



## **Discussion Paper:**

### **Indigenous Peoples in Today's Cannabis Industry**

**Saturday, September 8, 2018 / 'Grow-Up Cannabis Conference'**

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Last month, on August 13<sup>th</sup>, Ontario announced that cannabis will initially be sold online only once sales become legal next month on October 17<sup>th</sup>. By April 1<sup>st</sup>, 2019, regulated cannabis sales will also be allowed in privately owned dispensaries. There is now a tremendous opportunity for those First Nations who are currently involved in cannabis production and sales to establish a legal foothold in the market.

Currently, First Nation communities are governed by their own laws. Some communities have multiple dispensaries in operation. There are over 40 at Tyenindaga, located between Kingston and Belleville. Alderville First Nation, about 30 kilometres north of Cobourg, has five dispensaries on a stretch of highway now known as the Green Mile.

Akwesasne First Nation, outside Cornwall, has turned a former water bottling plant into Seven Leaf Medical Cannabis. On its website ([sevenleaf.ca](http://sevenleaf.ca)), the company says it *"is a proud First Nations applicant under the Access to Cannabis for Medical Purposes Regulations (ACMPR). Seven Leaf is dedicated to providing relief to patients with the natural, therapeutic benefits of medical cannabis. We are deeply committed to family and community—and have created a socially responsible company that strives to be a leader in business practices and community philanthropy."*

Canada's largest First Nation community, Six Nations, recently announced that it will develop its own cannabis laws and regulations. "We have to start developing our own source revenue," said Chief Ava Hill in a Toronto Star interview. "If this is one avenue to do that, that's one avenue we want to explore." However, Chief Hill and other Indigenous leaders say they have been excluded from the national discussion on legalization. "It seems that again we've been left out in the dark with all the stuff that's going on, and we've become a footnote."

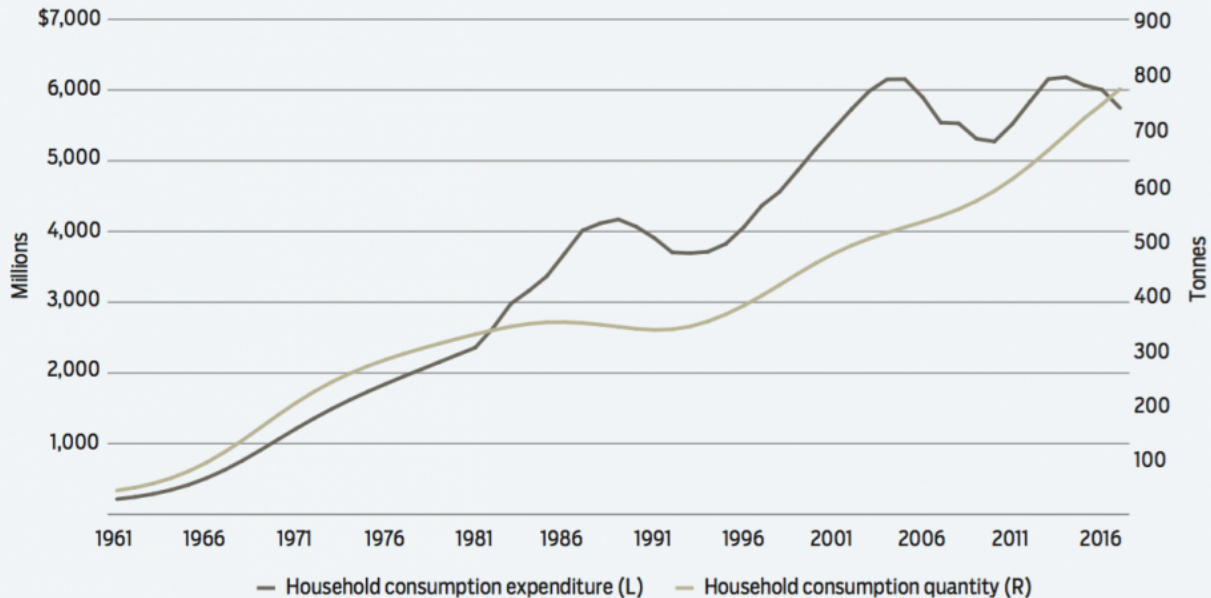
In the months to come, especially after October 17<sup>th</sup>, there will be renewed efforts by both the provincial and federal government to intensify discussions on how First Nations will be able to fully participate in the multi-billion dollar cannabis industry that also has much potential to attract American and foreign "cannabis tourists".

The following points highlight many of the concerns that still remain unaddressed as Canada enters the uncharted waters of a new cannabis industry.



