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Legislative Assembly of British Columbia

BILL 34

**RESTRICTING PUBLIC CONSUMPTION OF
ILLEGAL SUBSTANCES ACT**

Honourable Mike Farnworth
Minister of Public Safety and Solicitor General and Deputy Premier

Explanatory Note

This Bill

- requires a local government to consult before considering a proposed bylaw relating to the consumption of an illegal substance in public,
- authorizes a police officer to direct a person to cease using an illegal substance in a specified area or place or to leave a specified area or place, and
- authorizes a police officer to seize and remove an illegal substance and destroy that seized substance.

BILL 34 – 2023

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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:
 - (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 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.