

# Cannabis Legalisation

A Business Perspective

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## Introduction

On April 13, 2017, the Government of Canada introduced legislation to legalise, regulate and restrict access to cannabis<sup>1</sup>. This legislation is expected to come into effect in July 2018. The federal legislation would:

- allow adults to possess up to 30 grams of legally-produced cannabis (30g/individual)
- allow adults to grow up to four cannabis plants per household limited to 100 cm in
- set the minimum age for purchase and use at 18 years of age, with the option for provinces and territories to increase the age limit
- enable a regulatory regime for the licensed production of cannabis, which would be controlled by the federal government
- enable a regulatory regime for the distribution and sale of cannabis, which would be controlled by the provincial or territorial government
- establish new provisions to address drug-impaired driving, as well as making several changes to the overall legal framework to address alcohol-impaired driving

Provinces and territories roles and responsibilities (Government of Canada, 2017; Government of Yukon, 2017; Health Canada, 2017) include:

- licensing distribution and retail sale
- ensuring compliance and enforcement activities
- imposing additional requirements on personal cultivation, lowering the possession limit or increasing the minimum age
- establishing provincial and territorial zoning rules for cannabis-based businesses
- levying of taxes
- restricting where cannabis may be consumed
- amending provincial and territorial traffic-safety laws to address driving while impaired by cannabis

Municipalities would be responsible for:

- education
- taxation
- retail location and rules
- land use and zoning

Note that edible cannabis products are not included under the Cannabis Act<sup>2</sup>.

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<sup>1</sup> Bills [C-45 Cannabis Act](#) and [C-46 An Act to amend the Criminal Code](#).

<sup>2</sup> Government of Canada wants more time to develop and implement regulations that will result in safe edible products eventually coming to market (Service Canada, 2017)

Under the proposed Act, there would be no inherent barriers to transporting cannabis between provinces and territories. However, the individual must respect the minimum age for cannabis possession in the province or territory that they are in.

According to the Yukon Health and Social Services website<sup>3</sup>, the Yukon has one of the highest rates of cannabis use, with 21% of all Yukon adults surveyed having used cannabis within the last year versus 14% for Canadian adults in 2004-2005.

This paper offers background information on two main areas of importance for the business sector: production and sales of cannabis, and presents some of the existing challenges and opportunities for the private sector. We hope this briefing paper will lead to a wider discussion on the Yukon Chamber position on this matter.

## Production

Under the proposed federal framework, the Government of Canada will institute a licensing regime for cannabis production. The Government of Canada is also responsible for establishing industry-wide rules on the types of products that will be allowed for sale, standardised serving sizes and potency, the use of certain ingredients and good production practices, as well as the tracking of cannabis from seed to sale to prevent diversion to the illicit market (Health Canada, 2017).

Medicinal cannabis production is already controlled by the Government of Canada. The use of cannabis for therapeutic purposes was first legalized in 1999. In June 2013, the Government of Canada implemented the *Marihuana for Medical Purposes Regulations* (MMPR). The MMPR created conditions for the commercial industry responsible for the production and distribution of medical cannabis. As of October 2017, 62 licenses had been issued by Health Canada ([see list](#)); most of them in the province of Ontario (35 licenses). As of May 2017, at least 13 cannabis-related companies were listed on Canadian stock exchanges; big names in the industry such as Canopy Growth Corp (just signed an agreement with AusCann Group Holdings Ltd. to be its exclusive supplier of medical cannabis for the Australian market), Aurora (800,000 square-foot cannabis production facility – Aurora Sky - built on land at the Edmonton International Airport that will be able to produce up to 100,000 kg of cannabis every year) and Aphria (CEO Vic Neufeld, former head of Jamieson Laboratories). In a few months only, the number of companies registered already exceeds twenty.

Current holders of licences will most likely be favoured once the market will open up to recreational users (Leblanc, 2017). According to S. Freeman, the focus in the Canadian market remains on licensed marijuana producers, but developing ancillary businesses that support production and distribution, a

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<sup>3</sup> <http://www.hss.gov.yk.ca/cannabis/cannabisabout.php>

sector of the industry that is more developed in the United States, seems an interesting opportunity (Freeman, 2017). Scott Walters, who helped launch several marijuana start-ups and is now CEO of Toronto-based Molecular Science Corp thinks that: *“For every dollar spent on cannabis, several dollars are spent in and around the cannabis, whether it’s on genetics, packaging, distribution, software or compliance”* (Freeman, 2017).

Cannabis is relatively easy to grow and doesn’t require industrial processing, meaning that it can be produced by anyone, anywhere. While the federal government speeds up the approval process for legal producers, many are concerned that the supply of marijuana will not meet the demand (Canadian Press, 2017) and therefore that this excess demand will give a boost to illegal production (Forrest, 2017; Leblanc, 2017). Gettman and Kennedy argue that the power of consumers is an important determinant in the success or failure of any regulatory framework as *“consumers act naturally in their own interests to force down prices and bargain for quality or services”*. The authors think that having an oligopolistic market, which involves limited market access often resulting in artificially high prices, will encourage consumers to seek other sources and/or grow cannabis for themselves and others (Gettman & Kennedy, 2014).

