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Bill 174

(Chapter 26 of the Statutes of Ontario, 2017)

**An Act to enact the Cannabis Act, 2017, the Ontario Cannabis
Retail Corporation Act, 2017 and the Smoke-Free Ontario Act, 2017,
to repeal two Acts and to make amendments to the Highway Traffic Act
respecting alcohol, drugs and other matters**

The Hon. Y. Naqvi
Attorney General

1st Reading	November 1, 2017
2nd Reading	November 23, 2017
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EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 174 and does not form part of the law.
Bill 174 has been enacted as Chapter 26 of the Statutes of Ontario, 2017.*

The Bill enacts the *Cannabis Act, 2017* (Schedule 1) and the *Ontario Cannabis Retail Corporation Act, 2017* (Schedule 2). It also repeals the *Smoke-Free Ontario Act* and the *Electronic Cigarettes Act, 2015* and replaces them with the *Smoke-Free Ontario Act, 2017* (Schedule 3), and makes amendments to the *Highway Traffic Act* regarding driving with alcohol or drugs present in the body and other matters (Schedule 4).

SCHEDULE 1 CANNABIS ACT, 2017

The Schedule enacts the *Cannabis Act, 2017*.

Section 1 of the Act sets out the purposes of the Act, which include establishing prohibitions respecting cannabis, within the meaning of section 2 of the Act, in order to protect youth, public health and safety, as well as to deter illicit activities in relation to cannabis through appropriate enforcement and sanctions. Sections 2 to 4 of the Act deal with definitions and interpretive matters. Section 5 of the Act sets out circumstances in which certain provisions of the Act or regulations do not apply. For example, subject to certain exceptions, the Act and the regulations do not apply with respect to cannabis produced for medical purposes under applicable federal law. Other exemptions from the Act or the regulations may be specified by regulations made by the Lieutenant Governor in Council.

The prohibitions respecting cannabis that are established by the Act are set out in sections 6 to 13 of the Act. Section 6 provides that no person is permitted to sell cannabis other than the Ontario cannabis retailer established under the *Ontario Cannabis Retail Corporation Act, 2017*, and that cannabis may not be distributed unless it has been or is intended to be sold by the Ontario cannabis retailer. Sections 7 and 8 set out prohibitions on selling or distributing cannabis to persons under 19 years of age and to persons who are or appear to be intoxicated. Under section 9, cannabis may only be purchased from the Ontario cannabis retailer. Section 10 prohibits persons under 19 years of age from possessing, consuming, purchasing or attempting to purchase, distributing, cultivating, propagating or harvesting cannabis or offering to cultivate, propagate or harvest it. Section 11 restricts the places where cannabis may be consumed. Section 12 restricts the transport of cannabis in a vehicle or boat, unless certain conditions are met. Section 13 prohibits landlords from knowingly permitting their premises to be used in relation to the unlawful sale or distribution of cannabis.

Sections 14 to 21 of the Act address compliance and enforcement. Under section 14, a police officer may require a person who attempts to rely on an exemption under the Act to provide specified confirmation of the exemption. Section 15 prohibits a person from knowingly possessing the proceeds of an offence under the Act, and section 16 creates authority for police officers to seize cannabis or any other thing in specified circumstances. Section 17 provides that a police officer may require that premises be vacated if there are reasonable grounds to believe that the Act is being contravened on the premises, and restricts persons who are required to vacate from re-entering the premises on the same day. Section 18 gives police officers authority to temporarily close premises, other than premises used for residential purposes, if a charge is laid under section 6 or 13 of the Act that implicates the premises. Section 19 sets out the circumstances in which a police officer may arrest a person without a warrant in relation to apparent contraventions of the Act. Section 20 provides authority to police officers and prosecutors to refer persons who are charged with an offence under section 10 (prohibited activities by persons under 19 years of age) to youth education or prevention programs that are approved under section 27 for the purpose by the Minister responsible for the administration of the Act.

Contraventions of the Act, the regulations or any order made under the Act constitute an offence under section 22 of the Act. Sections 23 to 25 of the Act set out the applicable penalties on conviction and other orders that the convicting court may make in relation to an offence under the Act.

Section 26 of the Act provides that arrangements and agreements may be entered into with respect to the sale, distribution, purchase, possession, consumption, cultivation, propagation or harvesting of cannabis on a reserve. Regulation-making powers of the Lieutenant Governor in Council are set out in section 28 of the Act.

Complementary amendments are made to a number of Acts, most significantly to the *Education Act* and to the *Liquor Licence Act*. Section 30 of the Act makes amendments to Part XIII of the *Education Act* to amend the list of purposes of the code of conduct governing the behaviour of all persons in schools so that it refers to discouraging the use of cannabis, except by a medical cannabis user; to amend the list of activities leading to possible suspension so that it refers to possessing and being under the influence of cannabis, unless the pupil is a medical cannabis user; and to amend the list of activities leading to suspension so that it refers to giving cannabis to a minor. The *Liquor Licence Act* is amended to incorporate referrals to youth education or prevention programs under that Act, as a parallel to the corresponding provisions in the *Cannabis Act, 2017*.

SCHEDULE 2 ONTARIO CANNABIS RETAIL CORPORATION ACT, 2017

The Schedule enacts the *Ontario Cannabis Retail Corporation Act, 2017*.

The Act provides for the establishment of the Ontario Cannabis Retail Corporation. The Corporation has the exclusive right to sell cannabis in Ontario, with the exceptions specified in section 2. The Corporation's objects are set out in section 4.

The Corporation has the capacity, rights, powers and privileges of a natural person, except as limited in the Act and the regulations. The Corporation is an agent of the Crown and is deemed to be a government agency for the purposes of the *French Language Services Act*. (See sections 5 to 7)

The appointment, composition and duties of the Corporation's board of directors are provided for. An individual who is a member of the Liquor Control Board of Ontario ("LCBO") is eligible to be appointed as a member of the Corporation's board of directors and, if so appointed, does not have a conflict of interest by virtue only of the fact that he or she is also a member of the LCBO. The Corporation must enter into a memorandum of understanding with the LCBO. The Corporation may make by-laws, and the memorandum of understanding with the LCBO may provide that certain by-laws of the Corporation must be approved by the LCBO. (See sections 8 to 11)

The Corporation's officers and staff are provided for, as are certain corporate law rules and immunities. The Corporation may enter into written agreements with the LCBO. Rules are established with respect to personal information and other data to which a written agreement may relate. The Corporation may, if authorized by the Minister, enter into agreements for the sale of cannabis by agents. (See sections 12 to 17)

The Act contains provisions respecting financial matters of the Corporation. (See sections 18 to 23)

The Corporation's accounts and financial transactions are to be audited annually by the Auditor General. The Corporation's annual report and other reports are provided for. (See sections 24 to 26)

Certain restrictions on the Corporation's operations are established in connection with applicable federal law. Also, arrangements and agreements may be entered into with respect to cannabis that is sold and delivered to a purchaser on a reserve. (See sections 27 and 28)

The Lieutenant Governor in Council's regulation making powers are set out. (See section 29)

Complementary amendments are made to the *Liquor Control Act* with respect to the LCBO. Among other things, the powers and purposes of the LCBO are amended to include powers relating to the oversight of the Ontario cannabis retailer established under the *Ontario Cannabis Retail Corporation Act, 2017*. The LCBO is authorized to enter into written agreements with the Ontario cannabis retailer. If the agreements or arrangements are for the benefit of both the Board and the Ontario cannabis retailer, the Board must ensure that the costs are apportioned appropriately as between the two. The LCBO's annual report must include information about both the LCBO and the Ontario cannabis retailer. The LCBO must comply with directives issued by the Management Board of Cabinet with respect to the annual report.

SCHEDULE 3 SMOKE-FREE ONTARIO ACT, 2017

The *Smoke-Free Ontario Act* and the *Electronic Cigarettes Act, 2015* are repealed and replaced by the *Smoke-Free Ontario Act, 2017*.

The new Act applies to tobacco products, vapour products and medical cannabis, and to other products and substances that may be prescribed in the regulations.

Some of the provisions of the *Smoke-Free Ontario Act, 2017* are set out below.

It is prohibited to sell or supply tobacco products, vapour products and prescribed products and substances to persons under 19.

Restrictions are placed on the display and promotion of tobacco products, tobacco product accessories, vapour products and prescribed products and substances.

The sale of tobacco products, vapour products and prescribed products and substances is prohibited in certain places. (Some examples: pharmacies, hospitals and schools.)

Prescribed signs in retail stores are required with respect to tobacco products, vapour products and prescribed products and substances.

Tobacco products, vapour products and prescribed products and substances must be packaged in accordance with the regulations.

Restrictions are placed on the sale of flavoured tobacco products and certain flavoured vapour products and prescribed products and substances.

Subject to certain exceptions, vending machines for selling tobacco products, vapour products and prescribed products and substances are prohibited.

The smoking of tobacco or medical cannabis, the use of electronic cigarettes and the consumption of prescribed products and substances is prohibited in a number of places, such as enclosed public places, enclosed workplaces, schools, child care centres, and the reserved seating areas of sporting arenas. This is subject to certain exemptions, such as controlled use areas

in long-term care homes, and designated hotels rooms. Obligations are placed on employers and proprietors with respect to the places where the prohibitions apply.

Home health-care workers are protected from the use in their presence of tobacco, medical cannabis, electronic cigarettes and prescribed products and substances.

It is provided that no one shall do any of the following in a motor vehicle:

1. Smoke tobacco or have lighted tobacco while another person who is less than 16 years old is present in the vehicle.
2. Use an electronic cigarette or have an activated electronic cigarette while another person who is less than 16 years old is present in the vehicle.
3. Smoke medical cannabis, have lighted medical cannabis, use an electronic cigarette containing medical cannabis or have an activated electronic cigarette containing medical cannabis.
4. Consume a prescribed product or substance, in a prescribed manner, or have a prescribed product or substance.

Despite the other prohibitions in the Act, the traditional use of tobacco by Indigenous persons is protected.

Enforcement provisions, penalties and regulation-making powers are provided for.

SCHEDULE 4 **AMENDMENTS TO THE HIGHWAY TRAFFIC ACT**

The Schedule amends the *Highway Traffic Act* regarding driving with alcohol or drugs present in the body, as follows:

1. The Schedule provides that it is a condition of the driver's licence of novice drivers and young drivers that there be no drug in the driver's body while driving. If a driver contravenes the condition, the driver is guilty of an offence and on conviction is liable to a fine between \$60 and \$500. In addition, the driver's licence of a young driver is suspended for 30 days, and the driver's licence of a novice driver may be suspended, cancelled or changed by the Registrar in accordance with the regulations.
2. The Schedule provides for administrative driver's licence suspensions for a period between three and 30 days if a novice driver, young driver or driver of a commercial motor vehicle is found to have a drug in his or her body while driving.
3. Exceptions are made to the rules respecting driving with a drug in the body if a police officer is satisfied that the driver is legally authorized to use the drug for medical purposes.
4. Provisions are added regarding the breath testing of drivers of commercial motor vehicles. If a breath test indicates that alcohol is present in a driver's body, the driver may be requested to surrender his or her driver's licence and the driver's licence may be suspended for three days.

The Schedule makes several other amendments, including the following:

1. A new provision states that where both an administrative penalty and an offence arise from the same circumstances, the court may take the amount of the administrative penalty into account when determining the penalty for the offence.
2. Various sections that establish different rules for novice drivers or young drivers are amended to provide that the age distinctions apply despite the *Human Rights Code*.
3. Penalties are increased for convictions of the offence of driving while a display screen is visible to the driver, or driving while holding a hand-held wireless communication device or similar device. The fine is a minimum of \$500 to a maximum of \$3,000. The driver's licence shall also be suspended for a period between three and 30 days.
4. The Act is amended to provide that a person who drives carelessly and thereby causes bodily harm or death to a person is liable to a fine of between \$2,000 and \$50,000, imprisonment for up to two years and the suspension of his or her driver's licence or permit for up to five years. The court shall consider, as an aggravating factor, whether the person who was harmed or killed was a vulnerable person such as a pedestrian or cyclist.
5. Increased and escalating fines are provided for failing to yield to pedestrians at pedestrian crossovers, at crosswalks at signalized intersections and at school crossing areas with a school crossing guard.
6. Currently, the maximum fine for a contravention of the Act or regulation, unless otherwise provided, is \$500. The Schedule raises the maximum fine to \$1,000.
7. New provisions address the requirements of drivers and streetcar operators when a school bus has its overhead red signal-lights flashing or its stop arm actuated.
8. A new Part is added providing for the use of automated school bus camera systems and evidence obtained from such systems.
9. Currently, certain emergency and enforcement vehicles are permitted to display red flashing lights only. The Schedule permits such vehicles to also display red flashing lights in combination with blue flashing lights.

10. A new regulation-making power is added to permit regulations to be made addressing transitional matters that may arise as a result of amendments to the *Criminal Code* (Canada).

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Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (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.

Short title

3 The short title of this Act is the *Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017*.

SCHEDULE 1 CANNABIS ACT, 2017

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PURPOSES, INTERPRETATION AND APPLICATION

Purposes

1 The purposes of this Act are,

- (a) to establish prohibitions relating to the sale, distribution, purchase, possession, cultivation, propagation and harvesting of cannabis in order to,
 - (i) protect public health and safety,
 - (ii) protect youth and restrict their access to cannabis, and
 - (iii) ensure the sale of cannabis in accordance with the *Ontario Cannabis Retail Corporation Act, 2017*;
- (b) to deter illicit activities in relation to cannabis through appropriate enforcement and sanctions; and
- (c) to provide for approved youth education or prevention programs, including culturally appropriate programs for Indigenous youth, as an alternative to enforcement and sanctions.

Definitions

2 (1) In this Act,

“approved youth education or prevention program” means a program approved under section 27; (“programme approuvé d’éducation ou de prévention pour jeunes”)

“boat” includes any ship or boat or any other description of a vessel used or designed to be used in the navigation of water; (“bateau”)

“cannabis” means a cannabis plant and anything referred to in subsection (2), but does not include anything referred to in subsection (3); (“cannabis”)

“cannabis plant” means a plant that belongs to the genus Cannabis; (“plante de cannabis”)

“distribute” includes administering, giving, transferring, transporting, sending, delivering, providing or otherwise making available in any manner, whether directly or indirectly, and offering to distribute or having in possession for distribution; (“distribuer”)

“Minister” means the Attorney General or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“Ontario cannabis retailer” means the corporation established under section 3 of the *Ontario Cannabis Retail Corporation Act, 2017*; (“organisme ontarien de vente du cannabis”)

“premises” means lands and structures or either of them, including trailers and portable structures designed or used for residence, business or shelter, and includes part of a premises; (“lieu”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“regulations” means the regulations made under this Act; (“règlements”)

“sell” includes offer for sale, expose for sale and have in possession for sale; (“vente”)

“vehicle” means,

- (a) a motor vehicle as defined in the *Highway Traffic Act*,
- (b) a motorized snow vehicle as defined in the *Motorized Snow Vehicles Act*, and
- (c) any other vehicle that may be prescribed. (“véhicule”)

Same, cannabis

(2) The following are included in the definition of “cannabis” in subsection (1), subject to the regulations:

1. Any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not, other than a part of the plant referred to in subsection (3).
2. Any substance or mixture of substances that contains or has on it any part of such a plant.
3. Any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained.

Same

(3) The following are not included in the definition of “cannabis” in subsection (1), subject to the regulations:

1. A non-viable seed of a cannabis plant.
2. A mature stalk, without any leaf, flower, seed or branch, of such a plant.
3. Fibre derived from a stalk referred to in paragraph 2.
4. The root or any part of the root of such a plant.

Regulations, cannabis

(4) The Lieutenant Governor in Council may make regulations amending subsections (2) and (3) by adding or deleting from either or both of them any thing or portion of a thing.

Interpretation, retailer employees

3 For the purposes of this Act and the regulations,

- (a) the sale or distribution of cannabis by the Ontario cannabis retailer includes the sale or distribution of cannabis by an employee of the Ontario cannabis retailer when the employee is acting in that capacity; and

- (b) the purchase of cannabis from the Ontario cannabis retailer includes the purchase of cannabis from an employee of the Ontario cannabis retailer when the employee is acting in that capacity.

Interpretation, reference to agents included

4 Except as otherwise provided by the regulations, a reference in this Act or the regulations to the Ontario cannabis retailer includes a reference to every agent of the Ontario cannabis retailer under section 16 of the *Ontario Cannabis Retail Corporation Act, 2017* that is prescribed for the purposes of clause 2 (2) (c) of that Act.

