing delegate his or her authority under subsection (1) to an employee of the Corporation.

Duplicates kept

- (3) A duplicate of every purchase order issued pursuant to this section shall be kept at the principal office of the Corporation.

Cancellation of order

- (4) A cancellation of a purchase order shall be executed in the same manner as its authorization and a duplicate of the cancellation shall be kept as specified in subsection (3).

19. Other reports

The Corporation shall promptly give the Minister any other reports and information that the Minister may request.

Restriction on Operations

20. Restrictions on corporate operations

The Corporation

- (a) shall not sell cannabis unless the cannabis has been produced by a licensed producer;
- (b) shall not sell cannabis to a person under 19 years of age;
- (c) shall keep appropriate records, in accordance with the regulations, respecting its activities in relation to cannabis that it possesses and sells; and
- (d) shall take adequate measures, in accordance with the regulations, to reduce the risk of cannabis under its control being diverted to an illicit market or activity.

Regulations

21. Regulations

The Lieutenant Governor in Council may make regulations

- (a) respecting anything that, under this Act, may or is required to be prescribed, specified, done or provided for by regulation;
- (b) governing the sale of cannabis, including the operation of stores and online sales;
- (c) governing information to be provided or disseminated by the Corporation and the manner of providing or disseminating it;
- (d) governing records to be kept by the Corporation;
- (e) specifying the measures to be taken by the Corporation to reduce the risk that cannabis under its control may be diverted to an illicit market or activity, and prescribing those measures;
- (f) respecting acceptable forms of identification to be provided by purchasers;
- (g) defining words or terms used but not defined in this Act;
- (h) generally as the Lieutenant Governor in Council considers necessary for the administration of this Act.

Transitional Provisions

22. Dissolution of 102173 P.E.I. Inc.

- (1) Despite any provision of the *Companies Act* R.S.P.E.I. 1988, Cap. C-14, the body corporate incorporated under the *Companies Act* on December 28, 2017, under the name 102173 P.E.I. Inc. is dissolved.

Revocation of appointment

- (2) The appointment of a person as chief executive officer of 102173 P.E.I. Inc. is revoked.



Revocation - board of directors

- (3) The appointments of persons as president, secretary and members of the board of directors of 102173 P.E.I. Inc. are revoked.

No action lies

- (4) No action, application or other proceeding lies or shall be instituted against the Corporation, the Minister or the Crown as a result of
- (a) the dissolution of 102173 P.E.I. Inc.;
 - (b) the revocation of the appointment of the chief executive officer; or
 - (c) the revocation of the appointments of the president, secretary and other members of the board of directors.

References to numbered company

- (5) A reference to 102173 P.E.I. Inc. in an Act, other than this Act, or in a regulation, rule, order, bylaw, contract, agreement, arrangement or other instrument shall be read as, unless the context requires otherwise, a reference to the Corporation.

23. Contract, agreement or arrangement

- (1) Subject to subsection (2), a contract, agreement or arrangement entered into by 102173 P.E.I. Inc. continues to be valid and effective.

Further contracts

- (2) In accordance with section 6 of this Act, the Corporation may enter into further contracts, agreements or arrangements with respect to contracts, agreements or arrangements entered into by 102173 P.E.I. Inc. before the commencement of this section.

24. Bylaws revoked

Any bylaws made by the board of directors of 102173 P.E.I. Inc. are revoked.

25. Books, records, etc.

The books, records, documents and files of 102173 P.E.I. Inc. become the books, records, documents and files of the Corporation.

26. Transfer and vesting of property

- (1) On the commencement of this section,
- (a) the property of 102173 P.E.I. Inc. becomes the property of the Corporation; and
 - (b) the claims, rights, liabilities, obligations and privileges of 102173 P.E.I. Inc. are transferred to and become vested in the Corporation.

Citation of authority

- (2) On the commencement of this section, in any document dealing with property transferred to and vested in the Corporation under clause (1)(a) or a claim, right, liability, obligation or privilege transferred to and vested in the Corporation under clause (1)(b), it is sufficient to cite this Act as effecting the transfer to and vesting in the Corporation of the property, claim, right, liability, obligation or privilege.

