

**Proposed Regulatory Amendments to Support Implementation of Schedule 4 of
the Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment
Act, 2017**

Background:

For the last 16 years, Ontario has been ranked first or second in road safety in North America (measured by number of fatalities per 10,000 licensed drivers). Despite Ontario's record of success, there is still more the Province can do to address growing safety concerns about collisions involving impaired drivers, distracted drivers and vulnerable road users (e.g., pedestrians and cyclists).

Based on Ontario's collision database, in 2014 the majority of fatal collisions on Ontario's roads involved an impaired driver (29%), a distracted driver (21%) and vulnerable road users (24%). The most concerning trends include:

- Drivers who tested positive for the presence of drugs are more than twice the number who tested positive for alcohol (Roadside Alcohol and Drug Survey, 2014).
- Cannabis is the most prevalent drug found in fatally injured drivers in Ontario.
- Since 2000, fatalities related to distracted driving have more than doubled. In 2014, for the first time, distracted driving contributed to more fatalities than drinking and driving (Ontario collision database).
- Pedestrian fatalities on Ontario's roads increased by 16% from 2010 to 2014. In 2014, 1 in 5 fatalities on Ontario's roads were pedestrians (Ontario collision database).

On April 13, 2017, the federal government introduced its plan to legalize cannabis with Bill C-46, *An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts*. The federal government is expected to pass Bill C-46 by the end of 2017.

With the federal government's intended legalization of cannabis, instances of drug impaired driving will likely increase, as seen in other jurisdictions that have legalized cannabis.

In response to these areas of concern, Ontario passed the [Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017 \(Bill 174\)](#). This Act will strengthen existing road safety laws and allow for new measures to make roads even safer, especially for vulnerable road users such as pedestrians and cyclists. Ontario's proposals are also a critical step in preparing for federal legalization of cannabis, which has a proposed implementation date of no later than July 2018, and addressing an ongoing issue for Ontario.

The Ministry of Transportation (MTO) also anticipates that these proposals may translate into positive economic benefits for Ontarians by reducing the social costs

associated with these types of collisions, which include the cost of human consequences (e.g., pain and suffering, disability) and direct costs of collisions (e.g., property damage, health care, fire and ambulance services, and traffic delays).

MTO recognizes that to achieve the desired road safety outcomes, increased penalties must be combined with a targeted communications strategy to successfully effect behavioural change.

Proposed Regulatory Amendments:

The ministry is moving forward with proposed regulatory amendments that would be supported by a proactive, targeted communications strategy and enforcement by Ontario's police services. This would ensure a holistic approach to achieving the ministry's intended outcomes and ultimately influence driver behaviour.

The proposed regulatory initiatives are summarized below:

Impaired Driving

A) New zero tolerance drug presence laws for young and novice drivers

- Create a new regulation to define and permit the use of federally approved oral fluid screening devices once Federal Bill C-46 passes.
- Update existing regulations to ensure new sanctions fit into the existing conduct review regime (e.g., mandatory education or treatment programs, and ignition interlock requirements for repeat offenders).
- Update existing regulations to ensure that zero drug condition is included in the list of the novice licence conditions.

B) New zero tolerance drug and alcohol presence laws for commercial drivers

- Create a new regulation to define and permit the use of federally approved oral fluid screening devices, once Federal Bill C-46 passes.
- Update existing regulations to ensure new sanctions fit into the existing conduct review regime (e.g., mandatory education or treatment programs, and ignition interlock requirements for repeat offenders).
- Update existing regulations to define a commercial motor vehicle for the purposes of these laws.
- For the purposes of the commercial driver zero tolerance rules, the regulation would define a commercial driver as:
 - A driver holding a Class A, B, C, D, E or F driver's licence and operating a vehicle that requires the driver to hold a Class A, B, C, D, E or F driver's licence;
 - A person operating a tow truck;
 - A person operating a motor vehicle with a flatbed that can tilt to load;

- A person operating a motor vehicle with dual wheels on any axle of the motor vehicle; and
- A person operating a road-building machine.
- E.g. bulldozers, graders, low-speed street sweepers, etc. (see [Highway Traffic Act Regulation 398/16](#) for a full list)

C) New Administrative Monetary Penalties (AMPs) for drug and alcohol impaired driving

- Update existing regulations to ensure AMPs are applied to drivers who receive a licence suspension for the following reasons and make the payment of both an AMP and reinstatement fee a requirement for drivers to reinstate their licence:
 - driving with a BAC above zero or the presence of a drug in the body while 21 years and under;
 - driving with a BAC above zero or the presence of a drug in the body while a novice driver;
 - driving with a BAC above zero or the presence of a drug in the body while driving a commercial vehicle;
 - driving with a BAC above 0.05 (“warn range”);
 - driving with a BAC above 0.08 (“legal limit”);
 - failing or refusing to comply with a demand for alcohol or drug testing; and
 - driving impaired by a drug or a combination of a drug and alcohol.

D) Align the HTA with upcoming Federal Bill C-46 changes

- Create a new regulation to ensure that any elements impacting the HTA are updated, once Bill C-46 passes.

Distracted Driving

A) Increased penalties and progressive escalating distracted driving fine ranges and escalating suspension, upon conviction

- Update existing regulations to ensure escalating demerit points: three demerit points for the first conviction, six demerit points for the second and subsequent conviction would apply within a five year window.

Vulnerable Road User Safety

A) Increased and escalating penalties for failing to yield to pedestrians at crosswalks, crossovers and school crossings

- Update existing regulations to ensure that four demerit points would apply within a five year window, upon conviction.

- New offence for careless driving causing bodily harm or death
- Update existing regulations to ensure that six demerit points would apply to drivers, upon conviction.

B) Expanding the use of flashing blue lights

- Update existing regulations to ensure flashing blue lights can be used on any vehicles currently permitted to use flashing red lights.

C) School bus stop arm cameras

- Ontario is enabling the development of a legislative and regulatory framework establishing specialized evidentiary rules that would clarify what evidence could be used to prove a driver improperly passed a stopped school bus without the need to have a witness present
- Expanding the current school bus passing offence to include when the stop arm is actuated (in addition to the existing overhead red lights flashing requirement).

Public Consultation:

Ontario is considering the above mentioned proposals and invites you to submit your comments on these proposed regulatory amendments to support the implementation of Schedule 4 of the *Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017*.