

For Report

Certified correct as amended in Committee of the Whole on the 1st day of November, 2023  
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MINISTER OF PUBLIC SAFETY AND SOLICITOR  
GENERAL AND DEPUTY PREMIER

## BILL 34 – 2023

# RESTRICTING PUBLIC CONSUMPTION OF ILLEGAL SUBSTANCES ACT

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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

### Definitions

**1** In this Act:

“**exemption order**” means the exemption

- (a) granted under section 56 (1) of the *Controlled Drugs and Substances Act* (Canada),
- (b) titled “Subsection 56 (1) class exemption for adults in the province of British Columbia to possess small amounts of opioids, cocaine, methamphetamine and MDMA”, and
- (c) effective January 31, 2023;

“**illegal substance**” has the same meaning as in the exemption order;

“**local government**” means

- (a) the council of a municipality,
- (b) the board of a regional district,
- (c) the Cultus Lake Park Board, or
- (d) the Park Board established under section 485 of the *Vancouver Charter*;

“**medical health officer**” means a medical health officer designated under the *Public Health Act*;

“**place**” includes a building or structure;

“**playground**” has the same meaning as in the exemption order;

“**police officer**” means a person who, under the *Police Act*, is

- (a) a provincial constable,
- (b) a municipal constable, or
- (c) a designated constable;

“**regional health board**” means a board as defined in the *Health Authorities Act*;

“**skate park**” has the same meaning as in the exemption order;

“**spray pool**” has the same meaning as in the exemption order;

“**wading pool**” has the same meaning as in the exemption order;

“**workplace**” means any place

- (a) in which a person performs services in return for compensation, or
- (b) used in conjunction with the performance of services in return for compensation, including restrooms, meeting rooms and structures used for breaks.

#### **Restriction on bylaws relating to consumption of illegal substances**

- 2 Before considering a proposed bylaw to regulate, prohibit or impose requirements in relation to the consumption of an illegal substance in public, a local government must consult with the regional health board and the medical health officer responsible for public health matters within the area of the local government.

#### **Consumption of illegal substances**

- 3 (1) A person must not consume an illegal substance in any of the following areas or places or remain in any of the following areas or places after consuming an illegal substance in the area or place:
  - (a) the area within 15 m of any of the following places:
    - (i) any part of a play structure in a playground;
    - (ii) a spray pool or wading pool;
    - (iii) a skate park;
  - (b) any of the following places if the public has a right of access to the place:
    - (i) a sports field;
    - (ii) a beach;
    - (iii) a park within the meaning of the *Park Act*;
    - (iv) a regional park within the meaning of the *Local Government Act*;

- (v) an outdoor area established by a local government for purposes of community recreation;
  - (vi) a permanent public park over which the Park Board has jurisdiction under section 488 of the *Vancouver Charter*;
  - (vii) a park held in trust by a local government;
  - (c) the area within 6 m of the outside of the entrance to any of the following places:
    - (i) a place to which the public has access as of right or by invitation, express or implied, whether or not a fee is charged for entry;
    - (ii) a workplace;
    - (iii) a prescribed place;
  - (d) the area within 6 m of the outside of the entrance to a place occupied as a residence, if the public has a right of access to the area;
  - (e) the area within 6 m of a public transit bus stop;
  - (f) a prescribed place;
  - (g) the area within a prescribed distance from a prescribed place.
- (2) Subsection (1) (a), (b) and (e) does not apply to an area to which the public does not have a right of access.

**Direction given by police officer**

- 4 If a police officer has reasonable grounds to believe that a person is consuming or has recently consumed an illegal substance in an area or place described in section 3, the police officer may direct the person to do one or both of the following:
- (a) cease consuming an illegal substance in the area or place;
  - (b) leave the area or place.

**Arrest without warrant**

- 5 A police officer may arrest, without a warrant, a person who the police officer believes on reasonable grounds is committing an offence under section 8.

**Seizure of illegal substance**

- 6 (1) If a police officer believes on reasonable grounds that a person is committing an offence under section 8, the police officer may do one or both of the following:
- (a) immediately seize and remove any illegal substances found and any packages containing those substances, regardless of the amount of illegal substances found;
  - (b) destroy any seized illegal substances.

- (2) Subsection (1) does not authorize the seizure, removal or destruction of a drug dispensed to the person in accordance with a prescription under the *Pharmacy Operations and Drug Scheduling Act*, except to the extent required to identify the seized substance as a drug dispensed to that person further to a prescription.

**Analysis of substance**

- 7 (1) For the purposes of the administration and enforcement of this Act, the minister may designate individuals or classes of individuals as analysts.
- (2) A police officer may submit to an analyst for analysis or examination any substance or sample of the substance seized by the police officer under section 6.
- (3) An analyst may issue a certificate of analysis stating that the analyst has analyzed or examined a substance and stating the results of the analysis or examination, and the certificate is proof of the facts set out in it.

**Offence**

- 8 (1) A person who fails to comply with a direction given under section 4 commits an offence.
- (2) Section 5 [*general offence*] of the *Offence Act* does not apply to this Act.

**Power to make regulations**

- 9 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
  - (a) prescribing places for the purposes of section 3 (1) (c) (iii), (f) or (g), which may be different for each paragraph in that section;
  - (b) prescribing a distance for the purposes of section 3 (1) (g), which may be different for different places or classes of places;
  - (c) exempting the following, or a class of the following, from all or part of section 3:
    - (i) a person;
    - (ii) an illegal substance;
    - (iii) a form of consumption of an illegal substance;
    - (iv) a thing;
    - (v) a place;
    - (vi) an area within a specified distance of a thing or place.

- (3) A regulation under subsection (2) (c) may provide
  - (a) limits or conditions on the exemption, and
  - (b) circumstances in which the exemption applies.

**Repeal by regulation**

- 10** The Lieutenant Governor in Council may repeal this Act by regulation.

**Transition – section 2**

- 11** If, as of the day before the date this section comes into force, a proposed bylaw to regulate, prohibit or impose requirements in relation to the consumption of an illegal substance in public has been considered but not adopted by a local government, section 2 applies in relation to any further consideration of the proposed bylaw by the local government.

**Commencement**

- 12** This Act comes into force by regulation of the Lieutenant Governor in Council.