

KEVIN O'REILLY—MLA FRAME LAKE
Bill 6, Cannabis Legalization and Regulation Implementation Act
Committee of the Whole
May 31, 2018

(selected excerpts)

HON. LOUIS SEBERT: Thank you, Mr. Chair. I am pleased to be here today to talk to you about Bill 6, Cannabis Legalization and Regulation Implementation Act.

I would like to thank the Standing Committee on Social Development and the Standing Committee on Government Operations for their review of this bill and for the constructive feedback they have provided. A number of motions were made in committee, and I am pleased that the bill has improved as a result.

The development of Bill 6 required significant interdepartmental collaboration and has benefited from feedback from the public, Indigenous governments, community governments, and other stakeholders, received during an extensive engagement process that occurred during the summer and fall of 2017. Since that time, the joint standing committee has conducted further engagement with residents, and we look forward to hearing about that today.

We recognize that not everyone agrees with all aspects of the legislation being proposed, but, as a government, we have an obligation to make the best decisions we can to design a system that puts the health and safety of our residents first and that follows the guiding principles that received overwhelming support during the engagement.

In addition to the feedback received from our cannabis engagement process, other important factors that were considered when determining our approach included:

- discussion and information from other jurisdictions;
- discussion with enforcement partners;
- practical and financial implications for implementation in the required timeframe; and
- current research on the health impacts of cannabis.

Bill 6 includes three schedules.

In the first schedule, the Department of Finance proposes the new Cannabis Products Act. This will enable the GNWT to assume responsibility for the importation and sale of cannabis products through the Liquor Commission, under the direction of the Minister of Finance. The Act will provide for a cannabis mail-order system to communities that do not have a retail store, and those communities will have the option of holding a plebiscite to decide if restrictions or prohibitions will be put in place. The new act will set 19 years of age as the legal minimum for purchase and possession of cannabis and maintain the federal possession limits, which will allow adults 19 years of age and older to possess up to 30 grams in public and to grow up to four plants in a household.

In the second schedule, the Department of Health and Social Services is proposing the new Cannabis Smoking Control Act. It will place restrictions on the public smoking of cannabis products similar to laws governing the smoking of tobacco products, with a number of additional restrictions. The new act will also require cannabis retail outlets to post health warning signage distributed by the department.

In the third and final schedule, the Department of Infrastructure has proposed several amendments to the Motor Vehicles Act to create additional penalties for drug and alcohol impaired drivers. These will include zero tolerance laws for novice drivers, drivers aged 21 and under, and commercial drivers. Administrative licence suspensions will also be established for all drivers who fail a standardized field sobriety test or an evaluation by a drug recognition expert. The current legislation governing impaired driving will be amended to appropriately address drug-impaired driving and to reflect the repeal and replacement of the transportation section of the Criminal Code under the federal Bill C-46. Amendments are also proposed to allow the Registrar of Motor Vehicles to release driver's abstracts directly to law enforcement.

I would like to acknowledge the collaboration amongst departments to bring forward this legislation under the challenging timelines, and also the willingness of the committees to work together to review this bill and to ensure we are in a position to respond effectively to the federal legislation.

I would be pleased to answer any questions regarding Bill 6. Thank you.

...

MR. O'REILLY: Thanks, Mr. Chair. I made some remarks when we were discussing the committee report a couple of days ago where I thanked committee and the public, and I don't really want to go over that ground again, but I want to say that I do personally agree with legalization. I wish that we had more time, though, and that much of our efforts, and I think most of the efforts have been very well-intentioned, have been really fraught with poor communications. We have had to deal with a whole set of very complex, difficult issues, and it has been very divisive. I think we are going to see more of that, unfortunately, today.

I am a bit resentful of the amount of time that this has taken up, and I wish that we could have probably devoted this time to a number of other issues. I recognize that this is largely brought on by the federal government, and it is probably going to be the most significant legislation that this Assembly deals with. It could lead to some very profound changes that we probably can't anticipate right now.

I also feel that this is being rushed and that we are basically in a big pressure cooker.