General non-application, exemptions

Cannabis for medical purposes

5 (1) Subject to sections 11 and 12, this Act and the regulations do not apply with respect to the sale, distribution, purchase or attempt to purchase, possession, consumption, offering to cultivate or cultivation, offering to propagate or propagation or offering to harvest or harvesting of cannabis for medical purposes under the authority of applicable federal law, or to cannabis produced or obtained for medical purposes under such authority.

Cannabis for research and educational purposes

(2) This Act does not prevent the distribution, possession or consumption of cannabis for research or educational purposes in the prescribed circumstances.

Cannabis supply chain

(3) This Act and the regulations do not apply, to the extent provided by 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 in connection with the *Ontario Cannabis Retail Corporation Act, 2017*.

Regulations

(4) In addition to subsections (1), (2) and (3), the Lieutenant Governor in Council may make regulations exempting any person, place or thing from any provision of this Act or the regulations or providing that this Act and the regulations or any provision of this Act or the regulations do not apply in respect of any person, place, thing or circumstance, and specifying conditions or restrictions for any such exemption or non-application.

PROHIBITIONS RESPECTING CANNABIS

Unlawful sale, distribution

Sale

6 (1) No person shall sell cannabis, other than the Ontario cannabis retailer.

Distribution

(2) No person shall distribute cannabis that is sold, or that is intended to be sold, other than by the Ontario cannabis retailer.

Prohibitions on sale, distribution to persons under 19

7 (1) No person shall knowingly sell or distribute cannabis to a person under 19 years of age.

Identification

(2) No person shall sell cannabis or, if cannabis is not provided to the purchaser at the time of sale, no person shall deliver purchased cannabis, to a person who appears to be under 25 years of age unless the person selling or delivering the cannabis, as the case may be, has required the person receiving it to provide a prescribed form of identification showing his or her age, and is satisfied that the person is at least 19 years old.

Defence

(3) It is a defence to a charge under subsection (2) that the defendant believed the person receiving the cannabis to be at least 19 years of age because the person produced the identification referred to in that subsection and there was no apparent reason to doubt the authenticity of the document or that it was issued to the person producing it.

Improper documentation

(4) No person shall present as evidence of his or her age any documentation other than documentation that was lawfully issued to him or her.

Prohibition on sale, distribution to intoxicated person

8 No person shall knowingly sell or distribute cannabis to a person who is or appears to be intoxicated.

Unlawful purchase

9 No person shall purchase cannabis except from the Ontario cannabis retailer.

Prohibitions on possession, etc., by persons under 19

Possession, consumption, purchase, distribution

10 (1) No person under 19 years of age shall possess, consume, attempt to purchase, purchase or distribute cannabis.

Cultivation, propagation, harvesting

(2) No person under 19 years of age shall cultivate, propagate or harvest, or offer to cultivate, propagate or harvest, cannabis.

Restrictions on places of consumption

11 (1) No person shall consume cannabis in,

- (a) a public place;
- (b) a workplace within the meaning of the *Occupational Health and Safety Act*;
- (c) a vehicle or boat; or
- (d) any prescribed place.

Cannabis for medical purposes

(2) A medical cannabis user may consume cannabis for medical purposes in a place referred to in subsection (1), subject to any prohibitions or restrictions set out in the regulations or under the *Smoke-Free Ontario Act, 2017*.

Definitions

(3) In this section,

“medical cannabis user” means a person who is authorized to possess cannabis for the person’s own medical purposes in accordance with applicable federal law; (“consommateur de cannabis thérapeutique”)

“public place” includes any place to which the public has access as of right or by invitation, whether express or implied, and whether or not a fee is charged. (“lieu public”)

Transporting cannabis

12 (1) No person shall drive or have the care or control of a vehicle or boat, whether or not it is in motion, while any cannabis is contained in the vehicle or boat.

Exception

(2) Subsection (1) does not apply with respect to cannabis,

- (a) that is packed in baggage that is fastened closed or is not otherwise readily available to any person in the vehicle or boat; and
- (b) that meets any prescribed requirements.

Search of vehicle or boat

(3) A police officer who has reasonable grounds to believe that cannabis is being contained in a vehicle or boat in contravention of subsection (1) may at any time, without a warrant, enter and search the vehicle or boat and search any person found in it.

Cannabis for medical purposes

(4) This section applies to cannabis obtained for medical purposes in accordance with applicable federal law, except in such circumstances as may be prescribed.

Landlords

13 (1) No person shall knowingly permit a premises of which he or she is a landlord to be used in relation to an activity prohibited by section 6.

Defence

(2) It is a defence to a charge under subsection (1) that the defendant took reasonable measures to prevent the activity.

Definition

(3) In this section,

“landlord” means, in respect of a premises, a person who is a lessor, owner or person permitting the occupation of the premises, and includes an owner of a premises that has not been vacated by the tenant despite the expiry of the tenant’s lease or right of occupation.

COMPLIANCE AND ENFORCEMENT

Requirement to demonstrate exemption

14 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 a police officer,

- (a) provide to the police officer 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 regulations with respect to the exemption, demonstrate to the police officer's satisfaction the applicability of the exemption or non-application.

Possession of proceeds

15 (1) No person shall knowingly possess the proceeds of an offence under this Act.

Definition, "proceeds"

(2) In this section and in section 16,

"proceeds", in relation to an offence under this Act, means,

- (a) personal property, other than money, derived in whole or in part, directly or indirectly, from the commission of the offence, and
- (b) money derived directly or indirectly from the commission of the offence.

Seizure

16 (1) A police officer may seize any thing, including cannabis, if the police officer has reasonable grounds to believe that,

- (a) the thing will afford evidence of an offence under this Act;
- (b) the thing was used or is being used in connection with the commission of an offence under this Act, and unless the thing is seized it is likely that it would continue to be used or would be used again in the commission of an offence under this Act; or
- (c) the thing is proceeds of an offence under this Act.

Same

(2) If an offence appears to have been committed under this Act and a police officer has reasonable grounds to believe, in view of the offence apparently committed and the presence of cannabis, that a further offence is likely to be committed, the police officer may seize the cannabis and any packages in which it is kept.

Order of restoration

(3) The Ontario Court of Justice may, on the application of any person made within 30 days after a seizure under subsection (1) or (2), order that the things seized be restored without delay to the applicant if the court is satisfied that,

- (a) the applicant is entitled to possession of the things seized;
- (b) the things seized are not required as evidence in any proceeding;
- (c) continued detention of the things seized is not necessary to prevent the commission of an offence; and
- (d) it is unlikely that the things will be forfeited on conviction in accordance with an order made under subsection (6).

Same

(4) If the court is satisfied that an applicant under subsection (3) is entitled to possession of the things seized but is not satisfied as to all of the matters mentioned in clauses (3) (b), (c) and (d), it shall order that the things seized be restored to the applicant,

- (a) on the expiration of three months after the date of the seizure, if no proceeding in respect of an offence has been commenced; or
- (b) on the final conclusion of any such proceeding.

Forfeiture

(5) If no application has been made for the return of a thing seized under subsection (1) or (2), 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.

Same

(6) If a person is convicted of an offence under this Act, the court that convicts the person shall order that any thing seized under subsection (1) or (2) in connection with the offence be forfeited to the Crown, unless the court considers that the forfeiture would be unjust in the circumstances.

Relief against forfeiture

(7) Any person with an interest in a thing forfeited under this section may apply to the Superior Court of Justice for relief against the forfeiture and the court may make an order providing for any relief that it considers just, including, but not limited to, one or more of the following orders:

1. An order directing that the thing or any part of the thing be returned to the applicant.
2. An order directing that any interest in the thing be vested in the applicant.
3. An order directing that an amount be paid by the Crown to the applicant by way of compensation for the forfeiture.

Same

(8) The court shall not order any relief under subsection (7) unless it is satisfied that the applicant did not, directly or indirectly, participate in, or benefit from, any offence in connection with which the thing was seized.

Removing persons from premises

17 (1) If a police officer has reasonable grounds to believe that this Act or a prescribed provision of the regulations is being contravened on any premises, the police officer may require that one or more persons vacate the premises.

Not to remain after being required to leave

- (2) No person shall,
- (a) remain on the premises after being required to vacate the premises under subsection (1); or
 - (b) re-enter the premises on the same day the person is required to vacate, unless a police officer authorizes the person to re-enter.

Persons residing in premises

(3) Subsection (1) does not apply in respect of persons residing in the premises.

Interim closure of premises

18 (1) If a charge is laid against a person for a contravention of section 6 and a police officer has reasonable grounds to believe that a premises was used in the alleged contravention, the police officer may cause the premises to be closed immediately and any persons on the premises to be removed.

Same

(2) If a charge is laid against a person for a contravention of section 13, a police officer may cause the premises that is the subject of the alleged contravention to be closed immediately and that any persons on the premises be removed.

Barring of entry

(3) If a premises is closed under subsection (1) or (2), the applicable police force shall bar entry to all entrances to the premises until the final disposition of the charge, subject to an order under subsection (4).

Order lifting closure

(4) On application by a person who has an interest in the premises, the Superior Court of Justice may order that entry to the premises cease to be barred, subject to any conditions specified by the court, if,

- (a) the court is satisfied that the use to which the premises will be put will not contravene section 6 or 13, as the case may be; and
- (b) if the applicant is the person charged, the applicant posts a cash bond for \$10,000 or such greater amount as the court may specify, for the term specified by the court, to ensure that the premises will not be used in contravention of that section.

Forfeiture of bond

(5) If, after an applicant posts a cash bond under clause (4) (b) and before the final disposition of the charge, another charge is laid against the applicant for contravening section 6 or 13, as the case may be, in relation to the same premises, the Superior Court of Justice may, on application, order the forfeiture of the bond to the Crown.

No appeal

(6) No appeal lies from an order made under subsection (5).

Non-application

(7) This section does not apply with respect to a premises used for residential purposes.

Arrest without warrant

19 If a police officer finds a person apparently in contravention of this Act or apparently in contravention of a prescribed provision of the regulations and the person refuses to give his or her name and address or the police officer has reasonable grounds to believe that the name or address given is false, the police officer may arrest the person without warrant.

Youth education, prevention program referrals

20 (1) A police officer who has reasonable grounds to believe that a person who is under 19 years of age has contravened section 10 may refer the person to an approved youth education or prevention program.

Same

(2) A prosecutor may, in exercising a power to stay a proceeding under subsection 32 (1) of the *Provincial Offences Act* or a right to withdraw a charge, refer a person who is charged with a contravention of section 10 of this Act to an approved youth education or prevention program.

Provincial offences officer

21 A power that may be exercised under this Act by a police officer, other than a power set out in section 19, may also be exercised by a person designated under subsection 1 (3) of the *Provincial Offences Act* for the purposes of this Act.

OFFENCES AND PENALTIES AND OTHER RELATED ORDERS

Offences

22 (1) A person who contravenes any provision of this Act or the regulations, or any order made under this Act, is guilty of an offence.

Same, directors or officers

(2) A director or officer of a corporation who causes, authorizes, permits or participates in an offence under this Act by the corporation is guilty of an offence.

Limitation

(3) No proceeding under this section shall be commenced more than two years after the day the offence was, or is alleged to have been, committed.

Penalties

General

23 (1) Subject to subsections (2) to (7), on conviction for an offence under this Act,

- (a) a corporation is liable to a fine of not more than \$250,000; and
- (b) an individual is liable to a fine of not more than \$100,000 or to imprisonment for a term of not more than one year, or both.

Penalties: sale, distribution; landlords

(2) An individual who is convicted for contravening section 6 or 13 is liable,

- (a) on a first conviction in respect of the section, a fine of not more than \$250,000 or to imprisonment for a term of not more than two years less a day, or both; and
- (b) on a subsequent conviction in respect of the section, a fine of not more than \$100,000 for each day or part of a day on which the offence occurs or continues or to imprisonment for a term of not more than two years less a day, or both.

Same, corporation

(3) A corporation that is convicted for contravening section 6 or 13 is liable,

- (a) on a first conviction in respect of the section, a fine of at least \$25,000 and not more than \$1,000,000; and
- (b) on a subsequent conviction in respect of the section, a fine of at least \$10,000 and not more than \$500,000 for each day or part of a day on which the offence occurs or continues.

Penalty: sale, distribution to persons under 19

(4) Upon conviction for contravening section 7,

- (a) a corporation is liable to a fine of not more than \$500,000; and

(b) an individual is liable to a fine of not more than \$200,000 or to imprisonment for a term of not more than one year, or both.

Penalty: possession, consumption, cultivation if under 19

(5) An individual who is convicted for contravening section 10 is liable to a fine of not more than \$200, subject to subsection (7).

Penalty: places of consumption

(6) An individual who is convicted for contravening section 11 is liable,

- (a) on a first conviction in respect of the section, a fine of not more than \$1,000; and
- (b) on a subsequent conviction in respect of the section, a fine of not more than \$5,000.

Youth education, prevention program participation

(7) Instead of ordering a penalty under subsection (5), the court that convicts an individual for contravening section 10 may, as a condition in a probation order or otherwise, require the individual's participation in one or more approved youth education or prevention programs, subject to any conditions or restrictions that the court may specify.

Additional orders

24 In addition to any other remedy or penalty provided by law, the court that convicts a person under this Act may, on its own initiative or on the motion of the prosecutor, make one or more of the following orders:

1. An order requiring the person, within the period or periods specified in the order, to do or refrain from doing anything specified in the order.
2. An order imposing requirements that the court considers appropriate to prevent similar unlawful conduct or to contribute to the person's rehabilitation.
3. An order prohibiting the continuation or repetition of the offence by the person.
4. An order under section 25, subject to subsection 25 (11).

Order to close premises

25 (1) The court that convicts a person under this Act may order that a premises be closed to any use for a period not exceeding two years if,

- (a) the person was convicted for contravening section 6, and the premises was used in the contravention; or
- (b) the person was convicted for contravening section 13 in relation to the premises.

Barring of entry

(2) If a closing order is made under subsection (1), the applicable police force shall bar entry to all entrances to the premises to which the order applies until the order is suspended or discharged under this section.

Suspension

(3) On application by any person who has an interest in the premises, the Superior Court of Justice may suspend the order for the period specified by the court, subject to any conditions specified by the court, if,

- (a) the court is satisfied that the use to which the premises will be put will not contravene section 6 or 13, as the case may be; and
- (b) the applicant posts a cash bond for \$10,000 or such greater amount as the court may specify, for the term specified by the court, to ensure that the premises will not be used in contravention of that section.

Forfeiture of bond

(4) If, during the suspension of a closing order under subsection (3), a person is convicted for contravening section 6 or 13 in relation to the same premises, the Superior Court of Justice may, on application, order the forfeiture of the bond to the Crown, lift the suspension and reinstate the closing order.

No appeal

(5) No appeal lies from an order made under subsection (4).

Discharge

(6) On application, the Superior Court of Justice may discharge a closing order if the court is satisfied that,

- (a) there has been or will be a change in the effective ownership or occupation of the premises subsequent to the commission of the offence; and

- (b) the owner can ensure that there will be no contravention of section 6 or 13, as the case may be, in relation to the premises.

If closing order, conviction appealed

- (7) If a closing order or a conviction in respect of which the order was made is appealed,
 - (a) the appellant may apply under subsection (3) for a suspension of the order until the disposition of the appeal; and
 - (b) any person may apply under subsection (6) for a discharge of the order.

Same, no stay

- (8) An appeal referred to in subsection (7) does not stay a closing order.

Description of premises

- (9) For the purposes of a closing order, a premises may be described by reference to its municipal address.

Registration

- (10) A closing order may be registered in the proper land registry office.

Non-application

- (11) This section does not apply with respect to a premises used for residential purposes.

MISCELLANEOUS

Agreement with council of the band

- 26** (1) Subject to subsection (2) and to the approval of the Lieutenant Governor in Council, the Minister may, on behalf of the Crown, enter into arrangements and agreements with a council of the band with respect to the sale, distribution, purchase, possession, consumption, cultivation, propagation or harvesting of cannabis on a reserve.

Same, requirement for agreement with other ministers

- (2) If an arrangement or agreement referred to in subsection (1) relates, in whole or in part, to the sale of cannabis, the Minister may only enter into the arrangement or agreement jointly with the Minister responsible for the administration of the *Ontario Cannabis Retail Corporation Act, 2017* and, if that Minister is not the Minister of Finance, the Minister of Finance.