27. Legal proceedings

- (1) On the commencement of this section,
- (a) subject to clause (b), an existing cause of action or claim by or against 102173 P.E.I. Inc. is unaffected;
 - (b) an action, application or other proceeding pending by or against 102173 P.E.I. Inc. may be continued by or against the Corporation; and
 - (c) a ruling, order or judgment in favour of or against 102173 P.E.I. Inc. may be enforced by or against the Corporation.

Action by Corporation

- (2) On the commencement of this section, the Corporation may bring or maintain in its name any action, application or other proceeding or exercise any power, right or remedy that 102173 P.E.I. Inc. was, could have been or could have become entitled to bring, maintain or exercise on or before the commencement of this section.

28. Protection from liability

No cause of action arises against, and no proceeding, including but not limited to a proceeding for a remedy in contract, restitution, tort or trust, shall be instituted against the former chief executive officer, president, secretary or members of the board of directors of 102173 P.E.I. Inc. or a person acting under the authority of any of them as a result of an act done in good faith in the performance or intended performance of his or her duties or an alleged neglect or default in the performance in good faith of those duties.

29. Indemnity

The former chief executive officer, president, secretary or members of the board of directors of 102173 P.E.I. Inc., or a person acting under the authority of any of them, is not personally liable for any loss or damage suffered by any person by reason of any act done in good faith in the performance or intended performance of his or her duties or an alleged neglect or default in the performance in good faith of those duties.

30. Transmission of title to personal property

Despite any other Act, for the purpose of a document required to be registered under the *Personal Property Security Act* R.S.P.E.I. 1988, Cap. P-3.1, it shall be sufficient in order to show the transmission of title in respect of any personal property or interest in personal property vested in or intended to be vested in the Corporation under subsection 26(1) if the instrument affecting the property or interest cites this Act.

Consequential Amendments

31. Financial Administration Act

- (1) **The *Financial Administration Act* R.S.P.E.I. 1988, Cap. F-9, is amended by this section.**
- (2) **Schedule B to the Act is amended by the addition of the words “Prince Edward Island Cannabis Management Corporation” after the words “Prince Edward Island Agricultural Insurance Corporation”.**



32. Liquor Control Act

(1) The *Liquor Control Act R.S.P.E.I. 1988, Cap. L-14*, is amended by this section.

(2) Section 1 of the Act is amended by the addition of the following after clause (c):

(c.1) “**Corporation**” means the Prince Edward Island Cannabis Management Corporation established under section 3 of the *Cannabis Management Corporation Act R.S.P.E.I. 1988, Cap. C-1.3*;

(3) Section 7 of the Act is amended

(a) in clause (m), by the deletion of the period and the substitution of a semicolon; and

(b) by adding the following after clause (m):

(n) to provide advice and assistance, and to enter into agreements, to support the operations of the Corporation, at the request of the Corporation;

(o) to provide services, advice, assistance, goods and other property to the Corporation at the request of the Corporation.

(4) The Act is amended by adding the following after section 7:

7.1 Additional functions, etc. of Commission

(1) The Commission has the following functions, duties and powers in relation to the Corporation:

(a) to enter into written agreements with the Corporation, at the request of the Corporation, providing that the Commission, or any of its officers or employees, shall provide services, advice, assistance, goods or other property to the Corporation;

(b) to take reasonable measures to ensure that any personal information in the custody or control of the Corporation which may be accessed by an officer or employee of the Commission in connection with an agreement referred to in clause (a) is not collected, used or disclosed by the Commission except in accordance with the agreement or as otherwise authorized by law;

(c) to ensure that any costs incurred for the benefit of both the Commission and the Corporation pursuant to an agreement referred to in clause (a) are apportioned appropriately.

Interpretation, “personal information”

(2) In this section, “**personal information**” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*.

Commencement

33. Commencement

(1) Subject to subsection (2), this Act or any provision of this Act comes into force on a date to be fixed by proclamation of the Lieutenant Governor in Council.

Priority

- (2) No provision of this Act shall be proclaimed before the day that Bill C-45, introduced in the first session of the forty-second Parliament and entitled *An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts*, receives Royal Assent.