### Canadian cannabis consumption in dollars and tonnes since 1961

The drug contributed \$3 billion to the country's economy last year as consumption up 1,678% since 1960s



(Statistics Canada)

### First Nation Cannabis Points: Economic Development; Public Health and Safety

- As we all know on October 17<sup>th</sup> across Canada, Bill C-45 – the Cannabis Act – intends to provide legal access to cannabis and to control and regulate its production, distribution, and sale.
- The objectives of the Act are to prevent young persons from accessing cannabis;
- to protect public health and public safety by establishing strict product safety and product quality requirements;
- And, to deter criminal activity by imposing serious criminal penalties for those operating outside the legal framework.



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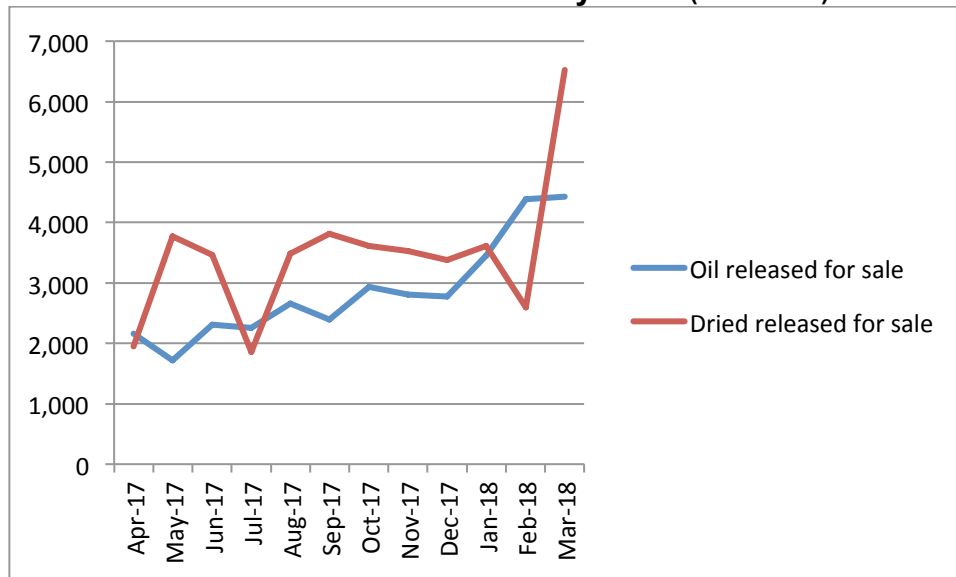
Advancing Our Nations

- The Act is also intended to reduce the burden on the criminal justice system in relation to cannabis.
- However, police officials have told federal politicians this spring that they will not be prepared to deal with Bill C-45 when it becomes law.
- It is accurate to say that First Nations are also not prepared to deal with all the ramifications of Bill C-45.
- In fact, this is a critical issue that is going to have huge impacts for First Nations and all Canadians. But we are not yet in a position to understand what these impacts are.
- Does Canada even know what the full impacts are yet? This is a situation where we are damned if we do, and damned if we don't.
- There will be many issues and opportunities which need to be addressed. Firstly, how are First Nation communities going to regulate the sales and consumption of cannabis?
- Some of our communities may want to explore the potential for jointly owned cannabis operations, which will involve federal approval.
- Some communities may want to ban sales and consumption, much like many "dry" communities ban alcohol.
- Any provincial legislation needs to have the flexibility to support First Nations communities in pursuing development in ways that align with their own specific cultural and community values.



- We remain optimistic that First Nations in Ontario – under the new PC government -- will directly benefit from any revenue generated from these ventures.
- While historically, Ontario First Nations have been neglected in resource revenue sharing with the Province of Ontario, this new industry provides the opportunity to turn a new leaf, and to examine innovative revenue sharing opportunities.

**Cannabis Sales in Canada by Kilos (Stats Can)**



## ECONOMIC DEVELOPMENT

- To date, Resource Revenue Sharing agreements have largely been left to the provincial governments in relation to geological and environmental resources such as mining, forestry, and hydro-electric power.
- The Bill has completely neglected any specific opportunity for First Nations to participate meaningfully in or have the resources to appropriately respond to the implications of this emerging market.