There are a number of residual issues that we are going to talk about here this evening. They really boil down to things like the retail model, whether cannabis and liquor should be sold out of the same location. I have some issues around the age limit, which I am going to try to address in one way, and I will be bringing forward another motion to try to improve the toolbox that communities have once a cannabis store is located in their community.

Also, there are a number of underlying issues here that I think are really fundamental. The most important is ministerial authority. That is what this is really about, and much of the debate that we are going to be talking about in the motions to come is really about ministerial authority. That's what it's all about, and unfortunately, it has boiled down to Cabinet versus the Regular MLAs and some issues of trust, as well.

I have said that we're not going to get this right. No matter what we do, whatever kind of comprises people are going to make, we're not going to get this right, and we're going to make mistakes. The one, I think, important feature of the bill that is now before us is that there will be a review within two or three years, the next Assembly will conduct that, on the implementation of the bill. It will be up to those that come after us to review this and try to make it better.

I think, Mr. Chair, that is all I want to say for now. Like my colleague from Yellowknife Centre, I do hope for a respectful debate. I know everybody is trying to do their best to represent their ridings and their citizens and do the best thing for the Northwest Territories, even if we disagree. Thanks, Mr. Chair.

COMMITTEE MOTION 59-18(3):
BILL 6: CANNABIS LEGALIZATION AND REGULATION IMPLEMENTATION ACT –
AMENDMENT TO SCHEDULE A, CLAUSE 5 – ADDITION OF SUBSECTION 5(1),
DEFEATED

MR. TESTART: Thank you, Mr. Chair. I move that Schedule A to Bill 6 be amended by adding the following after subsection 5(1):

(1.1) Before the Minister designates a person to act as a vendor under subsection (1), the Minister shall ensure that the person meets the prescribed criteria.

(1.2) If a person meets the prescribed criteria, the Minister shall designate that person to act as a vendor unless the Minister provides a reasonable justification for not doing so.

(1.3) The Minister shall not require that, in order for a person to be designated as a vendor under subsection (1), the person must also be designated as a vendor under subsection 34(1) of the Liquor Act.

...**MR. O'REILLY:** Thanks, Mr. Chair. I have a confession that I want to start with. At first, I supported the liquor retail model, but I changed my mind based on the input that we've heard. I'm going to come at this very differently than some of my colleagues, but I do agree and support the work of the committee on this. Although I did hear that there were some individuals who supported or wanted private retail stores, I do think that the claims of economic opportunities are probably greater than they are really going to turn out to be, especially around retail. There may be some opportunities around production, but I am worried about raising unrealistic expectations around economic opportunities, particularly with regard to retail.

I want to go and just look at what is in the existing bill. The only conditions that are being placed on who can become a vendor are that you can't be a minor, you can only sell cannabis that is authorized by the federal government, you have to keep records,

there may be some additional things required by regulation, and you probably have to enter an agreement with the Minister.

Those were the only conditions in the existing bill, but the Minister may designate a person to act as a vendor in a particular community. That's total and unfettered discretion. The Minister can decide whoever can become a vendor, total and unfettered discretion, and I don't think that's appropriate. What we are left with is trying to deal with a policy decision through a legal amendment, and it is kind of a difficult position to be put in.

I want to point out that the amendment that we are talking about here, there's nothing in this amendment that prevents sale of cannabis through the liquor retail system. The government can continue to do that. If that's what the policy direction is, this amendment will still allow that to happen.

What it would require is that the government actually develop a set of regulations, to set out in a clear and transparent manner what the prescribed criteria are. It would force the government's hand to actually set those out in a clear and transparent fashion, set up a process for doing that, and presumably, it would be a public process where the development of those regulations would take place. Anybody who meets those prescribed conditions would get a licence to sell. They could be the sorts of things that the Minister of Justice talks about, whether it's security or lack of a criminal record or whatever. All of those things could be laid out in a clear and transparent fashion, and I think that's what this government should be doing right now.

As I said, I come at this a lot differently. I am very concerned about the Minister having total and unfettered discretion, and that's what this is about. It's about ministerial authority and discretion. To me, that is a key issue here, and I'm not prepared to give the Minister that much authority over something that's brand new. Absolutely not.