## Retail

### Market Size

According to the 2012 Canadian Community Health Survey–Mental Health (CCHS–MH), 12.2% of Canadians aged 15 or older (3.4 million) used marijuana in the previous year (S. C. Government of Canada, 2015). In 2016 Colorado topped \$1 billion in legal cannabis sales for an estimated population of 4,277,301 adults, i.e. 18 years old and older. A study estimating the economic value of British Columbia's domestic cannabis market (Huddleston, 2016) valued retail expenditures on cannabis around \$407 million. When adjusting for under-reporting of cannabis use, the estimated retail expenditure ranged from \$443 million to \$564 million. This study was recently used by many media to extrapolate spending on cannabis products by Canadians to \$3 billion a year (Barmak & McCullough, 2013).

A study conducted by Deloitte in 2016 suggests higher spending with a base retail-market value for recreational marijuana ranging from \$4.9 billion up to \$8.7 billion, the upper threshold including respondents (17%) who are “likely to consume,” marijuana (Deloitte, 2016). In terms of tax and licensing fee, revenues generated will obviously depend on the tax rate that will be applied. Avery Shenfeld, CIBC Chief Economist, believes that federal, provincial and territorial governments may be able to generate up to \$5 billion from legalization, but only if all underground activities are eradicated (Shenfeld, 2016). However, many analysts have already advised governments to hold off on heavy taxation as it will most likely contribute to maintaining the black market (Gettman & Kennedy, 2014; Pittis, 2017)



Figure 1 Deloitte 2016

### Retail Models

Gettman and Kennedy identified three regulatory models regarding cannabis control: prohibition, interventionist and open-market (unrestricted). The proposed federal framework is aligned with the interventionist model where provinces and territories are responsible for licensing the distribution and retail of sales. According to them, this model is usually “characterized in terms of limited market access, high prices, low levels of competition among merchants, and high levels of tax revenue”. So far, New Brunswick and Ontario envision a public-retail model, i.e. managed by the government, but other options such as a private retail network or a private-public mix model could be developed in other Canadian jurisdictions.