**SCHEDULE 3
AN ACT TO AMEND THE HIGHWAY TRAFFIC ACT (NO. 2)**

1. **Clause 1(a) of the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5, is repealed and the following substituted:**
 - (a) **“approved drug screening equipment”** means approved drug screening equipment as defined in section 254 of the *Criminal Code*;
 - (a.001) **“approved instrument”** means an approved instrument as defined in section 254 of the *Criminal Code*;

2. (1) **Subsection 255.1(1.01) of the Act is amended by the addition of the following after clause (b):**
 - (b.1) paragraph 253(3)(a) (blood drug concentration equal to or over legal limit);
 - (b.2) paragraph 253(3)(b) (blood drug concentration equal to or over legal limit, and less than blood concentration prescribed for 253(3)(a));
 - (b.3) paragraph 253(3)(c) (blood alcohol and blood drug concentration equal to or over legal limit for combination);

- (2) **Subsection 255.1(1.1) of the Act is amended**
 - (a) **in clause (a),**
 - (i) **in subclause (xiii), by the addition of the words “or blood drug concentration equal to or over legal limit” after the words “blood alcohol over .08”, and**
 - (ii) **in subclause (xvi), by the addition of the words “or blood drug concentration equal to or over legal limit” after the words “blood alcohol over .08”; and**
 - (b) **by the addition of the following after subclause (b)(vi):**
 - (vi.1) paragraph 253(3)(a) (blood drug concentration equal to or over legal limit),
 - (vi.2) paragraph 253(3)(b) (blood drug concentration equal to or over legal limit, and less than blood concentration prescribed for 253(3)(a)),
 - (vi.3) paragraph 253(3)(c) (blood alcohol and blood drug concentration equal to or over legal limit for combination),

3. (1) **Clauses 277.1(1)(c) and (d) of the Act are repealed and the following substituted:**
 - (c) the person
 - (i) performs a physical coordination test, or
 - (ii) performs or submits to any other test for drugs or a combination of drugs and alcohol that may be in the person’s body for which a demand may be made under section 254 of the *Criminal Code*,

and the peace officer believes, based on the person's performance on the physical coordination test or the results of any other test referred to in this clause, or both, that the person is unable to safely operate or have care or control of the motor vehicle; or

- (d) the person refuses to perform a physical coordination test or to perform or submit to any other test referred to in clause (c) or fails to follow the peace officer's instructions regarding such a test.

(2) **Subsection 277.1(3) of the Act is amended by the deletion of the words "19 years" and the substitution of the words ", subject to subsection (3.02), 22 years".**

(3) **Section 277.1 of the Act is amended by the addition of the following after subsection (3):**

Medical exception to subsection (3)

- (3.01) Where a peace officer requests the surrender of a person's driver's license under clause (1)(c) from a person to whom subsection (3) applies, and the peace officer is satisfied that the person is legally authorized to use a drug for medical purposes and is safely able to operate or have care or control of the motor vehicle, subsection (3) does not apply with respect to the person solely on the basis of the presence of that drug.

Application of subsection (3)

- (3.02) Any person who is not a graduated driver is exempt from the application of subsection (3) if the person
- (a) was 19 years of age or older immediately before the day this subsection came into force; or
- (b) has attained the age of 19 years and, immediately before the day this subsection came into force, was under the age of 19 years and held a driver's license.

(4) **Section 277.1(3.2) of the Act is repealed and the following substituted:**

Seven day suspension of driver's license

- (3.2) Where a peace officer requests the surrender of a person's driver's license under clause (1)(a) or (c), the person's driver's license and driving privileges are suspended and invalid for any purpose for a period of seven days from the time the request is made, regardless of whether the person surrenders the person's driver's license.

(5) **Subsection 277.1(3.3) of the Act is repealed and the following substituted:**

Thirty day suspension of driver's license

- (3.3) Where a peace officer requests the surrender of a person's driver's license under any of clause (1)(a) or (c) or subsection 277.2(1.1) for the second time within a three-year period, the person's driver's license and driving privileges are suspended and invalid for any purpose for a period of 30 days from the time the request is made, regardless of whether the person surrenders the person's driver's license.