Definitions

- (3) In this section,

“council of the band” has the same meaning as in subsection 2 (1) of the *Indian Act* (Canada); (“conseil de la bande”)

“Indian” has the same meaning as in subsection 2 (1) of the *Indian Act* (Canada); (“Indien”)

“reserve” means a reserve as defined in subsection 2 (1) of the *Indian Act* (Canada) or an Indian settlement located on Crown land, the Indian inhabitants of which are treated by Indigenous and Northern Affairs Canada in the same manner as Indians residing on a reserve. (“réserve”)

Youth education, prevention programs

Approval

- 27** (1) The Minister may approve education or prevention programs pertaining to the use of cannabis or drugs, health and wellbeing, or any other matter the Minister considers appropriate, for the purposes of section 20 and subsection 23 (7).

Publication

- (2) The Minister shall maintain a list of the programs approved under subsection (1) on a publicly accessible Government of Ontario website.

Regulations

- 28** The Lieutenant Governor in Council may make regulations,

- (a) respecting anything that, in this Act, may or must be prescribed or done by regulation;
- (b) prohibiting or restricting the sale, distribution, purchase or attempt to purchase, possession, consumption, offer to cultivate or cultivation, offer to propagate or propagation or offer to harvest or harvesting of cannabis by specified persons or in specified circumstances, or the sale or distribution of cannabis to specified persons;
- (c) providing, for the purposes of section 4, that a reference in this Act or the regulations to the Ontario cannabis retailer does not include a reference to an agent referred to in that section;

- (d) governing the distribution, possession or consumption of cannabis for research or educational purposes under subsection 5 (2), including prescribing circumstances in which the distribution, possession or consumption of cannabis is permitted for those purposes;
- (e) governing such transitional matters as the Lieutenant Governor in Council considers necessary or advisable to facilitate the implementation of this Act or to respond to changes in applicable federal law;
- (f) generally for carrying out the purposes and provisions of this Act.

COMPLEMENTARY AMENDMENTS

Drug and Pharmacies Regulation Act

29 (1) The definition of “drug” in subsection 1 (1) of the *Drug and Pharmacies Regulation Act* is amended by adding the following clause:

- (f.1) cannabis within the meaning of the *Cannabis Act, 2017*, other than cannabis produced or obtained for medical purposes under applicable federal law;

(2) Section 118 of the Act is amended by adding the following subsection:

Same

(5) Nothing in this Act prevents the sale or distribution of cannabis within the meaning of the *Cannabis Act, 2017* for medical purposes under applicable federal law.

Education Act

30 (1) Subsection 300 (1) of the *Education Act* is amended by adding the following definition:

“medical cannabis user” means a person who is authorized to possess cannabis for the person’s own medical purposes in accordance with applicable federal law; (“consommateur de cannabis thérapeutique”)

(2) Paragraph 6 of subsection 301 (2) of the Act is amended by striking out “alcohol and illegal drugs” at the end and substituting “alcohol, illegal drugs and, except by a medical cannabis user, cannabis”.

(3) Paragraph 2 of subsection 306 (1) of the Act is amended by striking out “alcohol or illegal drugs” at the end and substituting “alcohol, illegal drugs or, unless the pupil is a medical cannabis user, cannabis”.

(4) Paragraph 3 of subsection 306 (1) of the Act is amended by striking out “alcohol” at the end and substituting “alcohol or, unless the pupil is a medical cannabis user, cannabis”.

(5) Paragraph 7 of subsection 310 (1) of the Act is amended by striking out “alcohol” and substituting “alcohol or cannabis”.

Highway Traffic Act

31 Subsection 46 (1) of the *Highway Traffic Act* is amended by adding the following clause:

- (b.1) under subsection 12 (1) of the *Cannabis Act, 2017*;

Liquor Licence Act

32 (1) The *Liquor Licence Act* is amended by adding the following section:

Youth education, prevention program referrals

48.1 (1) A police officer who has reasonable grounds to believe that a person who is under nineteen years of age has contravened subsection 30 (8) or (10) may refer the person to a youth education or prevention program approved under section 62.2.

Same

(2) A prosecutor may, in exercising a power to stay a proceeding under subsection 32 (1) of the *Provincial Offences Act* or a right to withdraw a charge, refer a person who is charged with a contravention of subsection 30 (8) or (10) of this Act to a youth education or prevention program approved under section 62.2.

(2) Section 61 of the Act is amended by adding the following subsection:

Youth education, prevention program participation

(11) Instead of ordering a penalty under this section, the court that convicts a person for contravening subsection 30 (8) or (10) may, as a condition in a probation order or otherwise, make an order requiring the person’s participation in one or more youth education or prevention programs approved under section 62.2, subject to any conditions or restrictions that the court may specify.

(3) The Act is amended by adding the following section immediately after the heading “Miscellaneous”:

Youth education, prevention programs**Approval**

62.2 (1) The Minister responsible for the administration of this Act may approve education or prevention programs pertaining to the use of liquor, health and wellbeing, or any other matter the Minister considers appropriate, for the purposes of section 48.1 and subsection 61 (11).

Publication

(2) The Minister responsible for the administration of this Act shall maintain a list of the programs approved under subsection (1) on a publicly accessible Government of Ontario website.

COMMENCEMENT AND SHORT TITLE**Commencement**

33 (1) Subject to subsection (2), the Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Section 4 comes into force on the day subsection 16 (2) of Schedule 2 (*Ontario Cannabis Retail Corporation Act, 2017*) to the *Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017* comes into force.

Short title

34 The short title of the Act set out in this Schedule is the *Cannabis Act, 2017*.

SCHEDULE 2
ONTARIO CANNABIS RETAIL CORPORATION ACT, 2017

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COMMENCEMENT AND SHORT TITLE

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GENERAL

Interpretation

1 In this Act,

“cannabis” has the same meaning as in the *Cannabis Act, 2017*; (“cannabis”)

“Corporation” means the Ontario Cannabis Retail Corporation established under section 3; (“Société”)

“LCBO” means the Liquor Control Board of Ontario continued under section 2 of the *Liquor Control Act*; (“Régie des alcools”)

“Minister” means the Minister of Finance or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“regulations” means the regulations under this Act; (“règlements”)

“sell” includes offer for sale, expose for sale and have in possession for sale. (“vente”)

Exclusive right to sell cannabis

2 (1) The Corporation has the exclusive right to sell cannabis in Ontario.

Exceptions

- (2) Subsection (1) does not apply with respect to sales of cannabis,
 - (a) for medical purposes in accordance with applicable federal law;
 - (b) to the Corporation in accordance with applicable federal law; or
 - (c) by such persons or in such circumstances as may be prescribed.

ESTABLISHMENT, OBJECTS, POWERS, ETC.

Corporation established

3 (1) A corporation without share capital is established under the name Ontario Cannabis Retail Corporation in English and Société ontarienne de vente du cannabis in French.

Name of Corporation

(2) The name of the Corporation may be changed by regulation.

Composition

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

Same

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

Objects

4 The Corporation's objects are,

- (a) to buy, possess and sell cannabis and related products;
- (b) subject to the regulations, to determine the varieties, forms or types of cannabis and related products it sells and at what prices;
- (c) to promote social responsibility in connection with cannabis; and
- (d) to engage in such other activities as may be prescribed by regulation or assigned to the Corporation under this or any other Act.

Powers

5 (1) Except as limited by this Act and the regulations, the Corporation has the capacity, rights, powers and privileges of a natural person for carrying out its objects.

Subsidiaries

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

Limitation, acquisition of real property

(3) The Corporation shall not purchase real property that meets the prescribed criteria without the written approval of the Minister and, if the Minister is not the Minister of Finance, the Minister of Finance.

Terms

(4) An approval under subsection (3) may be subject to such terms as are considered advisable by the Minister and, if the Minister is not the Minister of Finance, the Minister of Finance.

Crown agent

6 The Corporation is an agent of the Crown in right of Ontario for all purposes.

French Language Services Act

7 The Corporation is deemed to be a government agency for the purposes of the *French Language Services Act*.

Board of directors

8 (1) The board of directors shall manage or supervise the management of the Corporation's affairs.

Delegation

(2) The board of directors 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) appoint, remove and set the remuneration of the president and chief operating officer;
- (d) establish committees of the board of directors and fill vacancies on those committees;
- (e) make, amend or repeal by-laws; or
- (f) do any other thing that may be prescribed.

Further delegation

(3) The board of directors may authorize that powers delegated to an officer or employee of the Corporation may be further delegated to an employee of the Corporation on such terms as the board of directors may specify.

Composition, etc.

9 (1) The board of directors shall consist of at least three and not more than seven members appointed by the LCBO, subject to the approval of the Minister.

Terms of office

(2) The members of the board of directors shall be appointed for a term not exceeding five years and may be reappointed for further terms not exceeding five years each.

Eligibility of LCBO member

- (3) An individual who is a member of the LCBO,
 - (a) is eligible to be appointed as a member of the Corporation's board of directors; and
 - (b) if so appointed, does not have a conflict of interest by virtue only of the fact that he or she is also a member of the LCBO.

Eligibility of other members

- (4) An individual who is not a member of the LCBO is disqualified from being a member of the Corporation's board of directors if the individual,
 - (a) is an officer or employee of the Corporation or of the LCBO;
 - (b) is less than 19 years of age;
 - (c) has been found under the *Substitute Decisions Act, 1992* or under the *Mental Health Act* to be incapable of managing property or has been found to be incapable by a court in Canada or elsewhere;
 - (d) has the status of bankrupt; or
 - (e) has been convicted of fraud or a similar offence by any court in Canada or elsewhere.

Deemed public servants

(5) If the Corporation is prescribed as a public body under the *Public Service of Ontario Act, 2006*, each member of the board of directors is deemed to be a public servant for the purposes of sections 5 and 6 and Parts IV, V and VI of that Act.

Chair

(6) The LCBO shall designate a chair from among the members of the board of directors, subject to the approval of the Minister.

Vice-chair

(7) The board of directors shall designate a vice-chair from among its members.

Acting chair

(8) If the chair is absent or unable to act, or if the office of the chair is vacant, the vice-chair shall act as chair.

Same

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

Quorum

(10) A majority of the members constitutes a quorum of the board of directors.

Remuneration

(11) The members of the board of directors shall be paid the remuneration fixed by resolution of the LCBO, subject to the approval of the Minister.

Ceasing to hold office

(12) A member of the board of directors ceases to hold office on the earliest of the following dates:

1. The date on which he or she dies.
2. The date on which he or she resigns.
3. The date on which the Minister approves a recommendation from the LCBO that the member be removed.
4. In the case of a member who was a member of the LCBO when he or she was appointed, the date on which he or she ceases to be a member of the LCBO.
5. In the case of a member who was not a member of the LCBO when he or she was appointed, the earlier of,
 - i. the date on which his or her term of office expires, or
 - ii. the date on which he or she is disqualified under subsection (4).

Effective date of resignation

(13) The resignation of a member of the board of directors becomes effective at the time the Corporation receives the resignation or at the time specified in the resignation, whichever is later.

Publication — names, remuneration, terms of board members

(14) The Corporation shall publish on its website the name of each member of the board of directors, the member's rate of remuneration and the start date and term of the board member's appointment.

Memorandum of understanding

10 (1) The Corporation shall enter into a memorandum of understanding with the LCBO.

Compliance

(2) The Corporation shall comply with the memorandum of understanding, but the failure to do so does not affect the validity of any action taken by the Corporation or give rise in any person to any rights or remedies.

Copy to Minister, availability to public

(3) The Corporation shall provide the memorandum of understanding to the Minister and make it available to the public by posting it on the Corporation's website and by any other manner as the Corporation considers appropriate.

By-laws

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

Approval by LCBO

(2) If the memorandum of understanding mentioned in subsection 10 (1) requires that specified by-laws of the Corporation must be approved by the LCBO, the board of directors shall submit the specified by-laws to the LCBO for the LCBO's consideration.

Financial by-laws

(3) The Corporation shall not make, amend or repeal a by-law relating to borrowing, investing or managing financial risks unless the by-law, amendment or repeal has been approved by resolution of the LCBO, by the Minister and, if the Minister is not the Minister of Finance, by the Minister of Finance.

Effective date of by-laws

(4) A by-law, an amendment to a by-law or the repeal of a by-law is effective from,

- (a) in the case of a by-law referred to in subsection (2), the later of the date of the LCBO resolution approving the proposed by-law or the date specified in the by-law itself;
- (b) in the case of a by-law referred to in subsection (3), the later of the date the by-law has received the required approval or such date as may be specified in the by-law itself; and
- (c) in the case of any other by-law, the date specified in the by-law itself.

President and chief operating officer

12 (1) The Corporation shall appoint an individual who has been approved by the LCBO to serve as the Corporation's president and chief operating officer.

Initial appointment by LCBO

(2) Despite subsection (1), promptly after the Corporation is established under subsection 3 (1), the LCBO shall appoint the first president and chief operating officer.

Eligibility for reappointment

(3) The individual appointed under subsection (2) is eligible to be reappointed.

Status as officer

(4) The president and chief operating officer is an officer of the Corporation and not a member of its board of directors.

Responsibilities

(5) The president and chief operating officer is responsible for the operation of the Corporation, subject to the supervision and direction of the board of directors, and for such other functions as the board of directors may assign.

Attend meetings

(6) The president and chief operating officer may attend and participate at any meeting of the board of directors but shall not have a vote with respect to any matter to be decided at the meeting.

Exception

(7) Despite subsection (6), the board of directors may exclude the president and chief operating officer from attending any meeting if a matter to be discussed at the meeting involves the position, performance or functions and duties of the president and chief operating officer.

Application of certain Acts

13 (1) Sections 21 (contract prior to corporate existence) and 132 (conflict of interest), subsections 134 (1) and (3) (standards of care, etc., of directors, etc.), section 136 (indemnification) and any prescribed provisions of the *Business Corporations Act* apply, with necessary modifications and any prescribed modifications, to the Corporation and its directors and officers.

Same

(2) The *Corporations Act* and the *Corporations Information Act* do not apply to the Corporation.

Staff

14 (1) The Corporation may appoint such officers and employees and retain such assistance as is considered necessary and may, subject to the approval of the Lieutenant Governor in Council, establish job categories, salary ranges and conditions of employment.

Approval by Minister

(2) Despite subsection (1), job categories, salary ranges and conditions of employment of officers and employees appointed by the Corporation who are not members of a bargaining unit, as defined in the *Labour Relations Act, 1995*, must be approved by the Minister and not by the Lieutenant Governor in Council.

Agreements with LCBO

15 (1) For greater certainty, the Corporation may enter into written agreements with the LCBO providing that the LCBO, or any of its officers or employees, will provide 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 it collects and maintains in connection with its activities is not collected, used or disclosed by the LCBO except for the purpose of providing services under an agreement described in subsection (1) or as otherwise authorized by law.

Same, information technology services

(3) If an agreement described in subsection (1) relates to information technology services or the storing of information collected and maintained by the Corporation, the Corporation shall take reasonable measures to ensure that any of its information that includes personal information is maintained separately from any other information maintained by the LCBO.

Limitation re personal information

(4) The Corporation shall not, under an agreement described in subsection (1), give the LCBO access to personal information it collects and maintains unless such access is reasonably necessary for the LCBO to provide services under the agreement.

Interpretation, “personal information”

(5) In this section,

“personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*.

Agreements with agents

16 (1) If the Minister authorizes the Corporation in writing to do so, the Corporation may enter into an agreement with a person or entity under which the person or entity may possess and sell cannabis and related products as an agent of the Corporation, subject to such terms as the Corporation may specify in the agreement.

Same

(2) If the Corporation has entered into an agreement described in subsection (1), the agent may possess and sell cannabis and related products on behalf of the Corporation, subject to such limitations, conditions and requirements as may be prescribed.

Immunity of employees and others

17 (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 Crown, a minister of the Crown or an employee of the Crown as a result of any act or omission of a person who is not a minister of the Crown or a Crown 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) the LCBO or a member, officer or employee of the LCBO as a result of any act or omission of a person who is not a member, officer or employee of the LCBO, 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) a director, officer 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 Crown, a minister of the Crown or an employee of the Crown 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) the LCBO or a member, officer or employee of the LCBO 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.

FINANCIAL MATTERS

Revenues not part of Consolidated Revenue Fund

18 (1) Despite Part I of the *Financial Administration Act*, the revenue and assets of the Corporation do not form part of the Consolidated Revenue Fund.

