



Bill 36 - Cannabis Statute Law Amendment Act, 2018

Submission to the Standing Committee on Social Policy

October 11, 2018

The Association of Municipalities of Ontario has been working hard to advance local perspectives on the legalization of recreational cannabis on behalf of the municipal order of government since early 2016.

Cannabis and other drugs are available now in our communities. I think we can all agree that prohibition has not offered the control that we need.

AMO supports the legalization, a properly managed growth and supply of the product to consumption.

All orders of government share interests in legalization – to reduce access to the black market and protect youth.

With already high use by youth – we'll need to remain flexible as implementation unfolds.

The federal government is driving this change, but it is reliant on provincial laws. Yet municipal governments will be the first to witness and respond to the impacts of cannabis legalization in our communities.

We anticipate that the transition to legal recreational cannabis will increase some costs for municipal governments, especially during the transition period as we gain experience with all parts of the new framework.

Legal recreational cannabis will add to the responsibilities for municipal government services such as our police forces – own or OPP – municipal and public health bylaw enforcement, public health monitoring and a number of other critical municipal services.

It may also lead to negative social and health outcomes.

Legal recreational cannabis is unlike other products available to adults. There are many unknowns.

We must nonetheless take a balanced approach in deciding how to regulate this substance.

There are a number of things that Bill 36 gets right.

AMO has always been supportive of a market approach to cannabis retail.

Enabling strictly regulated private cannabis retail is an economic development opportunity that should contribute investment and jobs to our local economies.

It will allow the market to naturally contract and expand as necessary to meet consumer demand while allowing entrepreneurial residents to benefit from this new opportunity.

On places of use, AMO is also cautiously supportive of the government's new approach.

Previous rules may have unintentionally driven smoking indoors, creating difficulties for parents who may not want to consume in front of their children and tenants living in multi-unit residential buildings.

We believe those rules would have been difficult to enforce and costly and perhaps result in neighbour-to-neighbour issues for municipal governments to mediate.

For this reason, aligning cannabis places of use with tobacco rules makes some sense.

However, some are anxious that there will now be too few controls, re-normalizing smoking and creating conflicts regarding second-hand cannabis smoke and consumption near children.

Municipal governments have the authority to make additional restrictions but to make this absolute, AMO recommends amending the Municipal Act to add cannabis to our regulatory authority. This clarity will help to ensure municipal governments can set rules for smoking cannabis in public.

Strictly regulated cannabis consumption venues in the future may also help to manage public consumption.

There are also a number of issues in Bill 36 we think you must address. The appendix to my comments includes specific sections and wording we think will help to clarify the Bill to be explicit about what the public will need from their municipal governments.

The bill exempts private cannabis retailers from typical municipal land use planning and municipal business licensing processes.

At the same time, municipal governments do not see where they will have much say in the location, especially with respect to sensitive uses and density of retail stores. Nor is there any direction for the AGCO to abide by a municipal zoning bylaw.

It also fails to explicitly require cannabis retail to be located in appropriate commercial zoned lands. We think that needs to be changed.

Municipal governments need to know that the zoning bylaw that others must respect will be respected through a provincial licensing system. Frankly, we believe it is good for the retailers as well and will help minimize issues. We ask the committee to make respect for municipal zoning explicit in this Bill.

Municipal governments need clarity on how they will provide input to the. Municipal governments know their communities and can provide on the ground information about how cannabis retail might affect an individual area.

Council members and our staff are the first to hear of any issues residents or businesses encounter and they expect us to take action on their interests as a matter of course.

To ensure local input is properly considered, we believe the Bill should give standing to municipal comments by requiring that the AGCO consider and address the comments municipal governments submit. Municipal governments must do this when it comes to provincial interest in uses of land. A similar onus for the AGCO is principled and practical.

Amending Bill 36 to require store proponents to obtain a municipal compliance letter by statute as part of their AGCO application would accomplish this.

Depending on the volume of proponent applications, the 15-day period may not be enough for a compliance letter.

While the AGCO uses a 15-day public notice period for alcohol applications, as we noted, cannabis is unlike other substances for municipal governments and the public. We would urge the committee to amend the Bill to lengthen the period to 21 calendar days.

This will ensure that local sensitivities have sufficient time to be identified. In addition, it will allow residents to consider the impact of stores in their communities.

Failing to make these changes may make some municipal governments opt-out when they would otherwise have allowed cannabis retail. To make this decision, municipal councils will need to know regulatory authorities for themselves and the AGCO.

Finally, everyone needs better information on the provincial approach. People in our communities do not fully understand exactly what will or will not be legal come October 17th.

Time is running out, and we hope there will be an increase in building public awareness.

Before I take your questions, I want to add that AMO appreciates the funding commitment we have received from the Minister of Finance.

