28 March 2024

Re: **Concerns on Scope of Bill 12**

Dear Premier Eby and Attorney General Sharma,

On behalf of the signatory business associations and our collective membership, we are writing to express our shared concerns about the breadth of the recent Bill 12, the *Public Health Accountability and Cost Recovery Act* (the "Bill").

The intention to safeguard the physical and mental health and wellbeing of British Columbians is laudable and an objective we support. We are writing today to emphasize that the parameters in Bill 12 must be clear and appropriately delineated so as not to inadvertently expose a wider spectrum of businesses to legal risk. The current draft does not achieve this and has been advanced without sufficient engagement.

Our concerns arise from the potential ramifications of the Bill's expansive interpretation, as summarized in several articles from B.C.'s legal community, including analyses from McCarthy Tétrault[1], Aird Berlis[2], and others. Our members have reacted swiftly to the proposed law as well, raising significant concerns as we scramble to understand the legal implications of such a broadly scoped bill. Given the uncertainty and broad scope, we urge the government to take the time to work with interested parties to ensure appropriate guardrails are in place and that there are no unintended consequences.

Some of the concerns include:

- If enacted, the law appears to apply to any product, good, service or by-product (product and/or service), which we understand can create liability for almost any business operating in or connected to B.C.
- Similarly, the Bill appears to apply not only to a product or service that may *cause* or may contribute to disease, injury, or illness but also to any product/service that contributes to even the *risk* of disease, injury, or illness without clear criteria for determining these risks or costs.

[1] https://www.mccarthy.ca/en/insights/articles/much-broader-future-cost-recovery-litigation-british-columbia#:~:text=Broader%20cost%20recovery%3A%20Bill%2012,the%20risk%20thereof%E2%80%94are%20recoverable
[2] https://www.airdberlis.com/insights/publications/publication/b.c.-cost-recovery-legislation-has-significant-implications-for-product-and-service-providers

- Further, Bill 12 expands the type and scope for costs the government to "other expenditures by the government, made directly or through one or more agents, other intermediate bodies or education authorities, for programs, services, benefits or similar matters associated with disease, injury or illness" creating significant risks to all sectors of the economy.
- The use of a certificate from a minister of the federal or provincial government as proof of expenditures without conclusive proof of actual risk or harm is alarming and without precedent.

The potential consequences of these points could be significant. An expanded scope of liability, along with the related expanded legal and insurance costs due to the broad nature of the Bill are significant concerns for B.C. businesses. These costs come amidst economic uncertainty, low growth, and a rapidly rising population. B.C.'s economy is slowing, as demonstrated by a year-over-year decrease in retail sales per January 2024 data. Inevitably, these costs, associated with increased liability and uncertainty, are paid by consumers and businesses.

Specifically, the government's communications and media reports have focused on "social media companies" and "algorithms" as reasons why this legislation is being introduced. While the signatories to this letter may have different views individually, a thorough discussion and consultation on the rules governing online behaviour and commerce to ensure our laws are up to date for our digital age would seem appropriate. Presumably this would also entail consultation to ensure the desired outcomes would be achieved in any new initiative.

As opposed to a targeted approach, this legislation is written in the broadest possible fashion. The result is that there is a real risk that this legislation could cause some to consider alternatives to investing in B.C., raise costs, or, at worst, relocate existing B.C.-based operations. In our view, it is critical that there be a thorough discussion and airing of views on the broad scope of this law prior to its passage.

As such, we request the government pause the advancement of the Bill and instead work with stakeholders to refine the intent, purpose, and language of the proposed law.

In conclusion, it is important to once again stress that we support the government's stated objectives, which include protecting British Columbians. We look forward to collaborating and finding a path forward.