(6) **Subsection (3.5) of the Act is repealed and the following substituted:**

Ninety day suspension of driver's license for alcohol

- (3.5) Subject to subsection (3.51), where a peace officer requests the surrender of a person's driver's license under any of clause (1)(a) or (c) or subsection 277.2(1) for the third or



subsequent time within a three-year period, the person's driver's license and driving privileges are suspended and invalid for any purpose for a period of 90 days from the time the request is made, regardless of whether the person surrenders the person's driver's license.

(7) Section 277.1 of the Act is amended by the addition of the following after subsection (3.5):

Ninety day driving prohibition for drugs or drugs and alcohol

(3.51) Where a peace officer requests the surrender of a person's driver's license under clause (1)(c) and subsection (3.5) would, except for this subsection, apply, the peace officer who requested the surrender of the person's driver's license shall impose an administrative driving prohibition pursuant to sections 277.2 to 277.7, and those sections shall apply with the necessary changes.

(8) Subsection 277.1(3.6) of the Act is amended by the addition of the words "or a 90 day driving prohibition under subsection (3) or (3.51)" after the words "subsection (3.5)".

(9) Section 277.1 of the Act is amended by the addition of the following after subsection (5):

Early termination of driving prohibition under subsection (3)

(5.1) Where a peace officer requests the surrender of a person's driver's license under clause (1)(a) or (c) and imposes a driving prohibition under subsection (3), and the person forthwith after the driving prohibition is imposed requests and voluntarily submits to a test at a place designated by the peace officer, the result obtained on the second test governs, and if the peace officer concludes, as the result of the test, that the person does not have alcohol or a drug in the person's body, the driving prohibition and invalidity of the license is thereupon terminated and the peace officer shall return the person's license, if it has been surrendered to the peace officer, to the person.

Early termination of driving prohibition under subsection (3.51)

(5.2) Where a peace officer requests the surrender of a person's driver's license under clause (1)(c) and imposes a driving prohibition under subsection (3.51), and the person forthwith after the driving prohibition is imposed requests and voluntarily submits to a test at a place designated by the peace officer, the result obtained on the second test governs, and if the peace officer concludes, as the result of the test, that the person's ability to safely operate or have care or control of a motor vehicle is not impaired by a drug or a combination of a drug and alcohol, the driving prohibition and invalidity of the license is thereupon terminated and the peace officer shall return the person's license, if it has been surrendered to the peace officer, to the person.

Duty to advise of right to further analysis or test

(5.3) A peace officer shall advise a person of the person's right to voluntarily undergo an analysis or test referred to in subsection (5), (5.1) or (5.2), as the case may be.

(10) Subsection 277.1(10) of the Act is repealed and the following substituted:

Application of section

(10) This section, except for subsections (1), (1.1), (2), (3), (3.01), (3.02), (3.6), (5.1) and (5.3), does not apply to a person to whom subsection (3) applies.

4. (1) Subsection 277.2(1) of the Act is amended

(a) by the repeal of clauses (a) to (c) and the substitution of the following:

- (a) that a person operated a motor vehicle or had care or control of a motor vehicle while the person's ability to operate the motor vehicle was impaired by alcohol or a drug or by a combination of alcohol and a drug;
 - (b) by reason of an analysis of the breath or blood of a person, that a person operated a motor vehicle or had care or control of a motor vehicle having consumed alcohol in such a quantity that the concentration of alcohol in the person's blood exceeded 80 milligrams of alcohol in 100 millilitres of blood at any time within three hours after operating or having care or control of the motor vehicle;
 - (c) by reason of an analysis of a bodily substance of a person, that a person has within two hours after ceasing to operate a motor vehicle or ceasing to have care or control of a motor vehicle a blood drug concentration that is equal to or exceeds any blood drug concentration for the drug that is prescribed by regulation under the *Criminal Code*;
 - (c.1) by reason of an analysis of the breath, blood or other bodily substance of a person, or any combination of them, that a person has within two hours after ceasing to operate a motor vehicle or ceasing to have care or control of a motor vehicle a blood alcohol concentration and a blood drug concentration that is equal to or exceeds the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation under the *Criminal Code* for instances where alcohol and that drug are combined; or
 - (c.2) that a person failed or refused, without a reasonable excuse, to comply with a demand made on the person under section 254 of the *Criminal Code* in respect of the operation or care or control of a motor vehicle,
- (b) in subclause (d)(i), by the addition of the words "request and" before the words "take possession".**