Same

(2) The revenue of the Corporation shall be applied to carrying out its objects.

Payments into Consolidated Revenue Fund

19 The Corporation's net profits shall be determined and paid into the Consolidated Revenue Fund at such times and in such manner as the Lieutenant Governor in Council may direct.

Unpaid judgments against the Corporation

20 The Minister of Finance shall pay from the Consolidated Revenue Fund the amount of any judgment against the Corporation that remains unpaid after the Corporation has made reasonable efforts, including liquidating its assets, to pay the amount of the judgment.

Major capital expenditures

21 (1) If the Corporation proposes to undertake a major capital expenditure, it shall borrow the necessary funds.

Same

(2) An expenditure is a major capital expenditure for the purposes of this section in either of the following circumstances:

1. It satisfies the criteria prescribed by regulation.
2. If the Minister notifies the Corporation in writing that the expenditure is a major capital expenditure for the purposes of this section.

Loans, etc., to the Corporation

22 (1) The Lieutenant Governor in Council may, by order, authorize the Minister of Finance to purchase securities of, or make loans to, the Corporation in the amounts, at the times and on the terms determined by the Minister, subject to the maximum principal amount specified by the Lieutenant Governor in Council that may be purchased or advanced or that may be outstanding at any time.

Same

(2) The Minister of Finance may pay out of the Consolidated Revenue Fund any amount required for the purposes of subsection (1).

Delegation of Minister's authority

(3) The Lieutenant Governor in Council may, by order, delegate all or part of the authority of the Minister of Finance under subsection (1) to a public servant who works in the Ministry of Finance, other than in the office of the Minister, or who works in the Ontario Financing Authority.

Fiscal year

23 The Corporation's fiscal year begins on April 1 in each year and ends on March 31 in the following year.

Audits

24 The accounts and financial transactions of the Corporation shall be audited annually by the Auditor General.

Annual report

25 (1) The Corporation shall prepare an annual report, provide it to the LCBO and the Minister and make it available to the public by posting it on the Corporation's website and by any other manner as the Corporation considers appropriate.

Content

(2) The Corporation shall include in the annual report,

- (a) a report on the Corporation's affairs;
- (b) the Corporation's audited financial statements; and
- (c) such additional content as the LCBO may require.

Other reports

26 The Corporation shall promptly give the LCBO such other reports and information as the LCBO may request.

MISCELLANEOUS

Restrictions on corporate operations, applicable federal law

27 The Corporation,

- (a) shall not sell cannabis unless the cannabis has been produced by a person who holds a licence under applicable federal law to produce cannabis for commercial purposes;
- (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;
- (d) shall take adequate measures, in accordance with the regulations, to reduce the risk of cannabis it possesses being diverted to an illicit market or activity.

Agreement with council of the band

28 (1) In this section and section 29,

“council of the band” has the same meaning as in subsection 2 (1) of the *Indian Act* (Canada); (“conseil de la bande”)

“Indian” has the same meaning as in subsection 2 (1) of the *Indian Act* (Canada); (“Indien”)

“reserve” means a reserve as defined in subsection 2 (1) of the *Indian Act* (Canada) or an Indian settlement located on Crown land, the Indian inhabitants of which are treated by Indigenous and Northern Affairs Canada in the same manner as Indians residing on a reserve. (“réserve”)

Same

(2) Subject to the approval of the Lieutenant Governor in Council, the Minister and, if the Minister is not the Minister of Finance, the Minister of Finance, may, on behalf of the Crown, enter into arrangements and agreements with a council of the band with respect to cannabis that is sold and delivered to a purchaser on a reserve.

Regulations

- 29** (1) The Lieutenant Governor in Council may make regulations,
- (a) respecting anything that, under this Act, may or must be prescribed, done or provided for by regulation;
 - (b) governing the sale of cannabis, including the operation of stores;
 - (c) respecting varieties, forms and types of cannabis and related products that may and may not be sold by the Corporation;
 - (d) prescribing reserves to which the Corporation may not deliver cannabis or related products;
 - (e) respecting the Corporation's determination of prices at which it sells cannabis and related products;
 - (f) governing packaging to be used for containing cannabis and related products sold by the Corporation;
 - (g) governing information to be provided or disseminated by the Corporation and the manner of providing or disseminating it;
 - (h) governing records to be kept by the Corporation;
 - (i) requiring the Corporation to take measures to reduce the risk that cannabis under its control is not diverted to an illicit market or activity, and prescribing those measures;
 - (j) governing such transitional matters as the Lieutenant Governor in Council considers necessary or advisable to facilitate the implementation of this Act or to respond to changes in applicable federal law.

Same

- (2) A regulation under clause (1) (d) shall contain a description of any request made by a council of the band that a regulation be made under that clause with respect to a reserve.

COMPLEMENTARY AMENDMENTS

Amendments to this Act

30 Subsection 13 (2) of this Act is amended by striking out “The *Corporations Act*” at the beginning and substituting “The *Not-for-Profit Corporations Act, 2010*”.

Liquor Control Act

31 (1) Section 1 of the *Liquor Control Act* is amended by adding the following definition:

“Ontario cannabis retailer” means the corporation established under section 3 of the *Ontario Cannabis Retail Corporation Act, 2017*; (“organisme ontarien de vente du cannabis”)

(2) Clauses 3 (1) (n) and (o) of the Act are repealed and the following substituted:

- (n) to promote social responsibility in connection with liquor;
- (o) to provide advice and assistance, and to enter into agreements, to support the establishment and initial operations of the Ontario cannabis retailer;
- (p) to oversee and support the affairs of the Ontario cannabis retailer in accordance with the *Ontario Cannabis Retail Corporation Act, 2017* and this Act;
- (q) to provide services, advice, assistance, goods and other property to the Ontario cannabis retailer;
- (r) to do all things necessary for the management and operation of the Board in the conduct of its business;
- (s) to do all things necessary or incidental to any of the purposes set out in this subsection.

(3) The Act is amended by adding the following section:

Memorandum of understanding with Ontario cannabis retailer

3.1.1 (1) The Board shall enter into a memorandum of understanding with the Ontario cannabis retailer.

Compliance

(2) The Board shall comply with the memorandum of understanding, but the failure to do so does not affect the validity of any action taken by the Board or give rise in any person to any rights or remedies.

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

Agreements with Ontario cannabis retailer

4.0.2.1 (1) The Board may enter into written agreements with the Ontario cannabis retailer providing that the Board, or any of its officers or employees, will provide services, advice, assistance, goods or other property to the Ontario cannabis retailer.

Personal information

(2) The Board shall take reasonable measures to ensure that any personal information that the Ontario cannabis retailer collects and maintains in connection with the activities of that corporation is not collected, used or disclosed by the Board except for the purpose of providing services under an agreement described in subsection (1) or as otherwise authorized by law.

Same, information technology services

(3) If an agreement described in subsection (1) relates to information technology services or the storing of information belonging to the Ontario cannabis retailer, the Board shall take reasonable measures to ensure that any of the Ontario cannabis retailer's information that includes personal information is maintained separately from any other information maintained by the Board.

Apportionment of costs

(4) If the Board enters into arrangements or agreements for the benefit of both the Board and the Ontario cannabis retailer, it shall ensure that the costs are apportioned appropriately as between the two.

Interpretation, “personal information”

(5) In this section,

“personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*.

(5) Section 4.0.3 of the Act is amended by adding the following subsection:

Same, Corporations Information Act

(1.1) The Board is a corporation to which the *Corporations Information Act* does not apply.

(6) Subsections 5 (2) to (4) of the Act are repealed and the following substituted:

Payments into Consolidated Revenue Fund

(2) The Board's net profits shall be determined and paid into the Consolidated Revenue Fund at such times and in such manner as the Lieutenant Governor in Council may direct.

Fiscal year

(3) The Board's fiscal year begins on April 1 in a year and ends on March 31 in the following year.

Financial reports

(4) The Board shall give the Minister of Finance, at the times required by the Minister, reports setting out the net profit and net profit forecasts of the Board and of the Ontario cannabis retailer and containing such additional financial information as the Minister may request.

(7) Subsection 7 (2) of the Act is repealed.

(8) Section 7 of the Act is repealed and the following substituted:

Annual report

7 (1) The Board shall prepare an annual report, provide it to the Minister and make it available to the public.

Same

(2) The Board shall comply with such directives as may be issued by the Management Board of Cabinet with respect to,

- (a) the form and content of the annual report;
- (b) when to provide it to the Minister; and
- (c) when and how to make it available to the public.

Content

(3) The Board shall include in the annual report,

- (a) a report on the affairs of the Board and of the Ontario cannabis retailer;
- (b) the audited financial statements of the Board, which shall reflect the audited financial statements of the Ontario cannabis retailer for the same year; and
- (c) such additional content as the Minister may require.

Tabling of annual report

(4) The Minister shall table the Board's annual report in the Assembly and shall comply with such directives as may be issued by the Management Board of Cabinet with respect to when to table it.

(9) The Act is amended by adding the following section:

Other reports

7.1 The Board shall promptly give the Minister such other reports and information as the Minister may request with respect to the Board or the Ontario cannabis retailer.

COMMENCEMENT AND SHORT TITLE

Commencement

32 (1) Subject to subsections (2) to (5), this Schedule comes into force on the day the *Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017* receives Royal Assent.

(2) Section 2 comes into force on the day subsection 6 (1) of Schedule 1 (*Cannabis Act, 2017*) to the *Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017* comes into force.

(3) Section 16 comes into force on a day to be named by proclamation of the Lieutenant Governor.

(4) Section 30 comes into force on the later of the day the *Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017* receives Royal Assent and the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force.

(5) Subsection 31 (8) comes into force on the later of the day the *Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017* receives Royal Assent and January 1, 2018.

Short title

33 The short title of the Act set out in this Schedule is the *Ontario Cannabis Retail Corporation Act, 2017*.

SCHEDULE 3
SMOKE-FREE ONTARIO ACT, 2017

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INTERPRETATION

Definitions

1 (1) In this Act,

“commercial”, with respect to tobacco products, electronic cigarettes or a prescribed product or substance, means something done or prepared for the primary purpose of generating profits from its sale or use, directly or indirectly; (“commercial”)

“electronic cigarette” means a vaporizer or inhalant-type device, whether called an electronic cigarette or any other name, that contains a power source and heating element designed to heat a substance and produce a vapour intended to be inhaled by the user of the device directly through the mouth, whether or not the vapour contains nicotine; (“cigarette électronique”)

“employee” means a person who performs any work for or supplies any services to an employer, or a person who receives any instruction or training in the activity, business, work, trade, occupation or profession of an employer; (“employé”)

“employer” includes an owner, operator, proprietor, manager, superintendent, overseer, receiver or trustee of an activity, business, work, trade, occupation, profession, project or undertaking who has control or direction of, or is directly or indirectly responsible for, the employment of a person in it; (“employeur”)

“enclosed public place” means,

- (a) the inside of any place, building or structure or vehicle or conveyance, or a part of any of them,
 - (i) that is covered by a roof, and
 - (ii) to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry, or
- (b) a prescribed place; (“lieu public clos”)

“enclosed workplace” means,

- (a) the inside of any place, building or structure or vehicle or conveyance, or a part of any of them,
 - (i) that is covered by a roof,
 - (ii) that employees work in or frequent during the course of their employment whether or not they are acting in the course of their employment at the time, and
 - (iii) that is not primarily a private dwelling, or
- (b) a prescribed place; (“lieu de travail clos”)

“e-substance” means a substance that is manufactured or sold to be used in an electronic cigarette; (“substance servant à vapoter”)

“flavoured tobacco product” includes a tobacco product that is represented as being flavoured, that contains a flavouring agent or that is presented by its packaging, by advertisement or otherwise as being flavoured; (“produit du tabac aromatisé”)

“medical cannabis” means cannabis that is obtained for medical purposes in accordance with applicable federal law or as provided for in the regulations; (“cannabis thérapeutique”)

“medical cannabis user” means an individual who is authorized to possess cannabis for the individual’s own medical purposes in accordance with applicable federal law or as provided for in the regulations; (“consommateur de cannabis thérapeutique”)

“Minister” means the Minister of Health and Long-Term Care, unless otherwise specified; (“ministre”)

“personal health information” has the same meaning as in the *Personal Health Information Protection Act, 2004*; (“renseignements personnels sur la santé”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“promote”, with respect to tobacco products, electronic cigarettes or a prescribed product or substance, means to use any commercial act or practice or to use any commercial communication, through any media or other means, that is intended to or is likely to,

- (a) encourage its purchase or use or the purchase or use of a particular brand, or
- (b) create an awareness of or an association with it, or with a brand or a manufacturer or seller; (“promouvoir”)

“proprietor” means the owner, operator or person in charge; (“propriétaire”)

“record” means any collection of information however recorded, whether in printed form, on film, by electronic means or otherwise and includes any data that is recorded or stored on any medium in or by a computer system or similar device, as well as drawings, specifications or floor plans for an enclosed workplace; (“document”)

“regulations” means the regulations made under this Act; (“règlements”)

“tobacco product” means any product that contains tobacco, and includes the package in which tobacco is sold; (“produit du tabac”)

“tobacco product accessory” means a product that may be used in the consumption of a tobacco product, including a humidor, pipe, cigarette holder, cigar clip, lighter and matches; (“accessoire pour produits du tabac”)

“vapour product” means an electronic cigarette, an e-substance, or any component of an electronic cigarette. (“produit de vapotage”)

Private dwelling

(2) For greater certainty, and without restricting the generality of the expression, the following are primarily private dwellings for the purposes of the definition of “enclosed workplace” in subsection (1):

1. Private self-contained living quarters in any multi-unit building or facility.
2. Any other prescribed place.

“Use”, electronic cigarettes

(3) In this Act,

“use”, with respect to electronic cigarettes, includes any of the following:

1. Inhaling vapour from an electronic cigarette.
2. Exhaling vapour from an electronic cigarette.
3. Holding an activated electronic cigarette.

Application

2 This Act applies to,

- (a) tobacco in any processed or unprocessed form that may be smoked, inhaled or chewed, including snuff, but not to products intended for use in nicotine replacement therapy;
- (b) medical cannabis;
- (c) vapour products; and
- (d) prescribed products and substances.

SALE, SUPPLY, PROMOTION

Persons under 19

3 (1) No person shall sell or supply any of the following to a person who is less than 19 years old:

1. A tobacco product.
2. A vapour product.
3. A prescribed product or substance.

Apparent age

(2) No person shall sell or supply any of the following to a person who appears to be less than 25 years old unless he or she has required the person to provide identification and is satisfied that the person is at least 19 years old:

1. A tobacco product.
2. A vapour product.
3. A prescribed product or substance.

Defence

(3) It is a defence to a charge under subsection (1) or (2) that the defendant believed the person receiving the product to be at least 19 years old because the person produced a prescribed form of identification showing that the person was at least 19 years old and there was no apparent reason to doubt the authenticity of the document or that it was issued to the person producing it.

Improper documentation

(4) No person shall present as evidence of his or her age identification that was not lawfully issued to him or her.

Display, etc.

4 (1) No person shall, in any place where tobacco products, tobacco product accessories, vapour products or any prescribed products or substances are sold or offered for sale, display or permit the display of any of the following products, in any manner that would permit a consumer to view or handle the product before purchasing it:

1. A tobacco product.
2. A tobacco product accessory that is associated with a brand of tobacco product.
3. A vapour product.
4. A prescribed product or substance.

Promotion

- (2) No person shall promote tobacco products, tobacco product accessories, vapour products or a prescribed product or substance,
- (a) in any place where tobacco products, tobacco product accessories, vapour products or a prescribed product or substance are sold or offered for sale; or
 - (b) in any manner, if the promotion is visible from outside a place in which tobacco products, tobacco product accessories, vapour products or a prescribed product or substance are sold or offered for sale.

Exceptions

- (3) Despite subsection (2), if the regulations so provide, a person may post one or more signs providing information about tobacco products, tobacco product accessories, vapour products or a prescribed product or substance and their price, but only if the sign or signs meet the prescribed conditions.

Same

- (4) Despite subsection (2), if the regulations so provide, a person may make available one or more documents providing information about tobacco products, tobacco product accessories, vapour products or a prescribed product or substance and their price, but only if the document or documents meet the prescribed conditions.

Places of entertainment

- 5** (1) No person shall promote, by any means, tobacco products, vapour products or a prescribed product or substance or their sale at any place of entertainment.