We will need the funds to flow as soon as possible. Municipal services have been spending property tax dollars to prepare as best as they can given the change to the Ontario framework and to serve the public on October 17th.

Longer-term, as the key front-line service provider in our communities, municipal governments believe investing in youth is important and we cannot afford to miss it.

The objective of legalizing is to make it more difficult for youth to access. While we support that, we also know the policy will not take away the reasons youth use it in the first place.

We believe strong communities are the first line of defense for young people experiencing social and mental health challenges.

Cannabis legalization is not a money grab but we can use the revenues generated from it to build programs and supports that will help our kids to develop self-reliance and skills to better themselves and their communities over their entire lives.

To ensure we have the resources to do that, we urge the province to work with AMO to establish a long-term Ontario-made funding proposal that follows the current two-year federal-provincial agreement.

Thank you for your time. I can take any questions you may have.

Appendix: AMO Recommended Amendments for Bill 36		
Recommended Change	Challenge Presented by the Bill as Currently Proposed	How the Recommended Amendment would solve the Issue
<ul style="list-style-type: none"> ➤ Amend 4(6) to add an eligibility requirement that a proposed cannabis retail store is located in a commercial zone permitting retail uses. ➤ Schedule 2, Amend Section 4(9) by deleting the phrase “having regard to the needs and wishes of the residents.” ➤ Amend Section 49 (1) to add a new regulatory authority 49 (1) (t) that reads “setting out matters that are or are not matters of public interest, for the purposes of paragraph 9 of subsection 4(6).” ➤ Amend Section 4(9) of the proposed <i>Cannabis License Act</i> to increase the public notification period from “no later than 15 days” to “no later than 21 days” for notice to the public and to municipal governments. 	<ul style="list-style-type: none"> ➤ Municipal governments, store operators and residents need clarity that cannabis stores will only be located in appropriately zoned and serviced areas. Areas zoned commercial have servicing and parking requirements already considered. Without that clarity, communities may have little assurance that cannabis stores will not be located in inappropriate areas such as residential areas. ➤ It would seem that the language as drafted in Section 4(9) (reference the phrase “having regard to the needs and wishes of the residents of the municipality”) implies that the municipal government is to somehow interpret or have some format for the municipality to elicit the needs and wishes of the residents. There is no ability to do this in the short time frame or against a municipal process or procedure. In fact, the government has made it clear that the siting of cannabis retail stores is not a municipal planning or business licensing matter, but rather a retail store is a retail store. ➤ In the absence of a planning or licensing process, municipal governments can only advise the AGCO on how the property is zoned, whether it is in keeping where retail storefronts are permitted and are there other considerations the AGCO should take into account when issuing a store front license or placing condition(s) on its decision and license. 	<ul style="list-style-type: none"> ➤ Amending Section 4(6) to require proposed stores to be located in commercial zones allowing retail would signal to municipal governments, residents and store operators that only the areas appropriately designated would be available to locate a cannabis store. ➤ Amending the language of Sections 4(9) and adding a regulatory authority around the municipal role will bring clarity for the municipal order of government to the AGCO and allow AMO and municipal governments to work with the AGCO on a ways municipal government can comment on a store license application. Section 4 must be amended to eliminate any confusion or interpretation and to lend clarity to the expectation of municipal governments more limited role and to remove any question of interpretation. ➤ Adding an addition 6 days would offer some assuredness of sufficient time for a municipality to offer quality input to the AGCO site licensing process. At the end of the day, the AGCO does not want to create any new non-conforming uses to municipal land use. This would exasperate municipal governments and

	<ul style="list-style-type: none"> ➤ We recognize that the government wants to see retail stores available as soon and as broadly as possible. At the same time, the AGCO needs to benefit from municipal input and there is concern that municipalities will be pressed to meet this timeframe while meeting all the workload including meeting legislative timeframes for land use matters 	<p>the public and other retailers who must abide by the municipal zoning bylaw.</p>
<p>Amend Section 115(1) of the <i>Municipal Act</i> to provide clear authority to municipal governments to enact stricter smoking by-laws to regulate public cannabis consumption.</p>	<ul style="list-style-type: none"> ➤ Currently, Section 115(1) of the <i>Municipal Act</i> only authorizes municipal governments to regulate the smoking of tobacco in public places. A concomitant change to add the smoking of cannabis would lend clear authority. In essence, this housekeeping change would lend some confidence to the sector. 	<ul style="list-style-type: none"> ➤ Amending Section 115 (1) of <i>the Municipal Act</i> to include recreational cannabis will provide clarity to municipal governments by explicitly authorizing municipal governments to regulate cannabis places of use in public spaces and workplaces. This will ensure municipal governments are not subject to egregious challenges.