I'm going to be voting in favour of this. Thanks, Mr. Chair.

RECORDED VOTE

DEPUTY CLERK OF THE HOUSE (Ms. Kay): The Member for Kam Lake, the Member for Tu Nedhe-Wiilideh, the Member for Nahendeh, the Member for Frame Lake, the Member for Yellowknife Centre, the Member for Hay River North, the Member for Yellowknife North.

CHAIRPERSON (Mr. Blake): All those opposed?

DEPUTY CLERK OF THE HOUSE (Ms. Kay): The Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Sahtu.

CHAIRPERSON (Mr. Blake): All those abstaining, please rise.

The results of the recorded vote: seven in favour, nine opposed, zero abstentions.

---Defeated

COMMITTEE MOTION 60-18(3):
BILL 6: CANNABIS LEGALIZATION AND REGULATION IMPLEMENTATION ACT –
AMENDMENT TO SCHEDULE A, CLAUSE 5 – ADDITION OF SUBSECTION 5(1),
CARRIED

MR. SIMPSON: Mr. Chair, I move that Schedule A to Bill 6 be amended by deleting subsection 5(1) and substituting the following:

(1) The Minister shall, where the Minister considers it to be in the public interest, designate a person to act as a vendor in a particular community for the operation of a cannabis store and the sale of cannabis in that community.

(1.1) The Minister shall, within six months after the coming into force of this subsection, recommend that the Commissioner make regulations prescribing criteria to guide the Minister in considering whether the designation of a person as a vendor is in the public interest.

(1.2) The criteria referred to in subsection (1.1) must not establish a condition that a person first be designated as a vendor under subsection 34(1) of the Liquor Act in order to be designated as a vendor under subsection (1).

(1.3) Notwithstanding subsection (1.1), the Minister may designate a vendor before the regulations referred to in subsection (1.1) have been made.

...**MR. O'REILLY:** Thanks, Mr. Chair. Yes, if I wasn't fooled into thinking this was a smokescreen before, that one sealed it. Look, if the Minister had said in a very clear, unambiguous way in this Chamber that the GNWT is going to open up the system to private sales in six months, I might have been fooled into believing this, but that's not what the Minister said. The Minister said they're going to develop regulations to define what the Minister thinks is the public interest. That's just not going to work here.

This is not a compromise. All this requires is that a regulation be developed within six months. It's not going to provide clarity. There's no requirement in this motion for private sales. All there is, is a requirement to develop a regulation that somehow is going to mysteriously define what is in the public interest.

You know what, the Minister has already decided what is in the public interest. The Minister has decided that it's not in the public interest to allow for private sales. The Minister has already decided that the public interest is served by selling cannabis through the liquor store system, and nothing in this amendment is going to change that. There's nothing in here that will stop that from continuing. I don't know what it's going to take to change the Minister's mind, quite frankly.

You know, it's going to be defined, the public interest is going to be defined, through some regulation? I've never heard of that before, never heard of it. So this is not transparent. It's not accountable, and this is worse than even the existing bill because I think it has the potential to create an expectation that there are going to be private sales in six months. That's not what is going to happen.

This is about the Minister developing some kind of a regulation in six months' time that defines what the public interest is. Meanwhile, the Minister can go ahead and start

designating vendors right away. That's what the last part of this says: notwithstanding anything else, the Minister may designate a vendor before the regulations are even made. So who is that going to be? We already know. Thanks, Mr. Chair. I won't be supporting this.

RECORDED VOTE

DEPUTY CLERK OF THE HOUSE (Ms. Kay): The Member for Hay River North, the Member for Sahtu, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha.

CHAIRPERSON (Mr. Blake): All those opposed, please rise.

DEPUTY CLERK OF THE HOUSE (Ms. Kay): The Member for Yellowknife North, the Member for Kam Lake, the Member for Tu Nedhe-Wiilideh, the Member for Nahendeh, the Member for Frame Lake, the Member for Yellowknife Centre, the Member for Deh Cho.

CHAIRPERSON (Mr. Blake): All those opposed, please rise. Sorry, abstaining. Long night here. The motion is carried.