(2) Section 277.2 of the Act is amended by the addition of the following after subsection (1):

Exception

- (1.01) The peace officer shall not take the actions set out in clause (1)(d) or (e) if the peace officer is satisfied that
- (a) the person consumed the drug or the alcohol or both after ceasing to operate the motor vehicle or ceasing to have care or control of the motor vehicle; and
 - (b) the person, after ceasing to operate the motor vehicle or ceasing to have care or control of the motor vehicle, had no reasonable expectation that the person would be required to provide a sample of bodily substance.

5. (1) Subsection 277.7(1) of the Act is repealed and the following substituted:

277.7 Decision of the Registrar

- (1) Where, after considering an application for review under section 277.5, the Registrar is satisfied that



- (a) the person operated a motor vehicle or had care or control of a motor vehicle while the person's ability to operate the motor vehicle was impaired by alcohol or a drug or by a combination of alcohol and a drug;
 - (b) when the person operated a motor vehicle or had care or control of a motor vehicle or within three hours after ceasing to operate a motor vehicle or have care or control of a motor vehicle, the person had a blood alcohol concentration exceeding 80 milligrams of alcohol in 100 millilitres of blood;
 - (c) within two hours after ceasing to operate a motor vehicle or have care or control of a motor vehicle, the person had a blood drug concentration equal to or exceeding any blood drug concentration for the drug that is prescribed by regulation under the *Criminal Code*;
 - (d) within two hours after ceasing to operate a motor vehicle or have care or control of a motor vehicle, the person had a blood alcohol concentration and a blood drug concentration equal to or exceeding the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation under the *Criminal Code* for instances where alcohol and that drug are combined; or
 - (e) knowing that a demand had been made, the person failed or refused to comply with a demand made under section 254 of the *Criminal Code* without a reasonable excuse,
- the Registrar shall confirm the driving prohibition.

(2) Subsection 277.7(2) of the Act is repealed and the following substituted:

Action where evidence does not support prohibition

- (2) Where, after considering an application for review under section 277.5, the Registrar is satisfied
- (a) that the person did not operate a motor vehicle or have care or control of a motor vehicle while the person's ability to operate the motor vehicle was impaired by alcohol or a drug or a combination of alcohol and a drug;
 - (b) that when the person operated a motor vehicle or had care or control of a motor vehicle or within three hours after ceasing to operate a motor vehicle or have care or control of a motor vehicle, the person did not have a blood alcohol concentration exceeding 80 milligrams of alcohol in 100 millilitres of blood;
 - (c) that within two hours after ceasing to operate a motor vehicle or have care or control of a motor vehicle, the person did not have a blood drug concentration equal to or exceeding any blood drug concentration for the drug that is prescribed by regulation under the *Criminal Code*;
 - (d) that within two hours after ceasing to operate a motor vehicle or have care or control of a motor vehicle, the person did not have a blood alcohol concentration and a blood drug concentration equal to or exceeding the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation under the *Criminal Code* for instances where alcohol and that drug are combined;
 - (e) that the person did not fail or refuse to comply with a demand made under section 254 of the *Criminal Code*;
 - (f) that the person had a reasonable excuse for failing or refusing to comply with a demand made under section 254 of the *Criminal Code*;
 - (g) where the request to surrender the person's driver's license was made under clause 277.1(1)(c) to a person to whom subsection 277.1(3) applies, that the person was legally authorized at the time of the request to use the drug that was the sole basis of

the request, for medical purposes, and was safely able to operate or have care or control of the motor vehicle; or

- (h) that
 - (i) the person consumed the drug or the alcohol or both after ceasing to operate the motor vehicle or ceasing to have care or control of the motor vehicle, and
 - (ii) the person, after ceasing to operate the motor vehicle or ceasing to have care or control of the motor vehicle, had no reasonable expectation that the person would be required to provide a sample of bodily substance,

the Registrar shall

- (i) revoke the driving prohibition;
- (j) return any license or permit to operate a motor vehicle taken into possession by a peace officer or sent to the Registrar; and
- (k) direct that the application fee be refunded to the applicant.