Definition

- (2) In this section,

“place of entertainment” means a place to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry, and which is primarily devoted to eating, drinking or any form of amusement.

Sale in prohibited places

- 6** (1) No person shall sell or offer to sell tobacco products, vapour products or a prescribed product or substance in the following places:

1. A hospital as defined in the *Public Hospitals Act*.
2. A psychiatric facility as defined in the *Mental Health Act*.
3. A long-term care home within the meaning of the *Long-Term Care Homes Act, 2007*.
4. A pharmacy as defined in the *Drug and Pharmacies Regulation Act*.
5. An establishment where goods or services are sold or offered for sale to the public, if,
 - i. a pharmacy as defined in the *Drug and Pharmacies Regulation Act* is located within the establishment, or
 - ii. customers of such a pharmacy can pass into the establishment directly or by the use of a corridor or area used exclusively to connect the pharmacy with the establishment.
6. The campuses of a post-secondary institution.
7. A school within the meaning of the *Education Act*.
8. A building or portion of a building occupied by a private school within the meaning of the *Education Act* and the grounds surrounding the buildings of a private school where a private school is the only occupant of the premises, and the grounds annexed to a private school, where a private school is not the only occupant of the premises.
9. A child care centre within the meaning of the *Child Care and Early Years Act, 2014*.
10. A place where home child care is provided within the meaning of the *Child Care and Early Years Act, 2014*, whether or not children are present.
11. A prescribed place or a place that belongs to a prescribed class.

Establishment

- (2) For the purposes of paragraph 5 of subsection (1), the reference to an establishment includes an area used by persons to enter or exit the establishment if goods or services are sold or offered for sale in the area by the owner or operator of the establishment.

Signs in retail stores

7 No person shall, in any place, sell or offer to sell tobacco products, vapour products or a prescribed product or substance at retail unless the prescribed signs are posted at the place in the prescribed manner.

Packaging

8 No person shall sell or offer to sell a tobacco product, a vapour product or a prescribed product or substance at retail or for subsequent sale at retail, or distribute or offer to distribute a tobacco product, a vapour product or a prescribed product or substance for that purpose, unless it is packaged in accordance with the regulations.

Flavoured products

9 No person shall sell or offer to sell any of the following at retail or for subsequent sale at retail or distribute or offer to distribute any of the following for the purpose of sale or subsequent sale at retail:

1. A flavoured tobacco product, other than a flavoured tobacco product that has been prescribed as being exempt from this paragraph.
2. A vapour product that has been prescribed as a flavoured vapour product for the purposes of this paragraph.
3. A prescribed product or substance that has been prescribed as a flavoured product or substance for the purposes of this paragraph.

Vending machines: general prohibition

10 (1) No owner or occupier of a place shall have a vending machine for selling or dispensing tobacco products, vapour products or a prescribed product or substance in any part of the place.

Exceptions

- (2) Subsection (1) does not apply with respect to a vending machine,
 - (a) that does not contain anything mentioned in subsection (1) and that,
 - (i) is in a place to which the public does not have access, or
 - (ii) is inoperable; or
 - (b) that contains something mentioned in subsection (1) but that is only operable by a retailer or an employee of a retailer.

REPORTS FROM WHOLESALERS AND DISTRIBUTORS

Reports

11 A person who, in Ontario, sells or distributes tobacco products, vapour products or a prescribed product or substance for subsequent sale at retail shall submit reports to the Minister in accordance with the regulations.

PROHIBITIONS RE SMOKING, USE, ETC.

Prohibitions

12 (1) Subject to any exceptions that may be provided for in the regulations, no person shall do any of the following in a place mentioned in subsection (2):

1. Smoke or hold lighted tobacco.
2. Smoke or hold lighted medical cannabis.
3. Use an electronic cigarette.
4. Consume a prescribed product or substance, in a prescribed manner.

Prohibited places

(2) The following are the places for the purposes of subsection (1):

1. An enclosed public place.
2. An enclosed workplace.
3. A school within the meaning of the *Education Act*.
4. A building or the grounds surrounding the building of a private school within the meaning of the *Education Act*, where the private school is the only occupant of the premises, or the grounds annexed to a private school, where the private school is not the only occupant of the premises.

5. Any indoor common area in a condominium, apartment building or university or college residence, including, without being limited to, elevators, hallways, parking garages, party or entertainment rooms, laundry facilities, lobbies and exercise areas.
6. A child care centre within the meaning of the *Child Care and Early Years Act, 2014*.
7. A place where home child care is provided within the meaning of the *Child Care and Early Years Act, 2014*, whether or not children are present.
8. A place where an early years program or service is provided within the meaning of the *Child Care and Early Years Act, 2014*.
9. The reserved seating area of a sports arena or entertainment venue.
10. A prescribed place or area, or a place or area that belongs to a prescribed class.

Exemptions

13 (1) Subsection 12 (1) does not apply to a person who smokes or holds lighted tobacco or to a medical cannabis user who smokes or holds lighted medical cannabis or who uses medical cannabis through an electronic cigarette in an indoor room in a residence that also serves as an enclosed workplace if the following conditions are met, and the obligations under sections 14 and 15 do not apply to a proprietor or employer with respect to such a room if the proprietor or employer complies with any prescribed requirements respecting the room:

1. The residence is,
 - i. a long-term care home within the meaning of the *Long-Term Care Homes Act, 2007*,
 - ii. a residential facility that is operated as a retirement home and that provides care, in addition to accommodation, to the residents of the home,
 - iii. a supportive housing residence funded or administered through the Ministry of Health and Long-Term Care or the Ministry of Community and Social Services,
 - iv. a psychiatric facility that is designated in the regulations, or
 - v. a facility for veterans that is designated in the regulations.
2. The room has been designated as a controlled area for smoking or the use of electronic cigarettes, or both, as the case may be.
3. A resident who desires to use the room must be able, in the opinion of the proprietor or employer, to do so safely without assistance from an employee. An employee who does not desire to enter the room shall not be required to do so.
4. Use of the room is limited to residents of the residence.
5. The room is an enclosed space that,
 - i. is fitted with proper ventilation in compliance with the regulations,
 - ii. is identified as a controlled area by means of prescribed signs, displayed in the prescribed manner, and
 - iii. meets any other prescribed requirements.

Hotels, motels, inns

(2) Subsection 12 (1) does not apply to a person who smokes or holds lighted tobacco or to a medical cannabis user who smokes or holds lighted medical cannabis or who uses medical cannabis through an electronic cigarette in a guest room in a hotel, motel or inn if the following conditions are met, and the obligations under sections 14 and 15 do not apply to a proprietor or employer with respect to a guest room described in paragraphs 2 to 5 if the proprietor or employer complies with any prescribed requirements respecting the guest room:

1. The person or medical cannabis user is a registered guest of the hotel, motel or inn, or the invited guest of a registered guest.
2. The guest room is designed primarily as sleeping accommodation.
3. The guest room has been designated as a guest room that accommodates smoking or the use of electronic cigarettes, or both, as the case may be, by the management of the hotel, motel or inn.
4. The guest room is fully enclosed by floor-to-ceiling walls, a ceiling and doors that separate it physically from any adjacent area in which smoking or the use of electronic cigarettes is prohibited by this Act.
5. The guest room conforms to any other prescribed requirements.

Scientific research and testing facilities

(3) Subsection 12 (1) does not apply to a person who smokes or holds lighted tobacco, who smokes or holds lighted medical cannabis or who uses an electronic cigarette in a scientific research and testing facility for the purpose of conducting research or testing concerning tobacco products, vapour products or cannabis, as the case may be, and the obligations under sections 14 and 15 do not apply to a proprietor or employer with respect to the research and testing carried on in such a facility.

Hospices, other facilities

(4) Subsection 12 (1) does not apply to a medical cannabis user who smokes or holds lighted medical cannabis or who uses medical cannabis through an electronic cigarette in a hospice that complies with the prescribed requirements or another other prescribed facility, as long as any requirements provided for in the regulations are complied with.

Employer obligations

14 (1) Every employer shall, with respect to an enclosed workplace or other place or area mentioned in subsection 12 (2) over which the employer exercises control,

- (a) ensure compliance with subsection 12 (1);
- (b) give notice to each employee in the enclosed workplace or other place or area of the prohibitions under subsection 12 (1) in accordance with the regulations, if any;
- (c) post any prescribed signs respecting the prohibitions under subsection 12 (1) throughout the enclosed workplace, place or area, including washrooms, in the prescribed manner;
- (d) ensure that no ashtrays or similar equipment remain in the enclosed workplace or place or area, other than a vehicle in which the manufacturer has installed an ashtray;
- (e) ensure that a person who refuses to comply with subsection 12 (1) does not remain in the enclosed workplace or place or area; and
- (f) ensure compliance with any other prescribed obligations.

Prohibition

(2) No employer or person acting on behalf of an employer shall take any of the following actions against an employee because the employee has acted in accordance with, or has sought the enforcement of, this Act:

1. Dismissing or threatening to dismiss the employee.
2. Disciplining or suspending the employee, or threatening to do so.
3. Imposing a penalty upon the employee.
4. Intimidating or coercing the employee.

Complaint

(3) The Lieutenant Governor in Council may make regulations specifying the procedure that applies where an employee complains that subsection (2) has not been complied with, including the provisions of another Act or any regulations that apply, with necessary modifications.

Proprietor obligations

15 Every proprietor of an enclosed public place or other place or area mentioned in subsection 12 (2) shall,

- (a) ensure compliance with subsection 12 (1) with respect to the enclosed public place, place or area;
- (b) give notice to each person in the enclosed public place, place or area of the prohibitions under subsection 12 (1) in accordance with the regulations, if any;
- (c) post any prescribed signs respecting the prohibitions under subsection 12 (1) throughout the enclosed public place, place or area, including washrooms, in the prescribed manner;
- (d) ensure that no ashtrays or similar equipment remain in the enclosed public place, place or area, other than a vehicle in which the manufacturer has installed an ashtray;
- (e) ensure that a person who refuses to comply with subsection 12 (1) does not remain in the enclosed public place, place or area; and
- (f) ensure compliance with any other prescribed obligations.

Protection for home health-care workers

16 (1) Every home health-care worker has the right to request a person not to do any of the following in the home health-care worker's presence while they are providing health care services:

1. Smoke or hold lighted tobacco.
2. Smoke or hold lighted medical cannabis.
3. Use an electronic cigarette.
4. Consume a prescribed product or substance, in a prescribed manner.

Right to leave

(2) Where a person refuses to comply with a request referred to in subsection (1), the home health-care worker has the right to leave without providing any further services, unless to do so would present an immediate serious danger to the health of any person.

Restriction

(3) A home health-care worker who has exercised the right to leave shall comply with any procedures provided for in the regulations.

Definition

(4) In this section,

“home health-care worker” means a person who provides health-care services in private homes, that is provided or arranged by,

- (a) a local health integration network as defined in subsection 2 (1) of the *Local Health System Integration Act, 2006*,
- (b) an entity that receives funding from the Ministry of Health and Long-Term Care or a local health integration network as defined in subsection 2 (1) of the *Local Health System Integration Act, 2006*, or
- (c) a prescribed person or entity.

Motor vehicles

17 (1) Subject to the regulations, no person shall do any of the following in a motor vehicle:

1. Smoke tobacco or have lighted tobacco while another person who is less than 16 years old is present in the vehicle.
2. Use an electronic cigarette or have an activated electronic cigarette while another person who is less than 16 years old is present in the vehicle.
3. Smoke medical cannabis, have lighted medical cannabis, use an electronic cigarette containing medical cannabis or have an activated electronic cigarette containing medical cannabis.
4. Consume a prescribed product or substance, in a prescribed manner, or have a prescribed product or substance.

Proof of age

(2) In a prosecution under this section, a court may find evidence that the person enforcing this section honestly and reasonably believed another person to be less than 16 years old to be sufficient proof of the other person’s age.

Enforcement

(3) Despite section 20, this section shall be enforced by police officers or by any other person or class of persons designated in writing by the Minister to enforce this section.

Definition

(4) In this section,

“motor vehicle” means, subject to the regulations, a motor vehicle as defined in subsection 1 (1) of the *Highway Traffic Act*.

CONFLICT WITH OTHER LEGISLATION

Conflict with other legislation

18 Where there is a conflict between a provision of this Act and a provision of another Act, a regulation or a municipal by-law that deals with a matter to which this Act applies, the provision that is more restrictive of the matter to which this Act applies prevails, subject to section 19.

TRADITIONAL USE OF TOBACCO BY INDIGENOUS PERSONS

Purpose

19 (1) The purpose of this section is to acknowledge the traditional use of tobacco that forms part of Indigenous culture and spirituality.

Non-application of s. 3

(2) Section 3 does not prohibit a person from giving tobacco to an Indigenous person who is or appears to be less than 19 years of age or 25 years of age, as the case may be, if the gift is made for traditional Indigenous cultural or spiritual purposes.

Non-application of smoking prohibitions

(3) No provision of this Act or any other Act, regulation or municipal by-law that prohibits smoking in a place or area,

- (a) prohibits an Indigenous person from smoking tobacco or holding lighted tobacco there, if the activity is carried out for traditional Indigenous cultural or spiritual purposes; or
- (b) prohibits a non-Indigenous person from smoking tobacco or holding lighted tobacco there, if the activity is carried out with an Indigenous person and for traditional Indigenous cultural or spiritual purposes.

Place for traditional use of tobacco

(4) At the request of an Indigenous resident, the operator of any of the following shall set aside an indoor area, separate from any area where smoking is otherwise permitted, for the use of tobacco for traditional Indigenous cultural or spiritual purposes:

1. A hospital as defined in the *Public Hospitals Act*.
2. A psychiatric facility designated under the regulations.
3. A long-term care home within the meaning of the *Long-Term Care Homes Act, 2007*.
4. A home for special care under the *Homes for Special Care Act*.
5. A place that belongs to a prescribed class.

ENFORCEMENT

Inspectors

20 (1) The Minister may appoint inspectors for the purposes of this Act.

Inspection

(2) Subject to subsection (4), for the purpose of determining whether this Act is being complied with, an inspector may, without a warrant or notice, and at any time, enter and inspect,

- (a) any place where a prohibition under section 5, 6 or 12 applies;
- (b) the establishments of the manufacturers, wholesalers, distributors and retailers of anything to which this Act applies; and
- (c) any place where the inspector has reasonable grounds to believe that an activity regulated or prohibited under this Act is taking place.

Restricted appointments

(3) The Minister may, in an appointment, restrict the inspector's powers of entry and inspection to specified places or kinds of places.

Dwellings

(4) An inspector shall not enter into a place or part of a place that is a dwelling, without the consent of the occupant.

Use of force

(5) An inspector is not entitled to use force to enter and inspect a place.

Identification

(6) An inspector conducting an inspection shall produce, on request, evidence of his or her appointment.

Powers of inspector

(7) An inspector conducting an inspection may,

- (a) examine a record or other thing that is or may be relevant to the inspection;
- (b) demand the production for inspection of a record or other thing that is or may be relevant to the inspection;
- (c) remove for review and copying a record or other thing that is or may be relevant to the inspection;
- (d) in order to produce a record in readable form, use data storage, information processing or retrieval devices or systems that are normally used in carrying on business in the place;

- (e) remove a sample of a substance or any other thing that is or may be relevant to the inspection or take a specimen that is or may be relevant to the inspection;
- (f) question a person on any matter that is or may be relevant to the inspection, including questioning a person separate and apart from others;
- (g) if he or she finds that an employer is not complying with subsection 14 (1), direct the employer or a person whom the inspector believes to be in charge of the enclosed workplace, place or area to comply with the provision and may require the direction to be carried out forthwith or within such period of time as the inspector specifies; and
- (h) if he or she finds that a proprietor is not complying with section 15, direct the proprietor or a person whom the inspector believes to be in charge of the enclosed public place, place or area to comply with the provision and may require the direction to be carried out forthwith or within such period of time as the inspector specifies.

Vending machines

- (8) An inspector conducting an inspection may open a vending machine described in subsection 10 (1) if,
- (a) the vending machine is operable or is in a place to which the public has access;
 - (b) the owner or operator of a place referred to in subsection 10 (1) refuses or is unable to open the machine; and
 - (c) the inspector has reasonable grounds to believe that the exception in clause 10 (2) (b) does not apply or the inspector has reasonable grounds to believe that tobacco products are being stored in the machine in contravention of section 22.

