



April 11, 2018

To: Committee Senators  
Social Affairs, Science and Technology  
Senate of Canada  
Ottawa, Ontario  
K1A 0A6

Subject: Bill C-45

Dear Senators:

We are contacting you as Senate members on the Social Affairs, Science and Technology Committee to bring to your immediate attention that the current propose Bill C-45, which is currently undergoing detail review, is **flawed** as it deals with 'enforceability'.

To this end, I am attaching a letter that RetroTrust sent some time ago to the Prime Minister of Canada, the Honourable Justin Trudeau. Also included was the company's White Paper on Bill C-45 that drilled down illustrating the weaknesses in the 'enforceability' clauses given today's technology-savvy youths.

RetroTrust offered suggested minimum word changes to Bill C-45 that would invoke, among other things, 21<sup>st</sup> century technology in the prevention plan equation that would produce immediate and positive results with underaged youths not being able to purchase marijuana (cannabis) employing fake ID's.

We want to emphasize one fact: as it stands, we believe Bill C-45 will **fail** in perhaps its single most important stated objective, which is to actually **prevent** (as opposed to **prohibit**) access by underaged youth to procure cannabis/marijuana.

This failure will be at least as great, if not greater than, the current failure of the Provinces to prevent access to alcohol or e-cigarettes by the same underaged technically savvy youth. We have provided in the White Paper information citing statistics that put this fact beyond debate<sup>1</sup> and we note that they were derived from data provided by Statistics Canada and the Department of Health Canada.

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<sup>1</sup> Reid JL, Harnmond D, Rynard VL, Burkhalter R. *Tobacco Use in Canada: Patterns and Trends, 2075 Edition*. Waterloo, ON: Propel Centre for Population Health Impact, University of Waterloo.

Specifically, the wording of the relevant sections of Bill C-45 suffers from the fatal flaw of being entirely **subjective** in its assessment of an accuser's due diligence in ascertaining the age of a potentially underaged individual.

Unfortunately, **what Bill C-45 does not do** is set a minimum standard for enforceability that would actually prevent the sale to the underaged technically savvy youths. For Bill C-45 to have any hope of success in this area as the Provinces roll out the implementation, this minimum standard should clearly require **identity verification** to deter the use of counterfeit government issued ID's. To do otherwise is to invite differing Provincial standards and could even lead to safe haven Provinces, where it becomes known that enforcement is less effective than in others. This will become increasingly relevant as online ordering of marijuana(cannabis) products become permissible.

In a sentence, technology exists **now** that will allow any point-of-sale staff to verify, in mere seconds and with virtual certainty, the relevant identity attributes in an ID (e.g. age, name, face) against those same attributes contained in the database of the trusted government department/agency that originally issued that ID. This process will prove beyond doubt that the person offering the ID is the same individual to whom that ID was lawfully issued and that the ID is still in force.

The current practice, encouraged by and enforced in the proposed Bill C-45, is verifying **visually** government issued photo ID's, a subjective process with little chance of success given the quality and sophistication of false photo government ID's which are easily obtained, albeit illegally. This subjective review makes it almost **impossible** for a retailer's point-of-sale staff to identify the differences between a genuine government issued photo-ID with that of a fake photo-ID, obtained for example on the web or on Yonge Street.

Thus, we respectfully recommend that in Bill C-45 Sections 10 (3) and 10 (4) be replaced with the following (changes in bold):

Defence — paragraph (1) (b)

(3) It is not a defence to a charge arising out of the contravention of paragraph (1) (b) that the accused believed that the individual referred to in that paragraph was 18 years of age or older, unless the accused took **all** reasonable steps to ascertain the **age and the identity of the individual**.

Defence — subsection (2)

(4) It is not a defence to a charge arising out of the contravention of subsection (2) of possessing cannabis for the purpose of selling it contrary to paragraph (1) (b) that the accused believed that the individual referred to in that paragraph was 18 years of age or older, unless the accused took **all** reasonable steps to ascertain the **age and the identity of the individual**.

Finally, we would recommend that the government add a new section 10 (4.1) as follows:

Defence – subsections (3) and (4)

(4.1) For purposes of subsections (3) and (4), all reasonable steps must include confirmation of identity attributes on any identification prescribed by a province as acceptable proof of age against those same attributes of the individual stored in provincially prescribed databases.

We would point out the above information and attachments have been provided to the Federal Health Minister and her policy advisers, to the Federal Minister of Justice & Attorney General of Canada and her policy advisers and to the Prime Minister of Canada. While our points have been acknowledged, no action has occurred.

There is currently **no** prevention plan that is enforceable effectively. Subjective ID reviews continue to be the prevention plan!

Included for further information, as an attachment, is a one-pager we have sent out to numerous Ontario MPP Ministers.

At your request, we would be delighted to discuss this in open forum or to meet with Senators and/or members of their staff to provide additional information and to answer any questions that they might have.

Respectfully submitted on behalf of RetroTrust.



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