---Carried

Next, we have clause 5, as amended. Ms. Green.

COMMITTEE MOTION 61-18(3):

BILL 6: CANNABIS LEGALIZATION AND REGULATION IMPLEMENTATION ACT –
AMENDMENT TO SCHEDULE A, CLAUSE 5 – ADDITION OF SUBSECTION 6.1
AFTER SUBSECTION 5(6), DEFEATED

MS. GREEN: Mr. Chair, I propose that Schedule A to Bill 6 be amended by adding the following after Subsection 5(6):

(6.1) Every agreement referred to in Subsection 6 shall require that, where a cannabis store is to be located in the same building as a liquor store, the two stores are to be separated so that,

(a) each store has a separate exterior entrance for members of the public; and

(b) the portion of each store that is open to the public is not accessible from the portion of the other store that is open to the public. Thank you, Mr. Chair.

...

MR. O'REILLY: Thanks, Mr. Chair. I want to thank the Minister for speaking before me.

I want to make it very clear, like some of the other speakers, that I didn't hear anybody support or ask for co-location, selling liquor and cannabis out of the same space. Nobody I've ever heard say that, not one person.

I want to take the Minister back to his opening remarks tonight. We have an obligation to make the best decisions that we can to design a system that puts the health and

safety of our residents first. That's not what's in the bill. That's the Minister's own words: health and safety of the residents first. The public interest first. That's not what's in the bill. The Minister admitted that this is really an issue of commercial interests, costs, convenience. That's not putting health and safety of our residents first at all.

I now know where Cabinet is coming from on this. They're not putting the health and safety of our residents first when it comes to co-location. Commercial interests, costs, convenience: that's what's driving this, and that's just wrong.

I told my colleagues this is the hill I'm going to die on in terms of cannabis. We should not be selling it out of the same place as liquor. It's the hill I'm going to die on, and I don't know how the Minister could have said what he said in his opening statement and then just said those reasons for why we're going to allow for co-location. It's completely inconsistent.

I'm going to be supporting the motion. Thanks, Mr. Chair.

CHAIRPERSON (Mr. Blake): Thank you, Mr. O'Reilly. To the motion.

SOME HON. MEMBERS: Question.

CHAIRPERSON (Mr. Blake): Question has been called. The Member has requested a recorded vote. All those in favour, please rise.

RECORDED VOTE

DEPUTY CLERK OF THE HOUSE (Ms. Kay): The Member for Yellowknife Centre, the Member for Hay River North, the Member for Yellowknife North, the Member for Kam Lake, the Member for Tu Nedhe-Wiilideh, the Member for Nahendeh, the Member for Frame Lake.

CHAIRPERSON (Mr. Blake): All those opposed, please rise.

DEPUTY CLERK OF THE HOUSE (Ms. Kay): The Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Sahtu.

CHAIRPERSON (Mr. Blake): All those abstaining, please rise. The results of the recorded vote: seven in favour, nine opposed, zero abstentions.

---Defeated

COMMITTEE MOTION 62-18(3):

BILL 6: CANNABIS LEGALIZATION AND REGULATION IMPLEMENTATION ACT – AMENDMENT TO SCHEDULE A, SECTION 11 – ADDITION AFTER SUBSECTION (2)
DEFEATED

MR. O'REILLY: Thanks, Mr. Chair. I move that section 11 of Schedule A to Bill 6 be amended by adding the following after subsection 2:

(3) Notwithstanding subsection (1), a person who has attained 19 years of age but has

not attained 25 years of age shall not possess one or more classes of cannabis, the total amount of which, as determined in accordance with Schedule 3 of the Cannabis Act (Canada), is equivalent to more than 10 grams of dried cannabis.

Thank you, Mr. Chair.

CHAIRPERSON (Mr. Blake): Thank you, Mr. O'Reilly. A motion has been made. The motion is being distributed. The motion is in order. To the motion. Mr. O'Reilly.