6. The Act is amended in the heading immediately preceding section 277.71 by the addition of the words “OR DRUGS” after the word “ALCOHOL”.

7. Clause 277.8(1)(b) of the Act is amended by the deletion of the words “has care and control” and the substitution of the words “has care or control”.

8. (1) Subsections 277.9(9) to (11) of the Act are repealed.

(2) Section 277.9 of the Act is amended in the following provisions by the deletion of the words “under the age of 19 years” and the substitution of the words “, subject to subsection (16), under the age of 22 years”:

- (a) subsections (1), (2), (3) and (4);**
- (b) subclauses (5)(a)(i) and (ii);**
- (c) subclauses (6)(a)(i) and (ii);**
- (d) subsections (13) and (14).**

(3) Section 277.9 of the Act is amended by the addition of the following after subsection (15):

Application of section

- (16) Any person who is not a graduated driver is exempt from the application of this section if the person**
 - (a) was 19 years of age or older immediately before the day this subsection came into force; or**
 - (b) has attained the age of 19 years and, immediately before the day this subsection came into force, was under the age of 19 years and held a driver’s license.**

9. Section 277.91 of the Act is repealed and the following substituted:

277.91 Presence of drugs in bodies of certain drivers -- offence

- (1) Every person who
- (a) is a graduated driver or, subject to subsection (10), under the age of 22 years;
 - (b) is operating or has care or control of a motor vehicle, whether it is in motion or not; and
 - (c) has a drug in such a quantity in the person's body that its presence is detectable by approved drug screening equipment,
- is guilty of an offence.

Samples of oral fluid or other bodily substance

- (2) Where a peace officer believes on reasonable and probable grounds that a person is committing, or at any time within the preceding two hours has committed, as a result of the presence of a drug in the person's body, an offence under subsection (1), the peace officer may, by demand made to that person forthwith or as soon as practicable, require that person to provide then or as soon thereafter as is practicable,
- (a) such samples of oral fluid, as in the opinion of the peace officer, are necessary to enable a proper test to be made by means of approved drug screening equipment; or
 - (b) where the peace officer has reasonable and probable grounds to believe that, by reason of any physical condition of the person,
 - (i) the person may be incapable of providing a sample of his or her oral fluid, or
 - (ii) it would be impracticable to obtain a sample of the person's oral fluid,
- such samples of the person's blood, under the conditions referred to in subsection (3), as in the opinion of the qualified medical practitioner or qualified technician taking the samples are necessary to enable the proper analysis to be made in order to determine the presence, if any, of a drug in the person's blood, and to accompany the peace officer for the purpose of enabling such samples to be taken.

Blood samples

- (3) Samples of blood may only be taken from a person pursuant to a demand made by a peace officer under subsection (2) if the samples are taken by or under the direction of a qualified medical practitioner and the qualified medical practitioner is satisfied that the taking of those samples would not endanger the life or health of the person.

Surrender of license

- (4) A peace officer may request a person who is a graduated driver or, subject to subsection (10), under the age of 22 years to surrender the person's driver's license if, upon demand of the peace officer made under subsection (2), the person fails or refuses to comply with the demand or provides a sample of bodily substance that, on testing, produces a result indicating the presence of a drug contrary to subsection (1).

Further testing

- (5) Where a person provides a sample of oral fluid under subsection (2) that, on testing by approved drug screening equipment, produces a result indicating the presence of a drug contrary to subsection (1), the person may require further testing be made by means of approved drug screening equipment, and if the second test produces a result which indicates that no such drug is present, the result obtained on the second test governs and the peace officer shall return the person's driver's license, if it has been surrendered, to the person.

Peace officer to advise of right to further test

- (6) Where a person provides a sample of oral fluid under subsection (2) that, on testing by approved drug screening equipment, produces a result indicating the presence of a drug, the peace officer who made the demand for the sample shall advise the person of the right under subsection (5) to a further test.