Sincerely,

GREATER VANCOUVER BOARD OF TRADE

Bridgitte Anderson
President and CEO

RCC RETAIL COUNCIL OF CANADA

Greg Wilson
Director, Government Relations, BC

ABLE BC
FOR A RESPONSIBLE LIQUOR INDUSTRY

Jeff Guignard
Executive Director

BC CRAFT BREWERS Guild

Ken Beattie
Executive Director

BRITISH COLUMBIA HOTEL ASSOCIATION

Ingrid Jarrett
President and CEO

CCDA-ACDA
CANADIAN CRAFT DISTILLERS ALLIANCE
ALLIANCE CANADIENNE DES DISTILLATEURS ARTISAN

BRITISH COLUMBIA CRAFT DISTILLERS GUILD CANADA

Tyler Dyck
President

RLSAS
RURAL LIQUOR STORE ADVISORY SOCIETY

Trent Leggett
President

New Wave Wine Society
Pat Bell
Board Chair

Kurt Niquidet
Vice President

Mark von Schellwitz
Vice President, Western Canada

Miles Prodan
President

Jairo Yunis
Director for British Columbia and Western Economic Policy

Gary Sands
Senior Vice President
Public Policy & Advocacy

Ian Tostenson
President and CEO

Denise Mullen
Director, Environment, Sustainability & Indigenous Relations

Walt Judas
CEO

Dennis Prouse
Vice President, Government Relations

Krista Scaldwell
Association President

Ryan Greer
Vice President, Public Affairs
and National Policy

Fiona Famulak
President and CEO

Meagan Hatch
Vice President and Managing
Director

Linda Delli Santi
Executive Director

Greg Moffatt
Executive Vice President

CC: All Provincial Members of the Legislative Assembly

The Honourable Pam Alexis, MLA
Brittny Anderson, MLA
Dan Ashton, MLA
Michele Babchuk, MLA
The Honourable Brenda Bailey, MLA
The Honourable Harry Bains, MLA
Bruce Banman, MLA
The Honourable Lisa Beare, MLA
Garry Begg, MLA
Mike Bernier, MLA
Michael Lee, MLA
Ronna-Rae Leonard, MLA
Norm Letnick, MLA
The Honourable Grace Lore, MLA
The Honourable Bowinn Ma, MLA
The Honourable Sheila Malcolmson, MLA
Andrew Mercier, MLA
Renee Merrifield, MLA
Peter Milobar, MLA
Mike Morris, MLA
Coralee Oakes, MLA

Shirley Bond, MLA
The Honourable Jagrup Brar, MLA
Spencer Chandra Herbert, MLA
Susie Chant, MLA
The Honourable Katrina Chen, MLA
The Honourable Raj Chouhan, MLA
The Honourable George Chow, MLA
Doug Clovechok, MLA
The Honourable Katrine Conroy, MLA
The Honourable Dan Coulter, MLA
The Honourable Nathan Cullen, MLA
Dan Davies, MLA
Mike De Jong, MLA
Bob D'Eith, MLA
The Honourable Mitzi Dean, MLA
The Honourable Adrian Dix, MLA
Lorne Doerkson, MLA
Fin Donnelly, MLA
Megan Dykeman, MLA
Mable Elmore, MLA
Kevin Falcon, MLA
The Honourable Mike Farnworth, MLA
The Honourable Rob Fleming, MLA
Sonia Furstenau, MLA
Rick Glumac, MLA
Kelly Greene, MLA
Trevor Halford, MLA
The Honourable George Heyman, MLA
The Honourable Ravi Kahlon, MLA
The Honourable Anne Kang, MLA
Karin Kirkpatrick, MLA
Greg Kyllo, MLA
Adam Olsen, MLA
The Honourable Josie Osborne, MLA
Kelli Paddon, MLA
Ian Paton, MLA
The Honourable Lana Popham, MLA
The Honourable Bruce Ralston, MLA
The Honourable Murray Rankin, MLA
Jennifer Rice, MLA
The Honourable Selina Robinson, MLA
Ellis Ross, MLA
Janet Routledge, MLA
Doug Routley, MLA
Roly Russell, MLA
John Rustad, MLA
Harwinder Sandhu, MLA
Tom Shypitka, MLA
The Honourable Nicholas Simons, MLA
Jinny Sims, MLA
Aman Singh, MLA
The Honourable Rachna Singh, MLA
Mike Starchuk, MLA
Ben Stewart, MLA
Todd Stone, MLA
Jordan Sturdy, MLA
Elenore Sturko, MLA
Jackie Tegart, MLA
Adam Walker, MLA
Teresa Wat, MLA
The Honourable Jennifer Whiteside, MLA
Henry Yao, MLA

CC:

Derrick Harder, Chief of Staff, Ministry of Attorney General

Shannon Salter, KC, Deputy Minister to the Premier

Barbara Carmichael, KC, Deputy Minister, Ministry of Attorney General