Exemption from liability

- (9) No person is liable for damage done to a vending machine in connection with an opening under subsection (8).

Seizure and forfeiture

- (10) An inspector acting under subsection (8) may seize any tobacco products, vapour products, prescribed products and substances and funds found in the machine and, where the inspector has done so, the products are forfeited to the Crown and shall be dealt with as the Minister directs, and the funds are forfeited to the Minister of Finance.

Written demand

- (11) A demand that a record or other thing be produced for inspection must be in writing and include a statement of the nature of the record or thing required, and may include a date and time for the record or other thing to be produced.

Obligation to produce and assist

- (12) If an inspector demands that a record or other thing be produced for inspection, the person who has custody of the record or thing shall produce it and, in the case of a record, shall on request provide any assistance that is reasonably necessary to interpret the record or to produce it in a readable form.

Records and things removed from place

- (13) A record or other thing that has been removed for review and copying shall be,
- (a) made available to the person from whom it was removed, for review and copying, on request and at a time and place that are convenient for the person and for the inspector; and
 - (b) returned to the person within a reasonable time.

Copy admissible in evidence

- (14) A copy of a record that purports to be certified by an inspector as being a true copy of the original is admissible in evidence to the same extent as the original, and has the same evidentiary value, without proof of the signature or official character of the person appearing to have certified the copy.

Seizure

- (15) An inspector in a place under the authority of this section may seize anything that is being stored, sold, offered for sale, distributed or offered for distribution contrary to this Act, and anything seized under this section is forfeited to the Crown and shall be dealt with as the Minister directs.

Obstruction

- (16) No person shall,
- (a) hinder, obstruct or interfere with an inspector, or attempt to hinder, obstruct, or interfere with an inspector who is,
 - (i) conducting an inspection, or
 - (ii) making a seizure under subsection (10) or (15);
 - (b) refuse to answer questions on any matter that is or may be relevant to the inspection;

- (c) provide the inspector with false or misleading information; or
- (d) fail to comply with a direction under clause (7) (g) or (h).

Confidentiality

(17) An inspector shall keep confidential all personal health information that comes to the inspector's knowledge in the course of an inspection and shall not communicate any personal health information to any other person except as required for the administration of this Act or as otherwise required or permitted by law.

Restrictions, personal health information

(18) An inspector shall not collect, use or disclose more personal health information than is reasonably necessary to meet the purpose of the collection, use or disclosure, as the case may be.

Offences

21 (1) Subject to subsection (2), a person who contravenes a provision of this Act set out in Table 1 or 2 to this section is guilty of an offence and on conviction is liable to a fine determined in accordance with subsection (3).

Continuing offence, signs

(2) A person who is convicted of contravening section 7 or clause 14 (1) (c) or 15 (c) or subsection 23 (1) or (5) is liable to the fine determined in accordance with subsection (3) for each day or part of a day on which the offence occurs or continues.

Determining maximum fine

(3) The fine, or daily fine, as the case may be, shall not exceed an amount determined as follows:

1. Establish the number of times the defendant has been convicted of the same offence during the five years preceding the current conviction.
2. If,
 - i. the defendant is an individual and the offence is with respect to tobacco or tobacco products, the amount is set out in Column 3 of Table 1 to this section, opposite the number of previous convictions in Column 2 and the provision number of the provision contravened in Column 1, and
 - ii. the defendant is an individual and the offence is not with respect to tobacco or tobacco products, the amount is set out in Column 3 of Table 2 to this section, opposite the number of previous convictions in Column 2 and the provision number of the provision contravened in Column 1.
3. If,
 - i. the defendant is a corporation and the offence is with respect to tobacco or tobacco products, the amount is set out in Column 4 of Table 1 to this section, opposite the number of previous convictions in Column 2 and the provision number of the provision contravened in Column 1, and
 - ii. the defendant is a corporation and the offence is not with respect to tobacco or tobacco products, the amount is set out in Column 4 of Table 2 to this section, opposite the number of previous convictions in Column 2 and the provision number of the provision contravened in Column 1.

Sequence of convictions

(4) In establishing the number of times the defendant has been convicted of the same offence for the purposes of subsection (3), the only question to be considered is the sequence of convictions, and no consideration shall be given to the sequence of commission of offences or to whether an offence occurred before or after a conviction.

Continuing offence, vending machine

(5) A person who contravenes subsection 10 (1) is guilty of an offence and on conviction is liable, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$2,000.

Offence, failure to submit report

(6) A person who contravenes section 11 is guilty of an offence and on conviction is liable to a fine of not more than \$100,000.

Offence, motor vehicle

(7) A person who contravenes section 17 is guilty of an offence and on conviction is liable to a fine of not more than \$250.

Duty of directors and officers

(8) A director or officer of a corporation that engages in the manufacture, sale or distribution of tobacco products, vapour products or a prescribed product or substance has a duty to take all reasonable care to prevent the corporation from contravening this Act.

Offence

(9) A person who has the duty imposed by subsection (8) and fails to carry it out is guilty of an offence and on conviction is liable to a fine of not more than \$100,000.

Same

(10) A person may be prosecuted and convicted under subsection (9) even if the corporation has not been prosecuted or convicted.

Owner's liability

(11) The owner of a business shall be deemed to be liable for any contravention of section 3, 4, 5, 6, 7, 8 or 9 that occurs at the place of business, unless the owner exercised due diligence to prevent such a contravention.

TABLE 1

Column 1 Provision Contravened	Column 2 Number of Earlier Convictions	Column 3 Maximum Fine — Individual (amount in dollars)	Column 4 Maximum Fine — Corporation (amount in dollars)
3 (1), 3 (2), 4, 5	0	8,000	20,000
3 (1), 3 (2), 4, 5	1	20,000	40,000
3 (1), 3 (2), 4, 5	2	40,000	100,000
3 (1), 3 (2), 4, 5	3 or more	200,000	300,000
3 (4), 6 (1), 7, 14 (1) (c), 15 (c), 20 (16), 22 (4), 23 (1), 23 (4), 23 (5)	0	2,000	5,000
3 (4), 6 (1), 7, 14 (1) (c), 15 (c), 20 (16), 22 (4), 23 (1), 23 (4), 23 (5)	1	5,000	10,000
3 (4), 6 (1), 7, 14 (1) (c), 15 (c), 20 (16), 22 (4), 23 (1), 23 (4), 23 (5)	2	10,000	25,000
3 (4), 6 (1), 7, 14 (1) (c), 15 (c), 20 (16), 22 (4), 23 (1), 23 (4), 23 (5)	3 or more	50,000	75,000
8, 9	0	4,000	200,000
8, 9	1	10,000	600,000
8, 9	2	20,000	600,000
8, 9	3 or more	100,000	600,000
12 (1)	0	1,000	(not applicable)
12 (1)	1 or more	5,000	(not applicable)
14 (1) other than (c), 15 other than (c)	0	1,000	100,000
14 (1) other than (c), 15 other than (c)	1 or more	5,000	300,000
14 (2)	any	4,000	10,000
19 (4)	any	4,000	10,000

TABLE 2

Column 1 Provision Contravened	Column 2 Number of Earlier Convictions	Column 3 Maximum Fine — Individual (amount in dollars)	Column 4 Maximum Fine — Corporation (amount in dollars)
3 (1), 3 (2), 4, 5	0	4,000	10,000
3 (1), 3 (2), 4, 5	1	10,000	20,000
3 (1), 3 (2), 4, 5	2	20,000	50,000
3 (1), 3 (2), 4, 5	3 or more	100,000	150,000
3 (4), 6 (1), 7, 14 (1) (c), 15 (c), 20 (16)	0	2,000	5,000
3 (4), 6 (1), 7, 14 (1) (c), 15 (c), 20 (16)	1	5,000	10,000
3 (4), 6 (1), 7, 14 (1) (c), 15 (c), 20 (16)	2	10,000	25,000
3 (4), 6 (1), 7, 14 (1) (c), 15 (c), 20 (16)	3 or more	50,000	75,000
8, 9	0	2,000	100,000
8, 9	1	5,000	300,000
8, 9	2	10,000	300,000

Column 1 Provision Contravened	Column 2 Number of Earlier Convictions	Column 3 Maximum Fine — Individual (amount in dollars)	Column 4 Maximum Fine — Corporation (amount in dollars)
8, 9	3 or more	50,000	300,000
12 (1)	0	1,000	(not applicable)
12 (1)	1 or more	5,000	(not applicable)
14 (1) other than (c), 15 other than (c)	0	1,000	100,000
14 (1) other than (c), 15 other than (c)	1 or more	5,000	300,000
14 (2)	any	4,000	10,000

AUTOMATIC PROHIBITION, TOBACCO SALES OFFENCES

Tobacco sales offences

22 (1) For the purpose of this section, the following are tobacco sales offences:

1. Contravening, with respect to tobacco products, subsection 3 (1) or (2), section 7 or 8 or subsection 10 (1), or subsection (4) of this section.
2. Contravening section 8 or 29 of the *Tobacco Tax Act*.

Notice

(2) On becoming aware that all of the following conditions have been satisfied, the Minister shall send a notice of the prohibition imposed by subsection (4) to the person who owns or occupies the place and to all wholesalers and distributors of tobacco in Ontario:

1. An owner of the business that operates or operated in the place has been convicted of a tobacco sales offence committed in the place.
2. During the five years preceding the conviction referred to in paragraph 1, the same owner of the business that operates or operated in the place, or a different owner of a business that operates or operated in the place, was convicted of a tobacco sales offence committed in the place.
3. The period allowed for appealing the conviction referred to in paragraph 1 has expired without an appeal being filed, or any appeal has been finally disposed of.

Date

(3) The notice shall specify the date on which it is to take effect.

Sales, storage and deliveries prohibited

(4) During the applicable period,

- (a) no person shall sell or store tobacco in the place where the tobacco sales offences were committed; and
- (b) no wholesaler or distributor shall deliver tobacco to the place or have it delivered there.

Applicable period

(5) For the purposes of subsection (4), the applicable period is,

- (a) the six months that follow the date specified in the notice referred to in subsection (2), if there are only two convictions of tobacco sales offences committed in the same place during the five year period referred to in subsection (2);
- (b) the nine months that follow the date specified in the notice, if there are only three convictions of tobacco sales offences committed in the same place during the five-year period referred to in subsection (2); and
- (c) the 12 months that follow the date specified in the notice, if there are four or more convictions of tobacco sales offences committed in the same place during the five-year period referred to in subsection (2).

Defence

(6) It is a defence to a charge under subsection (4) that the defendant had not received the notice at the time the offence was committed.

Exception

(7) The prohibition on storing tobacco does not apply to small amounts of tobacco for the immediate personal use of persons who work in the place.

Sequence of convictions

(8) In establishing the number of times a person was convicted of another tobacco sales offence for the purposes of this section, the only question to be considered is the sequence of convictions, and no consideration shall be given to the sequence of commission of offences or to whether an offence occurred before or after a conviction.

Signs

23 (1) The owner or occupier of a place that is subject to a prohibition imposed under section 22 shall ensure that signs are posted at the place in accordance with the regulations.

Posting by inspector

(2) If signs are not posted as required, an inspector may enter the premises without a warrant and post signs in accordance with the regulations.

Application of s. 20

(3) Subsections 20 (2), (4), (5) and (6) apply, with necessary modifications, to an inspector acting under subsection (2).

Obstruction

(4) No person shall hinder, obstruct or interfere with an inspector acting under subsection (2), or attempt to hinder, obstruct or interfere with an inspector acting under subsection (2).

Signs not to be removed

(5) No person shall remove a sign posted under this section while the prohibition remains in force.

REGULATIONS

Regulations

24 (1) The Lieutenant Governor in Council may make regulations,

- (a) defining or clarifying the meaning of any word or expression used in this Act but not otherwise defined in this Act, for the purposes of this Act or any provision of this Act;
- (b) prescribing and governing for the purposes of this Act or any provision of this Act anything that is referred to in this Act as being prescribed, as being provided for or designated in the regulations or as being done in compliance with or in accordance with the regulations, whether or not the thing being prescribed is otherwise dealt with in this Act;
- (c) respecting the packaging of tobacco products, vapour products and prescribed products and substances, including warnings that must be included on packages;
- (d) governing the application of section 17, including,
 - (i) providing for exceptions and conditions,
 - (ii) providing for additional vehicles that are motor vehicles, and
 - (iii) providing for vehicles that are not motor vehicles;
- (e) governing how funds in the form of credit card or debit transactions are to be dealt with for the purposes of subsection 20 (10);
- (f) providing for how elements of an offence respecting tobacco products, vapour products, medical cannabis or a prescribed product or substance may be proved in a prosecution, including providing for presumptions that apply in the absence of evidence to the contrary;
- (g) providing for exemptions from this Act or any provision of this Act, and making such exemptions subject to any conditions provided for in the regulations;
- (h) generally, for carrying out the provisions, purpose and intent of this Act.

General or specific

(2) A regulation under this Act may be general or specific in its application, and may establish different categories or classes, and may provide for different obligations or responsibilities for different categories or classes.

BINDING THE CROWN

Crown bound

25 This Act binds the Crown.

CONSEQUENTIAL AMENDMENTS

Human Rights Code

26 Subsections 20 (4) and (5) of the *Human Rights Code* are repealed and the following substituted:

Young persons and certain products

(4) The right under section 1 to equal treatment with respect to goods without discrimination because of age is not infringed by the provisions of the *Smoke-Free Ontario Act, 2017* and the regulations under it relating to selling or supplying anything to which that Act applies to persons who are, or who appear to be, under the age of 19 years or 25 years, as the case may be.

Provincial Offences Act

27 Subclause 12 (2) (a) (v) of the *Provincial Offences Act* is repealed and the following substituted:

(v) for the purposes of section 22 of the *Smoke-Free Ontario Act, 2017*; and

Tobacco Tax Act

28 (1) The definition of “tobacco offence” in subsection 20 (1) of the *Tobacco Tax Act* is repealed and the following substituted:

“tobacco offence” means an offence under this Act or under subsection 3 (1) or (2) or section 7 or 8 of the *Smoke-Free Ontario Act, 2017*.

(2) Subsection 20.1 (2) of the Act is repealed and the following substituted:

Signs under *Smoke-Free Ontario Act, 2017*

(2) If the Minister has not made a regulation for the purposes of subsection (1) or the regulation is no longer in force, the provisions of the regulations made under the *Smoke-Free Ontario Act, 2017* for the purposes of section 23 of that Act shall apply as if they were prescribed by the Minister for the purposes of this section, with such modifications as may be necessary or that the Minister considers appropriate in the circumstances.

(3) Paragraph 11 of subsection 32.1 (1) of the Act is repealed and the following substituted:

11. Each retail dealer who is prohibited under section 22 of the *Smoke-Free Ontario Act, 2017* from selling or storing tobacco products at a particular place.

REPEAL, COMMENCEMENT, AND SHORT TITLE

Repeal

29 The following Acts are repealed:

1. The *Electronic Cigarettes Act, 2015*.
2. The *Smoke-Free Ontario Act*.

Commencement

30 The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

31 The short title of the Act set out in this Schedule is the *Smoke-Free Ontario Act, 2017*.

SCHEDULE 4
AMENDMENTS TO THE HIGHWAY TRAFFIC ACT

1 The *Highway Traffic Act* is amended by adding the following section:

References to *Criminal Code*

1.3 The Lieutenant Governor in Council may make regulations governing transitional matters that may arise as a result of amendments to the *Criminal Code* (Canada), including regulations providing that, despite subsection 1 (4) of this Act, references in this Act to provisions of the *Criminal Code* (Canada) shall be read as references to other provisions of the *Criminal Code* (Canada), or shall be read as including references to other provisions of the *Criminal Code* (Canada), for the specified period.

2 Section 5.1 of the Act is amended by adding the following subsection:

Administrative penalty relevant upon sentencing

(3) Where a court imposes a fine or penalty for an offence that arises from the same circumstances that gave rise to a suspension for which an administrative penalty has been imposed under this section, the court may take the administrative penalty into consideration when determining the fine or penalty for the offence.

3 Paragraph 5 of subsection 7 (11) of the Act is repealed and the following substituted:

5. An offence under subsection 175 (19), (19.1), (20) or (20.1).

4 Section 44.1 of the Act is amended by adding the following subsection:

Age of drivers

(7.1) Any distinction described in this section based upon the age of a person applies despite the *Human Rights Code*.

