



**First Nations Leadership Council Submission
on the DRIPA Draft Action Plan
Regarding Cannabis**

September 15, 2021

The draft action plan for the implementation of the *Declaration on the Rights of Indigenous Peoples Act*, [SBC 2019] Chapter 44 (“DRIPA”) contains a cannabis specific provision. It is stated as follows:

4.36 – Advance a collaborative approach to cannabis-related governance and jurisdiction between First Nations and the Province that reflects common objectives to protect youth, prioritize public health and safety, strengthen First Nations governance capacity and secure economic benefits for First Nations. (Ministry of Public Safety and Solicitor General)

This clause currently lacks concrete actions, goals, and mechanisms that would hold the Province accountable to advance the objectives contained within it. There is no mention of any concrete actions or clear guidance on timelines within which these objectives will be achieved. It is necessary that the Province amend this clause so that it includes affirmative, clear language as to what their actions will be in the context of a partnership-based approach. Language such as “approaches” and “strengthening” has positive connotations, but is insufficient to provide a foundation for tangible change.

Fundamentally, and in alignment with the UN Declaration, this clause must explicitly commit the province to recognizing BC First Nations jurisdiction over cannabis, and do so in concrete ways. There is much work to be done in BC on this front, which should be reflected in the DRIPA Action Plan as opposed to broad overtures of collaboration.

First Nations have expressed interest in implementing their own cannabis laws and licensing frameworks. The Province should commit to assisting First Nations in the creation of new legal frameworks and licensing regimes in support of First Nations cannabis jurisdiction. First Nations must be recognized as authoritative in all decision-making regarding cannabis; acknowledging the authority of Indigenous laws, and First Nations jurisdiction and legal orders when making decisions related to regulations, marketing and all other areas of cannabis.

In order to make real progress regarding First Nations cannabis governance and jurisdiction it is necessary that the Province provide commitment to First Nations that it will advance cannabis taxation and revenue sharing arrangements with First Nations in BC. In order to make any progress on First Nations cannabis jurisdiction, the necessary infrastructure and capacity needs to be in place. Taxation and revenue sharing mechanisms will be essential to ensure First Nations can exercise self-determination in this space. If the Province is serious about advancing First Nations cannabis governance and jurisdiction, any cannabis-specific clause needs to include commitments to taxation and revenue sharing as these are fundamental aspects of the economic component of reconciliation. “Securing economic benefits” must be in alignment with a rights and title-based approach, and go beyond programs to be reflected in law, policy, and agreements.

A priority issue for First Nations is to ensure that the recognition of jurisdiction extends to not only reserve land, but across First Nations’ traditional territory. Currently, the Province’s approach does not reflect this. This change is an absolute necessity and must be expressed in an action plan that is intended to implement DRIPA.

Additionally, interactions between the Community Safety Unit (the “CSU”) and First Nations communities in British Columbia have been fraught. Communities have reported the CSU threatening cannabis businesses and their landlords with, amongst other things, fines. When First Nations are implementing their jurisdiction over cannabis and regulating businesses that are subject to enforcement action, the pattern of over-criminalization of First Nations and their laws is perpetuated. There is an immediate need for agreements to be made on enforcement activities on First Nations land, particularly recognizing that First Nations should have control and requisite capacity regarding enforcement and compliance activities on their lands.

This is crucial if we are to realize mutual objectives of promoting health and safety, and protecting youth. It is the lack of progress on First Nations jurisdiction that continues to contribute to health and safety risks associated with cannabis for First Nations peoples. Additionally, First Nations bring unique spiritual and cultural perspectives on cannabis that are not reflected in the Province's approach.

We urge you to amend clause 4.36 to include the concrete actions we have referenced, and ensure First Nations' government-to-government and collaborative work with the Province bears fruit in alignment with DRIPA.

Sincerely,

FIRST NATIONS LEADERSHIP COUNCIL

On behalf of the FIRST NATIONS SUMMIT


Cheryl Casimer


Robert Phillips


Lydia Hwitsum

On behalf of the UNION OF BC INDIAN CHIEFS


Grand Chief Stewart Phillip


Chief Don Tom


Kukpi Judy Wilson

On behalf of the BC ASSEMBLY OF FIRST NATIONS:


Regional Chief Terry Teegee