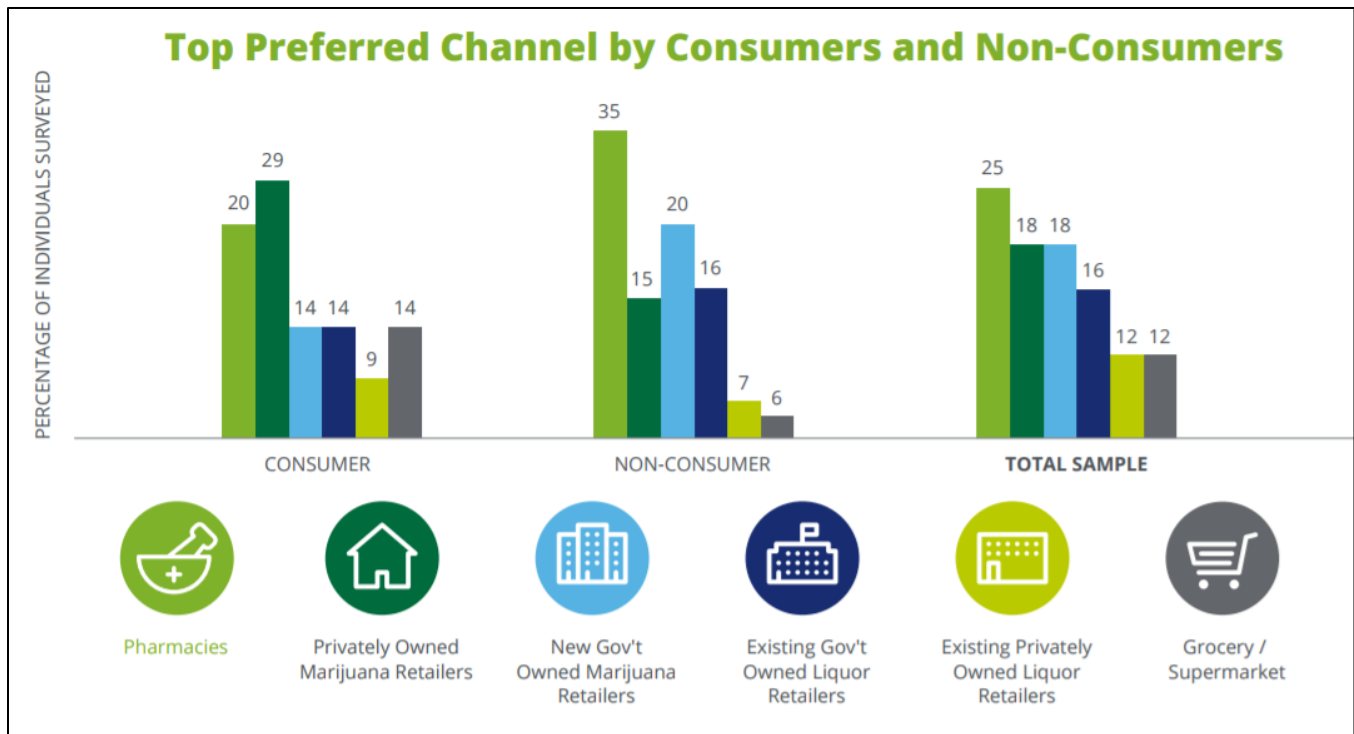


Figure 2 Deloitte 2016

### Public Model

Both the provinces of New Brunswick and Ontario favoured a Crown-Corporation-operated retail model that would operate in separate locations from liquor sales (Government of Ontario, 2017; New Brunswick Working Group on the Legalization of Cannabis, 2017). The Government of Ontario is the first jurisdiction to release a framework setting parameters for the regulation of cannabis (Crawley & Pelley, 2017; Government of Ontario, 2017). The Liquor Control Board of Ontario (LCBO) will oversee the operations of cannabis retailing online and through stand-alone stores. By July 2019, eighty stores should open, with an additional 70 stores opening by 2020 for a total of 150 stores serving Ontarians. Ontario officials just started to discuss with their municipal counterparts about where the first stores should be located, but they have already expressed their intention to target areas with high concentrations of illegal marijuana dispensaries with the obvious goal to force them to close (Forrest, 2017; Gray & Posadzki, 2017). Ontario will not permit products to be visible to youth and will require a behind-the-counter retail environment similar to how cigarettes are sold. Regarding online sales, ID checks and signature upon delivery will be required. Some observers are concerned about the province’s capacity to supply the demand of cannabis products, especially outside of urban areas, due to the limited number of stores.

### **(Semi) private or private-public-mix model**

In British Columbia where the dispensaries are already well-established, the City of Vancouver has already moved to regulate the stores instead of shutting them down. Actually, many commentators think that the public model proposed by the Government of Ontario would not work for the province of British Columbia where the private sector already has roots (Forrest, 2017; Ip, 2017). Meanwhile in the United States, states such as Alaska approved the establishment of a statewide distribution system through licensed outlets<sup>4</sup>.

### **Challenges and Opportunities**

#### **Retail**

The arrival of “High Expedition Co.” in downtown Talkeetna, Alaska divided the business community. Some of the business owners think that the new player could ruin the tiny town's historic atmosphere and harm business like the stores that serve alcohol along Main Street (Thiessen & The Associated Press, n.d.). Some of the challenges for residents and businesses located near a cannabis dispensary may be alleviated once zoning regulations are addressed. Another criticism expressed by the business owners of Talkeetna is the lack of places for tourists to consume the marijuana bought in the outlet. As smoking in public is illegal, some fear the nearby river park would become the place to partake.

While many associations such as the Ontario Public Health Association and the Ontario Association of Chiefs of Police support the plan proposed by the Government of Ontario (McCooney, 2017), the Cannabis Canada Association, an industry group that represents licensed marijuana producers, said it hoped the government would eventually allow private-sector retailers since: “*A competitive market model would provide the Province with a predictable, low-risk revenue stream without the taxpayer burdens of upfront capital expenditure exposure and operational risk.*”(Gray & Posadzki, 2017). Many commentators – consumers but also individuals involved in the industry – are critical of the Government of Ontario approach. Many highlighted that government employees may not be well positioned to serve properly customers in terms of having the expertise for ensuring a variety of products and a quality that will please connoisseurs, or to provide guidance and counsel on cannabis. There is also the question of serving behind the counter “hidden” products (Ip, 2017; Picard, 2017). As stated by the Public Health Reporter from the Globe and Mail:

*The problem with Ontario's plan is that it will make buying cannabis from "The Pot Store" (the precise name has not yet been decided) about as appealing as getting an enema. Products – and we don't know what varieties and formats will be available, or prices – will be kept hidden and customers will have to order from a clerk who will retrieve the shameful*

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<sup>4</sup> Other criteria include age limit of 21 years, restricted advertising, limited personal possession and prohibited use in public spaces.

*bounty from the back room. (...) Under the current plan, dispensaries' customers are more likely to return to the black market than shop at granny's state-run Pot Store.*

This concern is shared by many others including Aaron Salz, founder of cannabis consulting firm Stoic Advisory, who doubt that the public sector will be able to meet the demand (Forrest, 2017).

### **Consumption and Lack of Public spaces: coffee shops, vapour lounges, eatery, etc.**

Under the proposed Cannabis Act, provinces and territories, under their own authorities, can set additional restrictions and local requirements related to cannabis, including restricting where and how cannabis may be consumed. In the Netherlands, the sale of cannabis is tolerated in the “coffee shops” that operate under strict licensing conditions regulated by the municipalities (Rolles, 2014). About two-thirds of the municipalities do not allow “coffee shops”, and their numbers across the country is steadily decreasing, from 846 in 1999 to 614 in 2013 (European Monitoring Centre for Drugs and Drug Addiction, 2016). In 2012, Netherlands tried to convert “coffee shops” into closed clubs with registered members (“wietpas” or “weed pass” system for residents of Netherlands only) but the trial was dropped in 2012 by the new coalition government.

At this time in Ontario, recreational cannabis can only be used on private property, not in public, in workplaces or in vehicles. Whether businesses allowing consumption such as lounges or cafés will be permitted remains an open question. While many fear the nuisance associated with consuming and smoking marijuana in public, limiting consumption to private households may bring its lot of problems especially if there is no designated space for consumers and tourists buying recreational cannabis. Concerns from the business owners of Talkeetna are similar to those expressed about the loitering and drinking along the Whitehorse waterfront (Riches, 2014). Tourists and locals that cannot consume at home may benefit from coffee shops, vapour lounges and other public spaces where consumption is possible.