5 The Act is amended by adding the following section:

Condition on licence prohibiting presence of a drug

Novice drivers

44.2 (1) It is a condition of the driver's licence of every novice driver that there be no drug in his or her body, as indicated by approved drug screening equipment, while he or she is driving a motor vehicle on a highway.

Young drivers

(2) It is a condition of the driver's licence of every young driver that there be no drug in his or her body, as indicated by approved drug screening equipment, while he or she is driving a motor vehicle on a highway.

Exception

(3) Subsection (1) or (2), as the case may be, does not apply where a police officer is satisfied that the driver is legally authorized to use a drug or drugs for medical purposes, and has that drug or drugs in his or her body, as indicated by approved drug screening equipment.

Penalty, novice drivers

(4) Every novice driver who contravenes the condition of his or her driver's licence imposed under subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$60 and not more than \$500.

Same

(5) If a novice driver is convicted of an offence under subsection (4), the Registrar may suspend, cancel or change his or her driver's licence in accordance with the regulations.

Same, young drivers

(6) Every young driver who contravenes the condition of his or her driver's licence imposed under subsection (2) is guilty of an offence and on conviction is liable to a fine of not less than \$60 and not more than \$500 and his or her driver's licence is thereupon suspended for 30 days.

Intent of suspension

(7) The suspension of a driver's licence under this section is intended to ensure that novice drivers and young drivers acquire experience and develop or improve safe driving skills in controlled conditions and to safeguard the licensee and the public and does not constitute an alternative to any proceeding or penalty arising from the same circumstances or around the same time.

Regulations

(8) The Lieutenant Governor in Council may make regulations,

- (a) governing the suspension or cancellation of drivers' licences of novice drivers or the change in respect of their class for the purpose of subsection (5);
- (b) defining "approved drug screening equipment" for the purposes of this section and sections 48.0.2, 48.0.3 and 48.0.4.

Age of drivers

(9) Any distinction described in this section based upon the age of a person applies despite the *Human Rights Code*.

Definitions

(10) In this section,

"approved drug screening equipment" has the meaning prescribed by the regulations; ("matériel de détection des drogues approuvé")

"driver" includes a person who has care or control of a motor vehicle; ("conducteur")

"driver's licence" includes a motorized snow vehicle operator's licence and a driver's licence issued by any other jurisdiction; ("permis de conduire")

"motor vehicle" includes a motorized snow vehicle; ("véhicule automobile")

"novice driver" has the meaning prescribed by the regulations made under section 57.1; ("conducteur débutant")

"young driver" means a driver who is under 22 years old. ("jeune conducteur")

6 Subsection 48 (5) of the Act is amended by striking out "section 48.0.1, 48.1, 48.2.1, 48.3 or 48.3.1" at the end and substituting "section 48.0.1, 48.0.2, 48.0.3, 48.0.4, 48.1, 48.2.1, 48.2.2, 48.3 or 48.3.1".

7 Subsection 48.0.1 (5) of the Act is amended by striking out "section 48, 48.1, 48.2.1, 48.3 or 48.3.1" at the end and substituting "section 48, 48.0.2, 48.0.3, 48.0.4, 48.1, 48.2.1, 48.2.2, 48.3 or 48.3.1".

8 The Act is amended by adding the following sections:

Short-term administrative licence suspension for presence of drug

Licence surrendered — novice drivers

48.0.2 (1) Where a novice driver driving or having the care, charge or control of a motor vehicle has complied with a demand under section 254 of the *Criminal Code* (Canada) to provide a sample of oral fluid which, on analysis by approved drug screening equipment, indicates that the novice driver has a drug in his or her body, the police officer shall request the novice driver to surrender his or her driver's licence.

Licence suspension

(2) Upon a request being made under subsection (1), the novice driver to whom the request is made shall forthwith surrender his or her driver's licence to the police officer and, whether or not the novice driver is unable or fails to surrender the licence to the police officer, his or her driver's licence is suspended for,

- (a) three days, in the case of a first suspension under this section;
- (b) seven days, in the case of a second suspension under this section; and
- (c) 30 days, in the case of a third or subsequent suspension under this section.

Same

(3) A previous suspension that took effect more than five years before the current suspension takes effect shall not be taken into account in determining whether the current suspension is a first, second or subsequent suspension for the purpose of subsection (2).

Suspension concurrent with other administrative suspensions

(4) The licence suspension under this section runs concurrently with a suspension, if any, under section 48, 48.0.1, 48.0.3, 48.0.4, 48.1, 48.2.1, 48.2.2, 48.3 or 48.3.1.

No right to be heard

(5) A person has no right to be heard before the suspension of a driver's licence under this section.

Application of s. 48.1

(6) Subsections 48.1 (9) to (12) and (13.1) to (15) apply to this section with necessary modifications.

Exception

(7) Where a police officer is satisfied that a person driving or having the care, charge or control of a motor vehicle is legally authorized to use a drug or drugs for medical purposes, and has that drug or drugs in his or her body, as indicated by

approved drug screening equipment, the officer shall not request that the driver surrender his or her driver's licence under subsection (1).

Definitions

(8) In this section,

“approved drug screening equipment” has the meaning prescribed by the regulations made under section 44.2; (“matériel de détection des drogues approuvé”)

“novice driver” has the meaning prescribed by the regulations made under section 57.1. (“conducteur débutant”)

Short-term administrative licence suspension for presence of drug

Licence surrendered — young drivers

48.0.3 (1) Where a young driver driving or having the care, charge or control of a motor vehicle has complied with a demand under section 254 of the *Criminal Code* (Canada) to provide a sample of oral fluid which, on analysis by approved drug screening equipment, indicates that the young driver has a drug in his or her body, the police officer shall request the young driver to surrender his or her driver's licence.

Licence suspension

(2) Upon a request being made under subsection (1), the young driver to whom the request is made shall forthwith surrender his or her driver's licence to the police officer and, whether or not the young driver is unable or fails to surrender the licence to the police officer, his or her driver's licence is suspended for,

- (a) three days, in the case of a first suspension under this section;
- (b) seven days, in the case of a second suspension under this section; and
- (c) 30 days, in the case of a third or subsequent suspension under this section.

Same

(3) A previous suspension that took effect more than five years before the current suspension takes effect shall not be taken into account in determining whether the current suspension is a first, second or subsequent suspension for the purpose of subsection (2).

Suspension concurrent with other administrative suspensions

(4) The licence suspension under this section runs concurrently with a suspension, if any, under section 48, 48.0.1, 48.0.2, 48.0.4, 48.1, 48.2.1, 48.2.2, 48.3 or 48.3.1.

No right to be heard

(5) A person has no right to be heard before the suspension of a driver's licence under this section.

Application of s. 48.1

(6) Subsections 48.1 (9) to (12) and (13.1) to (15) apply to this section with necessary modifications.

Exception

(7) Where a police officer is satisfied that a person driving or having the care, charge or control of a motor vehicle is legally authorized to use a drug or drugs for medical purposes, and has that drug or drugs in his or her body, as indicated by approved drug screening equipment, the officer shall not request that the driver surrender his or her driver's licence under subsection (1).

Age of drivers

(8) Any distinction described in this section based upon the age of a person applies despite the *Human Rights Code*.

Definitions

(9) In this section,

“approved drug screening equipment” has the meaning prescribed by the regulations made under section 44.2; (“matériel de détection des drogues approuvé”)

“young driver” means a driver who is under 22 years old. (“jeune conducteur”)

Short-term administrative licence suspension for presence of drug

Licence surrendered — commercial motor vehicle drivers

48.0.4 (1) Where a driver or person having care, charge or control of a commercial motor vehicle has complied with a demand under section 254 of the *Criminal Code* (Canada) to provide a sample of oral fluid which, on analysis by approved

drug screening equipment, indicates that the driver or person has a drug in his or her body, the police officer shall request the driver or person to surrender his or her driver's licence.

Licence suspension

(2) Upon a request being made under subsection (1), the person to whom the request is made shall forthwith surrender his or her driver's licence to the police officer and, whether or not the person is unable or fails to surrender the licence to the police officer, his or her driver's licence is suspended for three days from the time the request is made.

Suspension concurrent with other administrative suspensions

(3) The licence suspension under this section runs concurrently with a suspension, if any, under section 48, 48.0.1, 48.0.2, 48.0.3, 48.1, 48.2.1, 48.2.2, 48.3 or 48.3.1.

No right to be heard

(4) A person has no right to be heard before the suspension of a driver's licence under this section.

Application of s. 48

(5) Subsections 48 (10) to (13) and (17) to (19) apply to this section with necessary modifications.

Exception

(6) Where a police officer is satisfied that a person driving or having the care, charge or control of a commercial motor vehicle is legally authorized to use a drug or drugs for medical purposes, and has that drug or drugs in his or her body, as indicated by approved drug screening equipment, the officer shall not request that the driver surrender his or her driver's licence under subsection (1).

Definition

(7) In this section,

“approved drug screening equipment” has the meaning prescribed by the regulations made under section 44.2.

9 (1) Subsections 48.1 (5), (5.1) and (5.2) of the Act are repealed and the following substituted:

Suspension of licence

(5) Upon a request being made under subsection (3) or (4), the novice driver to whom the request is made shall forthwith surrender his or her driver's licence to the police officer and, whether or not the novice driver is unable or fails to surrender the licence to the police officer, his or her driver's licence is suspended from the time of the request for,

- (a) three days, in the case of a first suspension under this section;
- (b) seven days, in the case of a second suspension under this section; and
- (c) 30 days, in the case of a third or subsequent suspension under this section.

(2) **Subsection 48.1 (5.3) of the Act is amended by striking out “section 48, 48.0.1, 48.2.1, 48.3 or 48.3.1” at the end and substituting “section 48, 48.0.1, 48.0.2, 48.0.3, 48.0.4, 48.2.1, 48.2.2, 48.3 or 48.3.1”.**

(3) **Subsection 48.1 (15) of the Act is amended by striking out “or determined under subsection (5.1)”.**

10 (1) Subsections 48.2.1 (10), (11) and (12) of the Act are repealed and the following substituted:

Suspension of licence

(10) Upon a request being made under subsection (3), (4), (5) or (6), the young driver to whom the request is made shall forthwith surrender his or her driver's licence to the police officer and, whether or not the young driver is unable or fails to surrender the licence to the police officer, his or her driver's licence is suspended from the time of the request for,

- (a) three days, in the case of a first suspension under this section;
- (b) seven days, in the case of a second suspension under this section; and
- (c) 30 days, in the case of a third or subsequent suspension under this section.

(2) **Subsection 48.2.1 (13) of the Act is amended by striking out “section 48, 48.0.1, 48.1, 48.3 or 48.3.1” at the end and substituting “section 48, 48.0.1, 48.0.2, 48.0.3, 48.0.4, 48.1, 48.2.2, 48.3 or 48.3.1”.**

(3) **Subsection 48.2.1 (23) of the Act is amended by striking out “or determined under subsection (11)”.**

11 The Act is amended by adding the following section:

Breath testing, drivers of commercial motor vehicles

Application of subss. (2), (3), (4) and (5)

48.2.2 (1) Subsections (2) and (3) apply and subsections (4) and (5) do not apply if the police officer who stops a driver of a commercial motor vehicle uses one screening device for the purposes of section 48 and another screening device for the purposes of this section, and subsections (4) and (5) apply and subsections (2) and (3) do not apply if the police officer uses one screening device for the purposes of both section 48 and this section.

Test registers “Pass”, second test requested for presence of alcohol

(2) Where a driver or person having care, charge or control of a commercial motor vehicle has provided a sample of breath under section 48 which, on analysis, registers “Pass” or otherwise indicates that the driver or person has no alcohol in his or her body, but the police officer reasonably suspects that the driver or person has alcohol in his or her body, the police officer may, for the purposes of determining the concentration of alcohol in the driver’s or person’s blood, demand that he or she provide within a reasonable time such a sample of breath as, in the opinion of the police officer, is necessary to enable a proper analysis of the breath to be made by means of a provincially approved screening device and, where necessary, to accompany the police officer for the purpose of enabling such a sample of breath to be taken.

Test registers “Presence of Alcohol”, surrender of licence

(3) Where, upon demand of a police officer made under subsection (2), a driver of a commercial motor vehicle fails or refuses to provide a sample of breath or provides a sample of breath which, on analysis by a provincially approved screening device, registers “Presence of Alcohol” or otherwise indicates that the driver has alcohol in his or her body, the police officer may request that the driver surrender his or her driver’s licence.

Test registers “Warn” or “Alert”, surrender of licence

(4) Where a driver of a commercial motor vehicle fails or refuses to provide a sample of breath or provides a sample of breath under section 48 which, on analysis registers “Warn”, “Alert” or “Presence of Alcohol” or otherwise indicates that the driver has alcohol in his or her body, the police officer may request that the driver surrender his or her driver’s licence.

Test registers “Warn” or “Alert”, surrender of licence

(5) Where, upon demand of a police officer made under section 254 of the *Criminal Code* (Canada), a driver of a commercial motor vehicle provides a sample of breath which, on analysis by an approved screening device as defined in that section, registers “Warn” or “Alert” or otherwise indicates that the driver has alcohol in his or her body, the police officer may request that the driver surrender his or her driver’s licence.

Test indicates presence of alcohol, surrender of licence

(6) Where, upon demand of a police officer made under section 254 of the *Criminal Code* (Canada), a driver of a commercial motor vehicle provides a sample of breath which, on analysis by an instrument approved as suitable for the purpose of that section, indicates the presence of alcohol in the driver’s body, the police officer may request that the driver surrender his or her driver’s licence.

Opportunity for second analysis

(7) Where an analysis of the breath of the driver is made under subsection (3), (4) or (5) and registers “Warn”, “Alert” or “Presence of Alcohol” or otherwise indicates that the driver has alcohol in his or her body, the driver may require that a second analysis be performed if the driver requests the second analysis immediately after the police officer requests the surrender of his or her driver’s licence under any of those subsections.

Screening device, instrument used for second analysis

(8) The second analysis must be performed with a different approved screening device than was used in the analysis under subsection (3), (4) or (5), as the case may be, or, if the police officer thinks it is preferable, with an instrument approved as suitable for the purpose of section 254 of the *Criminal Code* (Canada).

Second analysis governs

(9) Where a driver of a commercial motor vehicle provides a sample of breath for the second analysis requested under subsection (7) immediately upon being requested to do so by the police officer, the result of the second analysis governs and any suspension resulting from the analysis under subsection (3), (4) or (5) continues or terminates accordingly.

Licence suspension

(10) Upon a request being made under subsection (3), (4), (5) or (6), the driver to whom the request is made shall forthwith surrender his or her driver’s licence to the police officer and, whether or not the driver is unable or fails to surrender the licence to the police officer, his or her driver’s licence is suspended for three days from the time the request is made.

Suspension concurrent with other administrative suspensions

(11) The licence suspension under this section runs concurrently with a suspension, if any, under section 48, 48.0.1, 48.0.2, 48.0.3, 48.0.4, 48.1, 48.2.1, 48.3 or 48.3.1.

Calibration of screening device

(12) The provincially approved screening device shall not be calibrated to register “Presence of Alcohol” if the concentration of alcohol in the blood of the person whose breath is being analyzed is less than 10 milligrams of alcohol in 100 millilitres of blood, and despite anything in this section, the reading shown on a provincially approved screening device for “Presence of Alcohol” may be another term or symbol that conveys the same meaning.

Same

(13) It shall be presumed, in the absence of proof to the contrary, that any provincially approved screening device used for the purposes of this section has been calibrated as required by subsection (12).

No appeal or right to be heard

(14) There is no appeal from, or right to be heard before, the suspension of a driver’s licence under this section.

Intent of suspension

(15) The suspension of a driver’s licence under this section is intended to safeguard the licensee and the public and does not constitute an alternative to any proceeding or penalty arising from the same circumstances or around the same time.

Duties of officer

(16) Every police officer who asks for the surrender of a driver’s licence under this section shall,

- (a) notify the Registrar of that fact, or cause the Registrar to be so notified, in the form and manner and within the time required by the Registrar;
- (b) keep a record of the licence received with the name and address of the person and the date and time of the suspension;
- (c) provide the licensee with a written statement of the time from which the suspension takes effect, the period of time for which the licence is suspended and the place where the licence may be recovered; and
- (d) forward to the Registrar such other material or information as may be prescribed by the regulations.