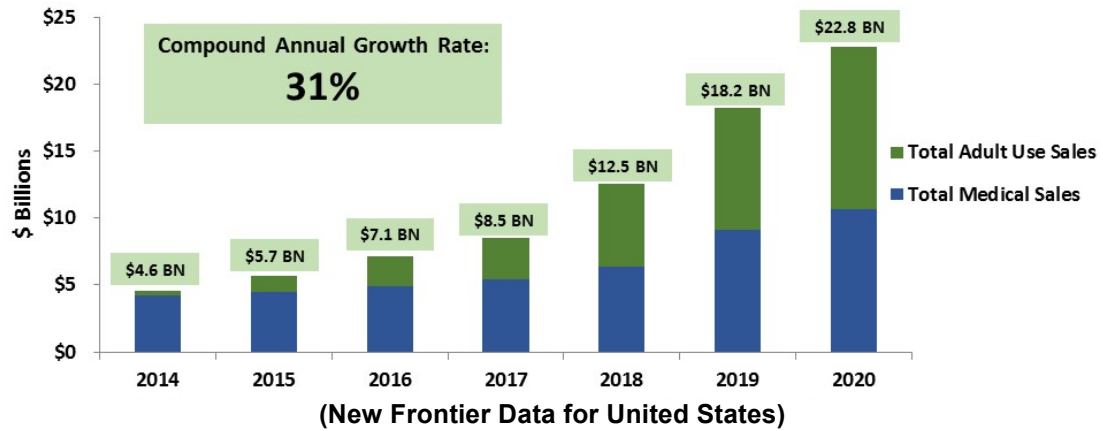


- Under section 60 of Bill C-45, it states that the Attorney General of Canada may enter into an agreement with the government of a province, or with any provincial, municipal or local authority.
- This agreement is in respect to the sharing of fines and fees that are collected in respect of the prosecution of offences, for the compensating for the administration and enforcement of this act.
- If the government of Canada is serious about its dedication to a government to government relationship, First Nations should have been included within this section to provide adequate responses to the implications of this bill within and surrounding First Nations communities.
- Bill C-45 should have included support for First Nations emergency responders such as police, ambulance, and fire response which will be impacted by manufacturing and sales within this emerging industry.
- A revenue sharing agreement with First Nations would have ensured quality emergency response to promote community safety, which is an important factor in self-governance.
- While there may be some First Nations that are unwilling to participate in the industry, which is their prerogative to do so, there will be some First Nation that will want to participate as meaningful partners or even sole owners of businesses related.
- Within section 61(1)(a), the Minister may establish classes of applications for licenses and permits. First Nations should be a separate class and have a designated number of licenses and permits attached to that class.
- The Act permits the Minister to revoke licenses base on a business incorporation being formed or organized outside of Canada.





### The Explosive Growth of Legal Adult Use and Medical Marijuana Markets



- As the Attorney General continues the work on federal legislation that impacts First Nations ability to self-govern, more First Nations could begin to assert their sovereignty over their jurisdictions.
- This could include self-regulation on cannabis, but also on business licenses, and incorporation.
- It is always important to be mindful of the changes to come, and how colonial legislation continues to impact on First Nations' ability to generate revenues to appropriately govern their Nations.

### Public Health and Public Safety

- However, the biggest concern that First Nations in Ontario – and across the country – have with Bill C-45 is for the health and safety of our Peoples.



- According to the National Native Alcohol and Drug Abuse Program, cannabis is the second-most abused substance after alcohol, followed by cocaine and opioids.
- In 2013, it was estimated in Ontario alone that an additional \$33 million per year is needed to treat First Nations with drug and alcohol addictions. This is a result of decades of underfunding.
- What will happen when cannabis is legalized and more of our Peoples will be able to have access to it?
- We know there will be an increase in the need for addiction treatment. We know there will be a need for an increase in law enforcement.
- When the states of Colorado and Washington legalized cannabis sales in 2013, American Indian tribes were negatively impacted.
- Cannabis products were sold illegally on reservations as far as New Mexico, Arizona, and North and South Dakota. The primary target were Native American teenagers.
- To quote a July 25, 2014 Denver Post article:
  - *“Tribal leaders are fighting a heroic but losing stand as state-legalized marijuana, cannabis-infused food, liquids, e-cigarette cartridges, and other products make their way to young people from Colorado and Washington state-licensed dispensaries.”*
- How are we going to ensure this does not happen here in Canada? For example, First Nation policing is already chronically underfunded and understaffed.



## CONCLUSION

- In conclusion, there are a lot of unanswered questions about how the legal sale of cannabis will impact First Nations.
  - How will our communities benefit in terms of economic opportunities and revenue sharing?
  - How will our Peoples be affected in terms of health and safety?
  - How much funding will the federal government set aside for First Nations in terms of educating our citizens – especially our youth – on the impacts of cannabis?
  - How many millions of dollars will it take to treat new and ongoing cannabis addictions?
  - Canada and Ontario must make funding of First Nation policing services a top priority.
  - As Bill C-45 becomes law this October, all communities and jurisdictions must have the proper health, policing, and public safety resources in place – that includes First Nations across Canada.
  - All of these considerations combined, will ensure that the industry has done its due diligence and process with regard to First Nations and their rightful place in the formal lifting of prohibition in the Cannabis Industry in North America.

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