### **Personal growing of cannabis in rented dwellings**

Several landlord associations recommend adding a smoking-ban clause to the rental agreement that not only restricts smoking to tobacco, but also encompassed smoking other substances. The main issue though is the growing of cannabis for personal use – up to four plants per household. The Canadian Federation of Apartment Association expressed their concerns with growing marijuana in multi-unit dwellings, or rented dwellings as results for building owners can be financially tragic. Their concerns include safety hazards, interference with other tenants, potential damage to the building, potential liability for the landlord, risk to the mortgage holder and potential cancellation of building insurance or the calling of a mortgage. The Insurance Bureau of Canada reminds that any grow-operation larger than a few plants on a window sill could affect insurance coverage (DeRosa, 2017)



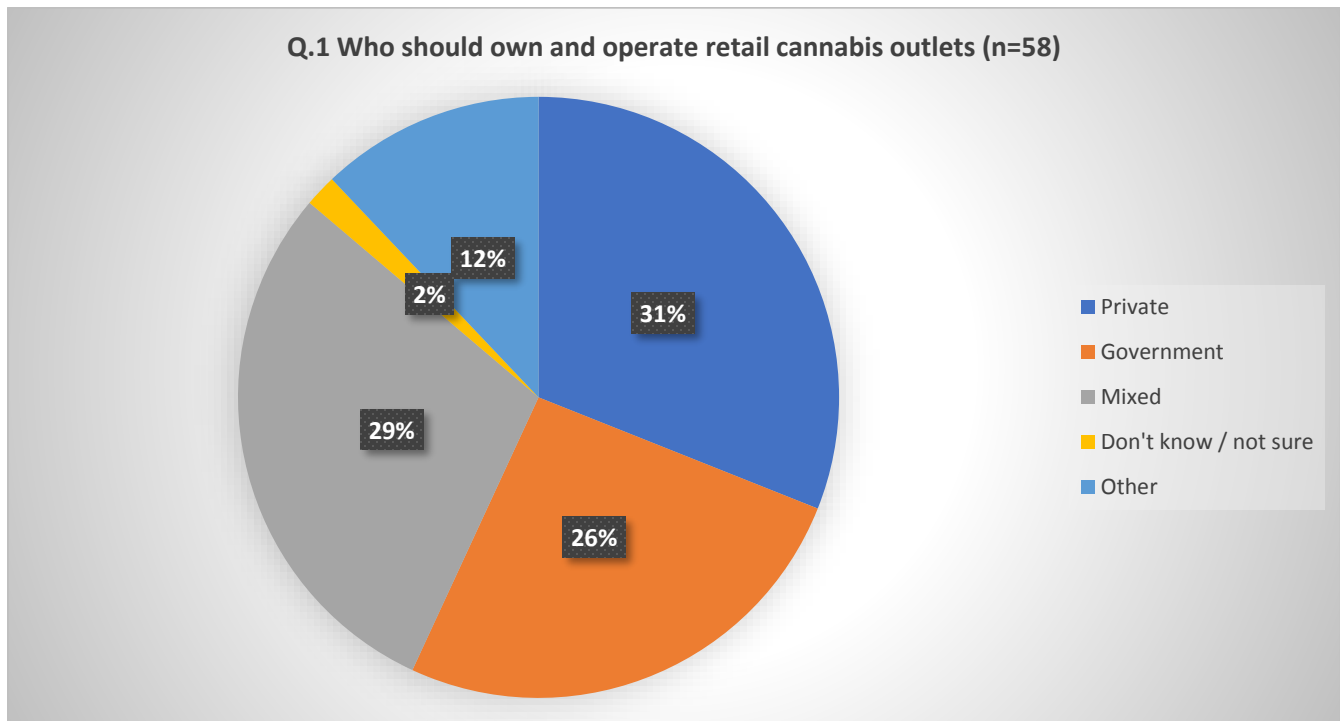
## Health and Safety of Workers

Employers also voiced their concerns regarding consumption in the workplace, but mainly in regard to health and safety and employers' rights as explained by the Edmonton Chamber of Commerce (Fitzpatrick, 2017). While it may be easy to identify consumption of alcohol, it is more difficult to evaluate if someone is impaired due to cannabis. The Construction Labour Relations - Alberta, for example, stressed that employers already struggle with decisions respecting the safe deployment of workers using medically-authorized marijuana. A publication released last June from the Canadian Centre for Occupational Health and Safety (CCOHS, Government of Canada, 2008) discusses the implications associated with the use of medical and recreational cannabis in the workplace. The document offers guidance on how to:

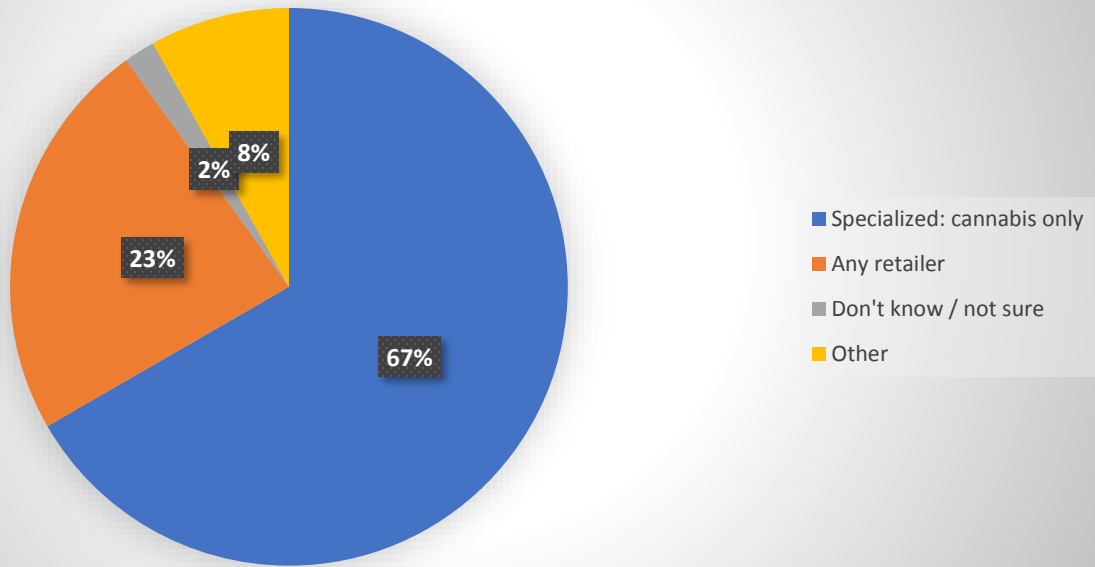
- address the potential for impairment as part of a hazard assessment
- establish a concise policy and program on the use of any substance that can cause impairment
- determine the actions the workplace can take regarding impairment
- implement accommodation practices where necessary, including therapeutic needs and substance dependence
- create a supportive, healthy and safe workplace

## Yukon Chamber of Commerce Survey Results

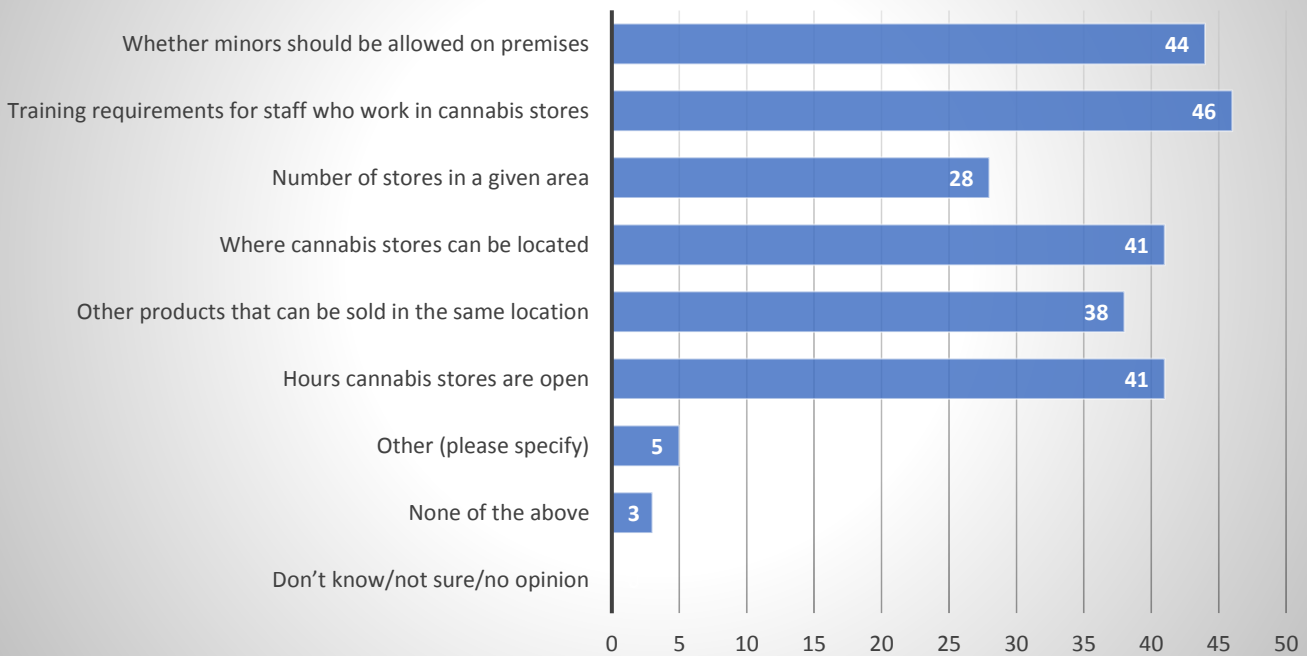
On September 22, 2017, the Yukon Chamber of Commerce asked its members to answer questions on the Distribution and Supply of Cannabis in the Yukon. The survey questions, which were based on a survey released by the Yukon government, intended to seek out the private-sector perspective on this matter. As of October 10, 58 respondents answered to the survey including eight questions:



**Q. 2 If private stores are considered, what types of outlets should be allowed to sell cannabis? (n=58)**

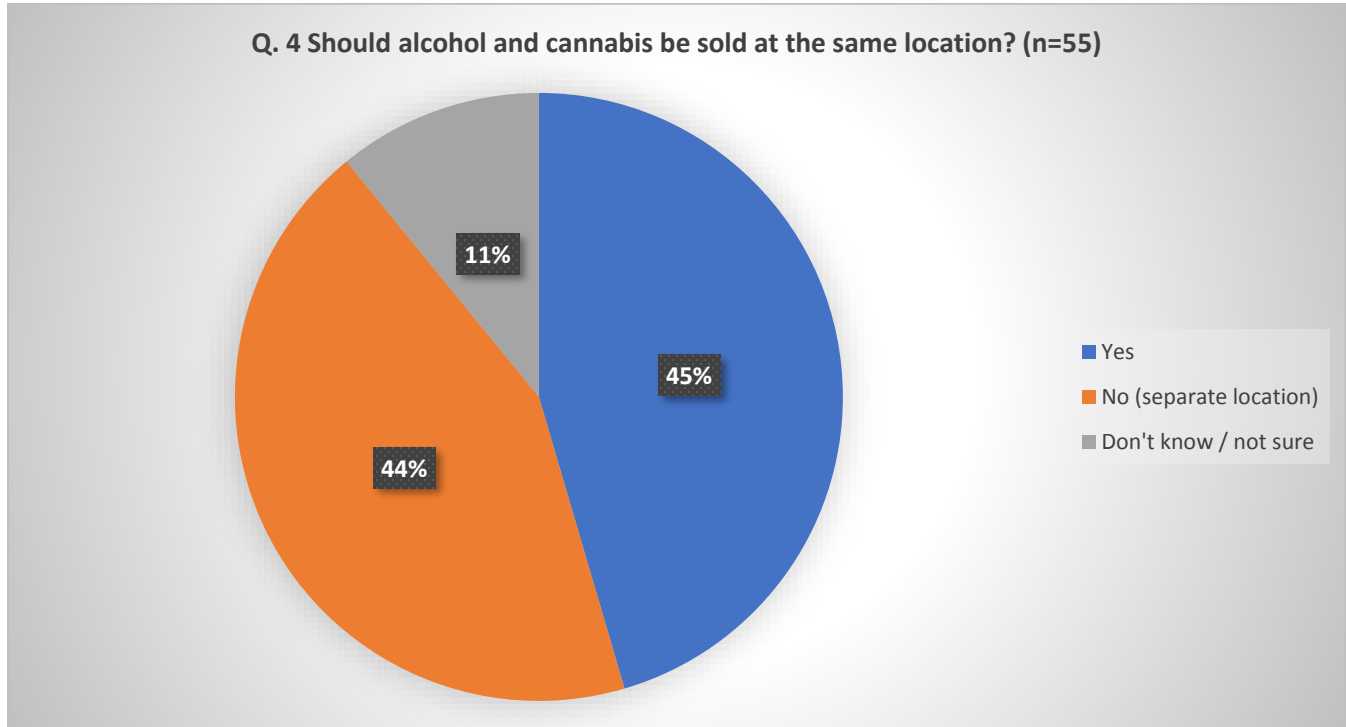


**Q.3 Regardless of who operates stores, please indicate what requirements or restrictions should be considered in the development of rules and regulations for cannabis retailers (n=57)**