Removal of vehicle

(17) If the commercial motor vehicle of a driver of a commercial motor vehicle whose driver’s licence is suspended under this section is at a location from which, in the opinion of a police officer, it should be removed and there is no person available who may lawfully remove the vehicle, the officer may remove and store the vehicle or cause it to be removed and stored, in which case the officer shall notify the person of the location of the storage.

Cost of removal

(18) Where a police officer obtains assistance for the removal and storage of a motor vehicle under this section, the costs incurred in moving and storing the vehicle are a lien on the vehicle that may be enforced under the *Repair and Storage Liens Act* by the person who moved or stored the vehicle at the request of the officer.

Offence

(19) Every person commits an offence who, without reasonable excuse, fails or refuses to comply with a demand made to him or her by a police officer under this section.

Regulations

(20) The Lieutenant Governor in Council may make regulations prescribing other material or information to be forwarded to the Registrar under clause (16) (d).

Definitions

(21) In this section,

“driver” includes a person who has care or control of a motor vehicle; (“conducteur”)

“driver’s licence” includes a driver’s licence issued by any other jurisdiction; (“permis de conduire”)

“provincially approved screening device” means,

- (a) an approved screening device as defined in the *Criminal Code* (Canada), or
- (b) a screening device that meets the standards of the Alcohol Test Committee of the Canadian Society of Forensic Sciences. (“appareil de détection approuvé par la province”)

Meaning of suspension for out-of-province licences

(22) With respect to a driver’s licence issued by another jurisdiction, instead of the person’s driver’s licence being suspended, the person’s privilege to drive a motor vehicle in Ontario is suspended for the applicable period specified in subsection (10), and this section and section 53 apply to the suspension of that privilege with necessary modifications.

12 Subsection 48.3 (7.1) of the Act is amended by striking out “section 48, 48.0.1, 48.1, 48.2.1 or 48.3.1” at the end and substituting “section 48, 48.0.1, 48.0.2, 48.0.3, 48.0.4, 48.1, 48.2.1, 48.2.2, or 48.3.1”.

13 Subsection 48.3.1 (4) of the Act is amended by striking out “section 48, 48.0.1, 48.1, 48.2.1 or 48.3” at the end and substituting “section 48, 48.0.1, 48.0.2, 48.0.3, 48.0.4, 48.1, 48.2.1, 48.2.2 or 48.3”.

14 (1) Subsection 62 (14.1) of the Act is repealed and the following substituted:

Red and blue lights restricted

(14.1) In addition to the lighting requirements in this Part, a vehicle described in subsection (14.2) may carry lamps that cast red and blue lights, but no other motor vehicle shall carry lamps that cast red and blue lights.

Same

(14.2) The following are vehicles to which subsection (14.1) applies:

1. An ambulance, fire department vehicle or police department vehicle.
2. A ministry vehicle operated by an officer appointed for carrying out the provisions of this Act or the *Public Vehicles Act*, while the officer is in the course of his or her employment.
3. A vehicle while operated by a conservation officer, fishery officer, provincial park officer or mine rescue training officer, while the officer is in the course of his or her employment.
4. A vehicle while operated by a provincial officer designated under the *Environmental Protection Act*, the *Nutrient Management Act, 2002*, the *Ontario Water Resources Act*, the *Pesticides Act*, the *Safe Drinking Water Act, 2002* or the *Toxics Reduction Act, 2009*, while the officer is in the course of his or her employment.
5. A prescribed class or type of vehicle, driven by a prescribed class of persons or engaged in a prescribed activity or in prescribed conditions or circumstances.

(2) Clause 62 (21) (d) of the Act is amended by adding “paragraph 5 of subsection (14.2) and” before “paragraph 5 of subsection (15.1)”.

(3) Clause 62 (32) (b) of the Act is repealed and the following substituted:

(b) a person operating a vehicle as permitted by subsection (14.1), together with a lamp that produces intermittent flashes of red light.

15 Subsection 78 (5) of the Act is repealed and the following substituted:

Penalty

(5) Every person who contravenes this section is guilty of an offence and on conviction is liable,

- (a) for a first offence, to a fine of not less than \$500 and not more than \$1,000;
- (b) for a first subsequent offence, to a fine of not less than \$500 and not more than \$2,000; and
- (c) for a second subsequent or an additional subsequent offence, to a fine of not less than \$500 and not more than \$3,000.

Same

(6) If a person is convicted of an offence under this section, the Registrar shall suspend his or her driver's licence,

- (a) for a first offence, for three days;
- (b) for a first subsequent offence, for seven days; and
- (c) for a second subsequent or an additional subsequent offence, for 30 days.

Same

(7) An offence under this section committed more than five years after a previous conviction for an offence under this section is not a subsequent offence for the purposes of subsection (5) or (6).

16 Subsection 78.1 (6.1) of the Act is repealed and the following substituted:

Penalty

(6.1) Every person who contravenes this section is guilty of an offence and on conviction is liable,

- (a) for a first offence, to a fine of not less than \$500 and not more than \$1,000;
- (b) for a first subsequent offence, to a fine of not less than \$500 and not more than \$2,000; and
- (c) for a second subsequent or an additional subsequent offence, to a fine of not less than \$500 and not more than \$3,000.

Same

- (6.2) If a person is convicted of an offence under this section, the Registrar shall suspend his or her driver's licence,
- for a first offence, for three days;
 - for a first subsequent offence, for seven days; and
 - for a second subsequent or an additional subsequent offence, for 30 days.

Same

- (6.3) An offence under this section committed more than five years after a previous conviction for an offence under this section is not a subsequent offence for the purposes of subsection (6.1) or (6.2).

17 Section 130 of the Act is repealed and the following substituted:**Careless driving**

130 (1) Every person is guilty of the offence of driving carelessly who drives a vehicle or street car on a highway without due care and attention or without reasonable consideration for other persons using the highway.

Penalty

(2) On conviction under subsection (1), a person is liable to a fine of not less than \$400 and not more than \$2,000 or to imprisonment for a term of not more than six months, or to both, and in addition his or her driver's licence or permit may be suspended for a period of not more than two years.

Careless driving causing bodily harm or death

(3) Every person is guilty of the offence of driving carelessly who drives a vehicle or street car on a highway without due care and attention or without reasonable consideration for other persons using the highway and who thereby causes bodily harm or death to any person.

Penalty

(4) On conviction under subsection (3), a person is liable to a fine of not less than \$2,000 and not more than \$50,000 or to imprisonment for a term of not more than two years, or to both, and in addition his or her driver's licence or permit may be suspended for a period of not more than five years.

Deemed lack of reasonable consideration

(5) For the purposes of subsections (1) and (3), a person is deemed to drive without reasonable consideration for other persons using the highway if he or she drives in a manner that may limit his or her ability to prudently adjust to changing circumstances on the highway.

Sentencing — aggravating factor

(6) A court that imposes a sentence for an offence under subsection (3) shall consider as an aggravating factor evidence that bodily harm or death was caused to a person who, in the circumstances of the offence, was vulnerable to a lack of due care and attention or reasonable consideration by a driver, including by virtue of the fact that the person was a pedestrian or cyclist.

18 Subsection 140 (7) of the Act is repealed and the following substituted:**Offence**

(7) Every person who contravenes subsection (1) or (3) is guilty of an offence and on conviction is liable to a fine assessed in accordance with section 144.1.

19 Subsection 144 (31.3) of the Act is repealed and the following substituted:**Offence**

(31.3) Every person who contravenes subsection (7) is guilty of an offence and on conviction is liable to a fine assessed in accordance with section 144.1.

20 The Act is amended by adding the following section:**Penalty for certain offences**

144.1 (1) Every person convicted of an offence under subsection 140 (1), 140 (3), 144 (7) or 176 (3) is liable,

- for a first offence, to a fine of not less than \$300 and not more than \$1,000; and
- for each subsequent offence, to a fine of not less than \$500 and not more than \$1,000.

Same

(2) An offence referred to in subsection (1) committed more than five years after a previous conviction for an offence referred to in that subsection is not a subsequent offence for the purposes of subsection (1).

21 (1) Subsections 175 (11) and (12) of the Act are repealed and the following substituted:**Duty of drivers when school bus stopped**

(11) Every driver or street car operator, when meeting on a highway, other than a highway with a median strip, a stopped school bus that has its overhead red signal-lights flashing, shall stop before reaching the bus and shall not proceed until the bus moves or the overhead red signal-lights have stopped flashing.

Same

(11.1) Every driver or street car operator, when meeting on a highway, other than a highway with a median strip, a stopped school bus that has its stop arm actuated, shall stop before reaching the bus and shall not proceed until the bus moves or the stop arm is no longer actuated.

Same

(12) Every driver or street car operator on a highway, when approaching from the rear a stopped school bus that has its overhead red signal-lights flashing, shall stop and shall not proceed until the bus moves or the overhead red signal-lights have stopped flashing.

Same

(12.1) Every driver or street car operator on a highway, when approaching from the rear a stopped school bus that has its stop arm actuated, shall stop and shall not proceed until the bus moves or the stop arm is no longer actuated.

Same

(12.2) Every driver or street car operator on a highway, when approaching from the rear a stopped school bus that has its overhead red signal-lights flashing, or that has its stop arm actuated, shall stop at least 20 metres before reaching the bus.

(2) Subsection 175 (17) of the Act is amended by striking out “subsection (11) or (12)” in the portion before clause (a) and substituting “subsection (11), (11.1), (12), (12.1) or (12.2)”.

(3) Section 175 of the Act is amended by adding the following subsections:

Same

(19.1) A person who issues a certificate of offence or who prepares an information to be laid under the *Provincial Offences Act* for a contravention of subsection (11.1) shall, despite that Act and the regulations under that Act, specify this subsection, instead of subsection (11.1), as the provision that was contravened, if the defendant is being charged as the owner of the vehicle.

Same

(20.1) A person who issues a certificate of offence or who prepares an information to be laid under the *Provincial Offences Act* for a contravention of subsection (12.1) shall, despite that Act and the regulations under that Act, specify this subsection, instead of subsection (12.1), as the provision that was contravened, if the defendant is being charged as the owner of the vehicle.

Deemed to specify subs. (11.1) or (12.1)

(21.1) A certificate of offence, offence notice, information or summons that specifies subsection (19.1) or (20.1) as the provision that was contravened shall be deemed to specify that subsection (11.1) or (12.1) was contravened, as the case may be.

Same

(22.1) No charge shall be dismissed, and no certificate of offence or information shall be quashed, on the basis that a certificate of offence, offence notice, information or summons specifies subsection (19.1) or (20.1) instead of subsection (11.1) or (12.1) as the provision that was contravened.

Same

(23.1) A certificate of offence or information that specifies subsection (11.1) or (12.1) as the provision that was contravened shall not be amended to specify subsection (19.1) or (20.1) and a certificate of offence or information that specifies

subsection (19.1) or (20.1) as the provision that was contravened shall not be amended to specify subsection (11.1) or (12.1), without the consent of the prosecutor and the defendant.

(4) Subsection 175 (24) of the Act is amended by striking out “(23)” and substituting “(23.1)”.

(5) Subsection 175 (25) of the Act is amended by striking out “subsection (19) or (20)” at the end and substituting “subsection (19), (19.1), (20) or (20.1)”.

(6) Subsection 175 (26) of the Act is amended by striking out “subsection (19) or (20)” and substituting “subsection (19), (19.1), (20) or (20.1)”.

(7) Section 175 of the Act is amended by adding the following subsection:

Same

(29) The owner of a motor vehicle convicted as an owner of an offence under this section is not liable to a driver’s licence suspension under section 46 as a result of default in payment of a fine resulting from that conviction.

22 Subsection 176 (5.1) of the Act is repealed and the following substituted:

Offence

(5.1) Every person who contravenes subsection (3) is guilty of an offence and on conviction is liable to a fine assessed in accordance with section 144.1.

23 The Act is amended by adding the following Part:

**PART XIV.3
SCHOOL BUS CAMERA SYSTEM**

Use of automated school bus camera system authorized

206 (1) An automated school bus camera system may be used in accordance with this Part and the regulations made under it respecting an alleged offence under section 175 of this Act.

Regulations

- (2) The Lieutenant Governor in Council may make regulations,
 - (a) prescribing what constitutes an automated school bus camera system;
 - (b) defining “photograph” for the purposes of this Part;
 - (c) governing the form, content, filing, admissibility, evidentiary value and probative force of any notice, certificate, document or photograph that may be used for the purpose of this Part, including,
 - (i) governing the circumstances in which the information set out in any certificate, document or photograph is deemed to be true and in which the certificate, document or photograph shall be received in evidence as proof of the information set out in it,
 - (ii) requiring or authorizing any person or class of persons to certify that information set out in any certificate, document or photograph is true,
 - (iii) governing the circumstances in which a certificate, document or photograph shall be received in evidence as proof that a motor vehicle or street car referred to in the certificate or document, or shown in the photograph, and its driver or street car operator proceeded when not permitted contrary to section 175,
 - (iv) governing the information that may be or must be shown or superimposed on the front or back of the photograph, and prescribing a system of codes, symbols or abbreviations that may be used to convey information in the photograph;
 - (d) governing the service of any notice upon the owner of a motor vehicle, including deeming service to have been effected on a date determined in accordance with the regulations, and authorizing service outside Ontario;
 - (e) prescribing what constitutes evidence of ownership of a vehicle for the purposes of this Part;
 - (f) prescribing procedures, rules and duties to apply under this Part instead of the procedures, rules and duties otherwise established under the *Provincial Offences Act*, including,
 - (i) procedures and rules that govern proceedings at any stage,
 - (ii) rules governing the circumstances in which a person is deemed to not wish to dispute a charge,
 - (iii) rules governing the circumstances in which a summons may or may not be issued and in which a person may or may not be required to give oral evidence, and
 - (iv) the duties of a justice of the peace;

- (g) requiring and governing forms or certificates to be used under this Part, including forms or certificates to be used instead of those required under the *Provincial Offences Act*;
- (h) providing that any procedure, rule, duty or other matter that applies to the use of red light camera systems under subsections 144 (18.1) to (18.5) or Part XIV.2 applies to the use of automated school bus camera systems under this Part, with necessary modifications.

Prescribing how to refer to s. 175 in notices and certificates

(3) A regulation made under clause (2) (h) may prescribe rules for how to refer to section 175 in any notice or certificate in order to facilitate the use of computer systems that are maintained by the Government of Ontario for recording and processing information related to provincial offences and that depend, in order to make certain distinctions, on different provision numbers being specified in certificates of offences.

Conflict

(4) Where a conflict or inconsistency arises between the procedures, rules and duties described in the *Provincial Offences Act* and those required by this Part and the regulations made under it, this Part and the regulations made under it prevail.

24 (1) Subsection 207 (2) of the Act is repealed and the following substituted:

When owner not liable

(2) The owner of a vehicle shall not be convicted as an owner for a contravention of any of the following provisions, but where the owner is also the driver, he or she may be convicted as a driver:

1. Section 78 or 78.1.
2. Subsection 106 (2) or (4).
3. Sections 129 to 143, subsections 144 (1) to (17), subsections 144 (19) to (32), sections 145 to 168, section 172, subsections 175 (1) to (10), subsections 175 (13) to (18) or section 176, 182 or 199.
4. A regulation or by-law made or passed under section 106 or under any section or subsection that is referred to in paragraph 1, 2 or 3.
5. Any by-law passed under any Act regulating or prohibiting turns on a highway.

(2) Paragraph 3 of subsection 207 (2) of the Act, as enacted by subsection (1), is amended by striking out “subsections 175 (13)” and substituting “subsections 175 (12.2)”.

(3) Subsection 207 (7) of the Act is amended by striking out “under subsection 175 (19) or (20)” and substituting “under subsection 175 (19), (19.1), (20) or (20.1)”.

25 Paragraph 2 of subsection 210.1 (1) of the Act is repealed and the following substituted:

2. A proceeding relating to a contravention of subsection 175 (19), (19.1), (20) or (20.1).

26 Subsection 214 (1) of the Act is repealed and the following substituted:

General penalty

(1) Every person who contravenes this Act or any regulation is guilty of an offence and on conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not less than \$60 and not more than \$1,000.

27 Subsection 219 (1) of the Act is amended by striking out “subsection 41 (1) or sections 42 and 53” and substituting “subsection 41 (1), section 42 or 53 or subsection 78 (5) or 78.1 (6.1)”.

Commencement

28 (1) Subject to subsection (2), this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Subsection 24 (1) and this section come into force on the day the *Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017* receives Royal Assent.