Offence

- (7) Every person who, without reasonable excuse, fails or refuses to comply with a demand made to the person by a peace officer under this section is guilty of an offence.

Proof of breach of condition, offence

- (8) Where a test of the sample of oral fluid or other bodily substance of a person who is a graduated driver or, subject to subsection (10), under the age of 22 years has been made for the purposes of section 277.1, 277.2 or this section and the test has produced a result indicating the presence of a drug, that result shall be, in the absence of evidence to the contrary, proof that the person has breached a condition of his or her driver's license and has committed an offence under subsection (1).

Exception for medical purposes

- (9) Where a peace officer is satisfied that a person who is a graduated driver or, subject to subsection (10), under the age of 22 years is operating or has care or control of a motor vehicle is legally authorized to use a drug for medical purposes, and has that drug in the person's body, subsections (1), (4) and (8) do not apply with respect to that person solely on the basis of the presence of that drug.

Application of section

- (10) Any person who is not a graduated driver is exempt from the application of this section if the person
- (a) was 19 years of age or older immediately before the day this subsection came into force; or
 - (b) has attained the age of 19 years and, immediately before the day this subsection came into force, was under the age of 19 years and held a driver's license.

277.92 Twenty-four hour suspension

- (1) Where the driver's license of a person who is a graduated driver or, subject to subsection (6), under the age of 22 years has been requested for surrender under section 277.91, the person shall surrender the license to the peace officer requesting it forthwith and, whether or not the person is unable or fails to surrender the driver's license to the peace officer, the person's driver's license and driving privileges are suspended for a period of 24 hours from the time the request for surrender is made.

Suspension separate from any other proceeding or penalty

- (2) The suspension of a driver's license and the suspension of driving privileges pursuant to this section are in addition to and not in substitution for any other proceeding or penalty arising from the same circumstances.

Duties of peace officer

- (3) Where a person's driver's license is requested for surrender by a peace officer under section 277.91 and suspended under this section, the peace officer shall

- (a) keep a written record of the license suspended with the name and address of the person and the date and time of the suspension;
- (b) serve on the person a notice of driving suspension in the prescribed form which indicates the duration of the suspension, the date and time from which the suspension takes effect and the reason for the suspension;
- (c) where the person surrenders his or her driver's license, give the person a receipt therefor which indicates the place where the driver's license may be recovered upon the termination of the suspension;
- (d) notify the Registrar in writing of the suspension of the driver's license, giving the name and address shown on the driver's license and the number of the driver's license; and
- (e) provide such particulars respecting the taking of the sample of the person's bodily substance and the conduct and results of any tests made, as the Registrar may require in relation to the matter.

Intent of suspension

- (4) The suspension of the driver's license and driving privileges of a person who is a graduated driver or, subject to subsection (6), under the age of 22 years resulting from a conviction of a breach of a condition of a license that has resulted in the commission of an offence under subsection (1) or by reason of the operation of this section is intended
 - (a) to ensure that the person acquires experience and develops or improves safe driving skills in controlled conditions; and
 - (b) to safeguard the holder of the driver's license and the public.

Administrative driving prohibition

- (5) Where, under this section, the driver's license of a person is suspended, then, in addition to the suspension under this section, the peace officer who requested the surrender of the driver's license of the person shall impose an administrative driving prohibition pursuant to sections 277.2 to 277.7 and those sections shall apply with the necessary changes and, in particular, references in those sections
 - (a) to the ability of the person to operate a motor vehicle being impaired by a drug shall be construed as a reference to the person having a drug in such a quantity in the person's body that its presence is detectable by approved drug screening equipment; and
 - (b) to a certificate of analysis shall be construed as including a reference to a statement of the result of the test of the sample of the person's oral fluid or other bodily substance by approved drug screening equipment.

Application of section

- (6) Any person who is not a graduated driver is exempt from the application of this section if the person
 - (a) was 19 years of age or older immediately before the day this subsection came into force; or
 - (b) has attained the age of 19 years and, immediately before the day this subsection came into force, was under the age of 19 years and held a driver's license.