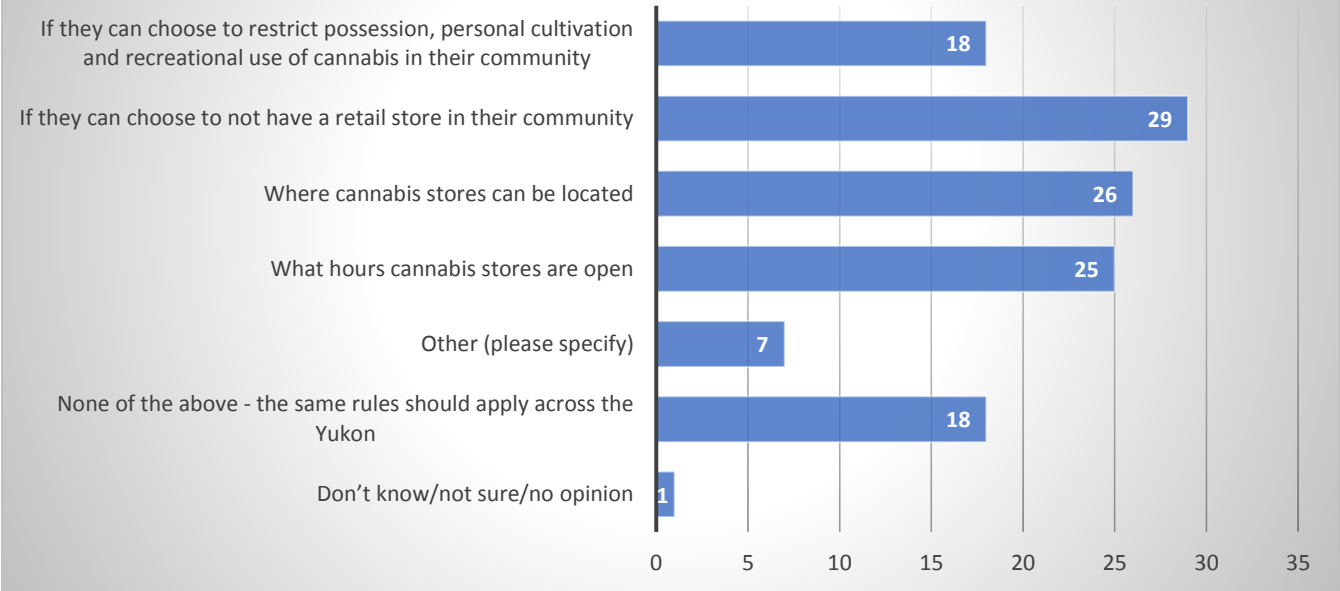


**Q.3 Comments:**

- Criminal records checks, and control of who is licensed to sell cannabis. Screening should be in place to ensure that vendors and staff are not affiliated and that the legalization of cannabis does not encourage the adoption of other drugs. Someone who has been charged with possession of an illegal drug should lose the ability to sell or work for a cannabis retailer.
- I think that cannabis sales should happen in a similar fashion to tobacco sales, where the product is kept out of sight.
- Education on toxic products



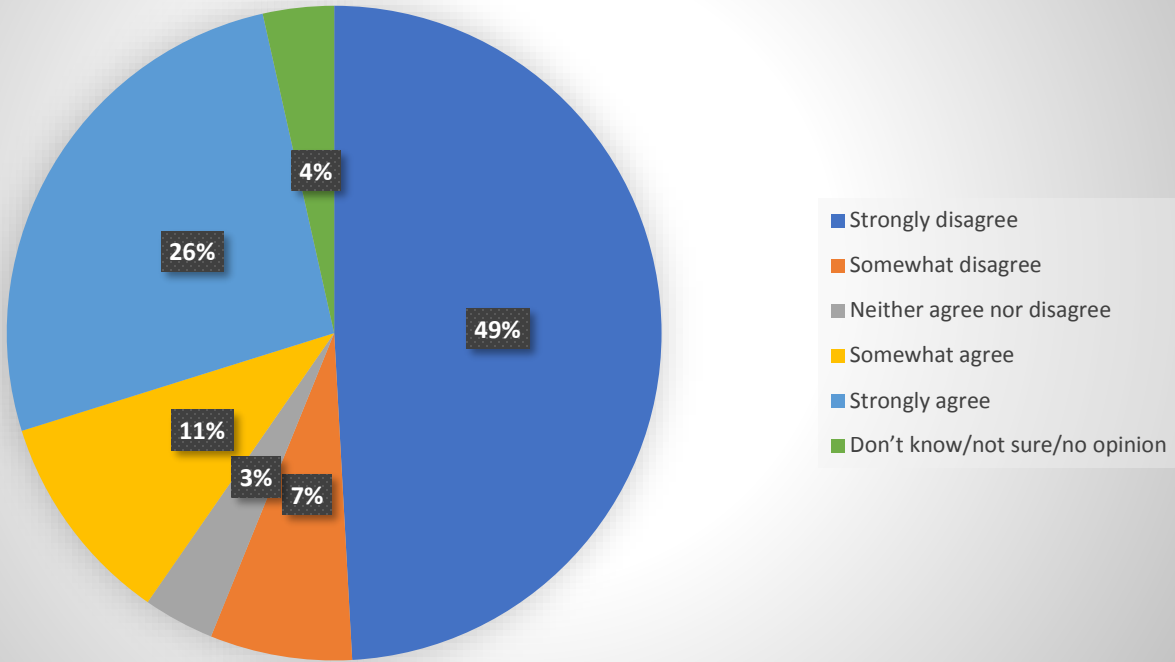
**Q.5 Are there some matters that should be left to local governments to determine, even if it means the potential for different rules from community to community in Yukon? (n=57)**