MR. O'REILLY: Thank you, Mr. Chair. I am not going to keep us long because I know everybody's exhausted. We heard in every community, there were concerns raised about the age of consumption being set at 19 in this bill. The medical evidence does show that brain development of young people can be affected by cannabis consumption up to at least 25 years of age. We had health organizations ask us to raise the age limit for consumption. We heard that in some communities. It is only fair to say that that was not universal. I heard enough evidence that I felt that there needed to be some way to try to send very strong signals to youth that use of cannabis when you're below the age of 25 is not a good thing. I don't think public education is sufficient. We need something more. That is what this motion attempts to do is to set a lower possession limit for people aged between 19 and 25 years of age. In the bill, it would be 30 grams. This amendment would reduce the quantity to 10 grams. It's not ideal, but I think it's a step in the right direction.

I just want to note that for the record, the legal age of consumption for cannabis in the eight US states that have legalized possession is 21 years of age. The evidence that I've been provided by the medical community shows that increasing minimum age of consumption, even for tobacco for 21 years of age, over time decreases adult smoking, smoking-related deaths. It leads to reductions in youth smoking. I understand that that's related to tobacco, but I think the same will apply to cannabis. Any efforts that I think we can make to try to move in that direction, and that's what this amendment is aimed at, I think are in the public interest, and this is not to take away from the needs around public education and making proper curriculum in schools and so on, but I think this is an amendment that addresses a clear public need. Thanks, Mr. Chair.

...

RECORDED VOTE

DEPUTY CLERK OF THE HOUSE (Ms. Kay): The Member for Frame Lake, the Member for Yellowknife Centre, the Member for Tu Nedhe-Wiilideh.

CHAIRPERSON (Mr. Blake): All those opposed, please rise.

DEPUTY CLERK OF THE HOUSE (Ms. Kay): The Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Yellowknife South, the Member for Hay River South, the Member for Inuvik Twin Lakes, the Member for Thebacha, the Member for Hay River North, the Member for Sahtu, the Member for Yellowknife North, the Member for Kam Lake, the Member for Nahendeh.

CHAIRPERSON (Mr. Blake): All those abstaining, please rise. Three in favour, 13 opposed. The motion is defeated.

---Defeated

COMMITTEE MOTION 63-18(3):

BILL 6: CANNABIS LEGALIZATION AND REGULATION IMPLEMENTATION ACT –
AMENDMENT TO SCHEDULE A, ADDITION OF SECTION 19.1, DEFEATED

MR. O'REILLY: Thanks, Mr. Chair. I move that Schedule 8 of Bill 6 be amended by adding the following after Section 19:

19.1(1) In this section, "voter" means in relation to a community, a person who is on the list of voters prepared under the Local Authorities Elections Act for the most recent community election;

(2) If that's at least 20 per cent of the voters of a community in which a cannabis store has been in operation for two or more years, petition the Minister to hold a plebiscite. The Minister may order that a plebiscite be held to determine whether the voters of that community wish to establish a restricted-quantity system as described in paragraph 12(2)(b)(3). Sections 15 to 19 apply with any necessary modifications to a plebiscite ordered under Subsection 2.

Thank you, Mr. Chair.

CHAIRPERSON (Mr. Blake): Thank you, Mr. O'Reilly. The motion has been made. The motion is being distributed. The motion is in order. To the motion, Mr. O'Reilly.

MR. O'REILLY: The purpose of this motion is to ensure that communities have one more tool to look at the effects of cannabis in their communities, and, if they're not happy with what's happening, then they would have the ability to hold a plebiscite for a restricted-quantity system, even if there's an operating store. That could only take place, though, two years after a store opens and if 20 per cent of voters in the community prepare a petition and only after the Minister allows for a plebiscite to go ahead.

Just to refresh people's minds, a restricted-quantity system is one of the three options that are open to communities, as set out in Section 12(2) of the bill. The three approaches are: an unrestricted system, the second is a restricted system, and the last is a prohibition system. I'm not talking about a prohibition system, this is not about prohibiting cannabis in a community where there is a store. This is about bringing in a plebiscite for a restricted-quantity system, "a restricted-quantity system where the quantity, or type of cannabis that persons may possess, purchase, transport, or bring into the community is limited."