277.93 Removal and storage or impoundment of vehicle

- (1) Where the motor vehicle driven by a person whose driver's license and driving privileges are suspended under section 277.9 or 277.92 is in a location from which, in the opinion of a

peace officer, the motor vehicle should be removed and there is no person easily available who may lawfully remove the vehicle with the consent of the driver, the peace officer may remove and store the vehicle or cause it to be removed and stored and shall notify the person of its location.

Costs and charges

- (2) The costs and charges incurred in moving and storing a motor vehicle pursuant to subsection (1) shall be paid, before the vehicle is released, by the person to whom the vehicle is released.

Costs of moving and storage

- (3) Where a peace officer requests assistance to remove a motor vehicle under subsection (1), the costs and charges incurred in moving or storing the vehicle, or both, are a lien on the vehicle that may be enforced under the *Garage Keepers' Lien Act* by the person who moved or stored the vehicle at the request of the peace officer.

Impoundment

- (4) Where a peace officer serves a person with a notice of driving suspension under section 277.9 or 277.92, the peace officer may cause the motor vehicle that the person was operating or had in care or control at the time the notice was served to be taken to and impounded at a place directed by the peace officer.

Period of impoundment

- (5) A vehicle impounded under subsection (4) is to remain impounded for a period of 30 days from the date it is impounded.

Provisions respecting impoundments apply

- (6) Subsections 255.1(2), (3) and (4), sections 255.3, 255.4, 255.5 and 255.6, subsection 255.7(1), except clause 255.7(1)(b), subsections 255.7(3) and (4), section 255.9, except subsection 255.9(5), and sections 255.10, 255.11 and 255.12 apply with the necessary changes to an impoundment made under subsection (4).

10. Section 312 of the Act is amended

- (a) in clause (c.1), by the addition of the words “this Act or” after the word “under”;
- (b) by the addition of the following after clause (c.1):
- (c.2) defining words, phrases or terms that are used in this Act and not defined in this Act, or further clarifying words, phrases or terms that are defined in this Act;
- (c) in clause (aa.1), by the deletion of the words “sections 277.1 and 277.9” and the substitution of the words “sections 277.1, 277.9 and 277.92”;
- (d) in subclause (aa.2)(ii), by the addition of the words “, (3.51)” after the words “277.1(3)”; and
- (e) in subclause (aa.2)(iii), by the addition of the words “, 277.92(1) and (3)” after the words “subsections 277.9(4) and (8)”.



- 11. (1) Subject to subsection (2), this Act or any provision of this Act comes into force on a date to be fixed by proclamation of the Lieutenant Governor in Council.**
- (2) No provision of this Act shall be proclaimed before the day that Bill C-46, introduced in the first session of the forty-second Parliament and entitled *An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts*, receives Royal Assent.**

**SCHEDULE 4
AN ACT TO AMEND THE SMOKE-FREE PLACES ACT**

1. **Section 1 of the *Smoke-free Places Act* R.S.P.E.I. 1988, Cap. S-4.2, is amended**
 - (a) **by the repeal of clause (m); and**
 - (b) **in clause (n),**
 - (i) **in subclause (i), by the addition of the words “or another ignited product or substance that is intended to be smoked” after the word “product”, and**
 - (ii) **in subclause (ii), by the deletion of the words “from the device in a manner that resembles smoking tobacco” and the substitution of the words “from the device or instrument in a manner that resembles smoking tobacco or another product or substance that is intended to be smoked”.**
2. **This Act comes into force on a date to be fixed by proclamation of the Lieutenant Governor in Council.**



Chapter 20

(Bill No. 29)

An Act to Respond to the Legalization of Cannabis

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	April 10, 2018
<i>2nd Reading:</i>	May 15, 2018
<i>To Committee:</i>	May 15, 16 & 17, 2018
<i>Reported:</i>	May 15, 16 & 17, 2018
<i>3rd Reading and Pass:</i>	June 12, 2018
<i>Assent:</i>	June 12, 2018

SIGNATURES:

Honourable Antoinette Perry, Lieutenant Governor

Honourable Francis (Buck) Watts, Speaker

Charles H. MacKay, Clerk

Hon. J. Heath MacDonald
Minister of Finance

GOVERNMENT BILL

2018
3rd SESSION, 65th GENERAL ASSEMBLY