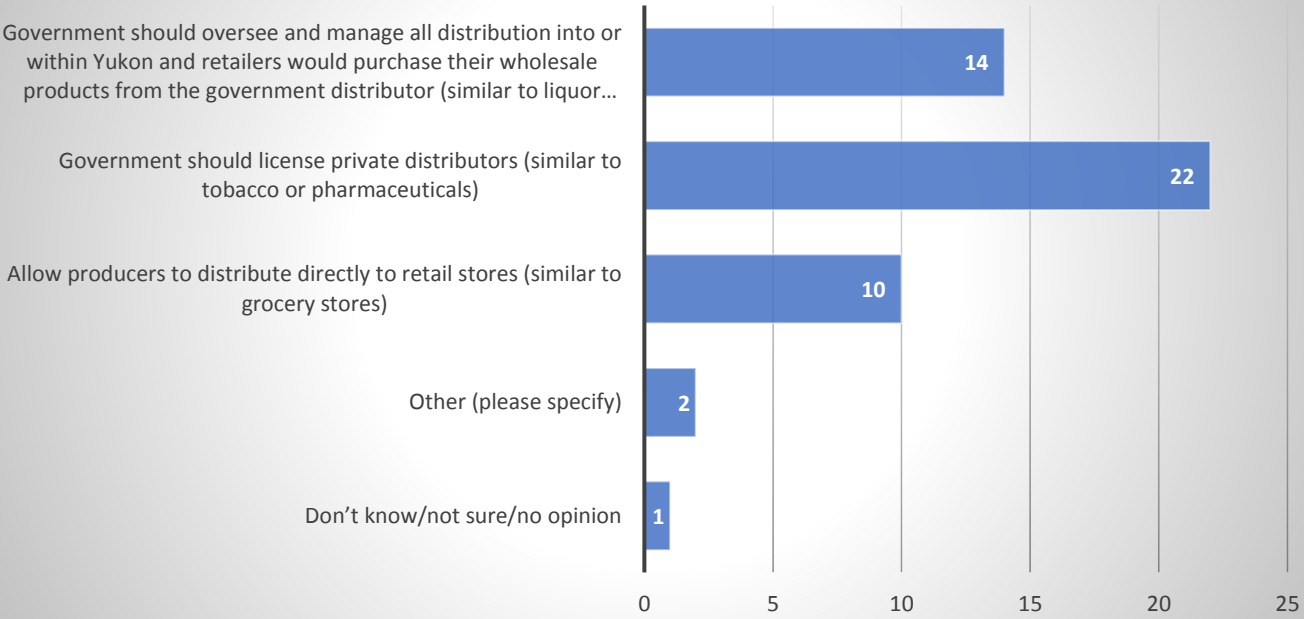
**Q.5 Comments:**

- Municipalities should be allowed to determine bylaws related to cannabis so residents can enjoy both their private property and public spaces without exposure to cannabis.
- Business license fees

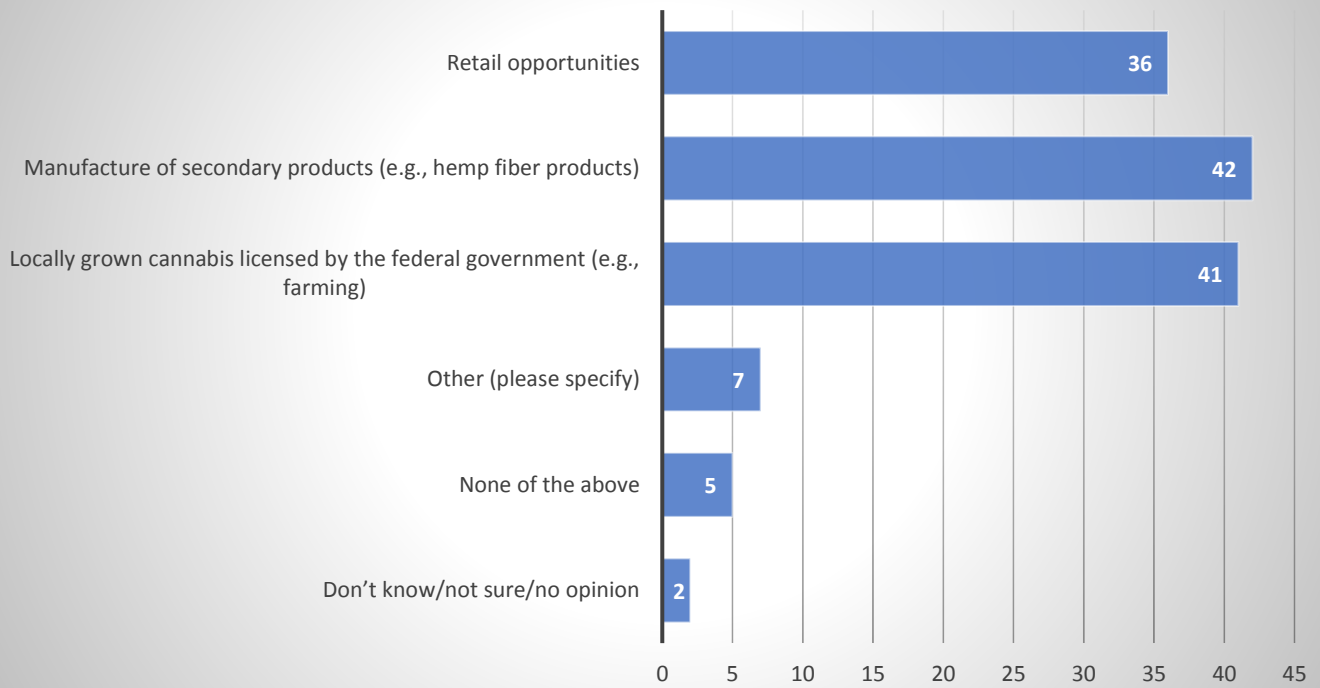
**Q.6 Consider this statement: "Regardless of whether stores are private or publicly operated, services such as online sales and home delivery should be allowed for cannabis". Do you...**



**Q.7 Who should oversee and manage cannabis distribution within Yukon? (n=57)**



**Q.8 What types of cannabis-related economic opportunities do you support? (n=57)**



**Q.8 Comments:**

- Hemp can be sourced from non-THC plants and as such should not be regulated
- Edibles and extracts
- Any cannabis related economic impact is good - prohibition of cannabis has gone on way too long.
- Let capitalism sort out the market, let government tax income
- Publicly-funded but privately delivered addictions counselling service

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