It's not about prohibiting cannabis but if, after a store has been operating for a couple of years, the community would like to have some kind of restrictions placed on possession limits, what's sold through the store, that kind of thing, they would at least have the ability to petition for a plebiscite, and the plebiscite would only be held if the Minister agrees. So this is to give communities one more tool to express their views about cannabis, even if there's an operating store. Under the current bill, once the store

opens, the community cannot have a plebiscite for prohibition, cannot have a plebiscite for a restricted quantity system; that door's closed. This would open the door to allow for a community to express its views.

The last thing I guess I want to say about this is that this is no different than the authority of the Minister. The Minister can set terms and conditions for cannabis sale in a store through the agreement that's negotiated with a vendor. The Minister also has authority under Section 71 to set the terms and condition of sales through the store. What this does is allow the community to have some authority, a tool to express its views once a store has been opened. So that's what this is about, is providing communities with one more tool. So I hope that Members would support it. Thanks, Mr. Chair

RECORDED VOTE

DEPUTY CLERK OF THE HOUSE (Ms. Kay): The Member for Frame Lake, the Member for Nahendeh.

CHAIRPERSON (Mr. McNeely): All those opposed, please rise.

DEPUTY CLERK OF THE HOUSE (Ms. Kay): The Member for Yellowknife Centre, the Member for Deh Cho, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Inuvik Twin Lakes, the Member for Hay River South, the Member for Thebacha, the Member for Hay River North, the Member for Sahtu, the Member for Yellowknife North, the Member for Kam Lake.

CHAIRPERSON (Mr. McNeely): All those abstaining, please rise.

DEPUTY CLERK OF THE HOUSE (Ms. Kay): The Member for Tu Nedhe-Wiilideh.

CHAIRPERSON (Mr. McNeely): Two in favour, 13 opposed, one abstention. The motion is defeated.

---Defeated

Clause 19. Does committee agree?

COMMITTEE MOTION 64-18(3):

BILL 6: CANNABIS LEGALIZATION AND REGULATION IMPLEMENTATION ACT – AMENDMENT TO SCHEDULE A – ADDITION OF PARAGRAPH 71(J.1), CARRIED

MR. SIMPSON: Thank you, Mr. Chair. Mr. Chair, I move that Schedule A of Bill 6 be amended by adding the following after paragraph 71(j):

(j.1) Prescribing criteria to guide the Minister in considering whether the designation of a person as a vendor is in the public interest for the purpose referred to in subsection 5(1).

Thank you, Mr. Chair.

CHAIRPERSON (Mr. McNeely): The motion has been made. The motion has been

distributed. The motion is in order. To the motion.

SOME HON. MEMBERS: Question.

CHAIRPERSON (Mr. McNeely): Question has been called. Yes, Mr. Simpson.

MR. SIMPSON: Just for clarification, this just provides the Minister with the regulation-making authority that was referenced in my earlier motion. Thank you, Mr. Chair.

CHAIRPERSON (Mr. McNeely): Thank you, Mr. Simpson. To the motion. No, Mr. O'Reilly.

MR. O'REILLY: Thanks, Mr. Chair. I'd like to request a recorded vote.

CHAIRPERSON (Mr. McNeely): Thank you, Mr. O'Reilly. To the motion. Question has been called. The Member has requested a recorded vote. All those in favour, please rise.

RECORDED VOTE

DEPUTY CLERK OF THE HOUSE (Ms. Kay): The Member for Hay River North, the Member for Sahtu, the Member for Nunakput, the Member for Inuvik Boot Lake, the Member for Range Lake, the Member for Great Slave, the Member for Inuvik Twin Lakes, the Member for Hay River south, the Member for Thebacha.

CHAIRPERSON (Mr. McNeely): All those opposed, please rise.

DEPUTY CLERK OF THE HOUSE (Ms. Kay): The Member for Yellowknife North, the Member for Kam Lake, the Member for Tu Nedhe-Wiilideh, the Member for Nahendeh, the Member for Frame Lake, the Member for Yellowknife Centre, the Member for Deh Cho.

CHAIRPERSON (Mr. McNeely): All those abstaining, please rise. Nine in favour, seven opposed, zero abstentions. The motion is carried.

---Carried