

March 26, 2019

## MEXICO CANNABIS UPDATE #4

### Status of Proposed and Existing Regulation



#### COFEPRIS Guidelines

On March 19, 2019, the Secretariat of Health issued a [press release](#) informing the appearance of Secy. Jorge Alcocer before the Senate's Health Committee to discuss the nation's public health agenda. Among the top items was the status on the guidelines issued on October 30, 2018 by the Federal Commission for the Protection of Sanitary Risks ("COFEPRIS") for the import and sale of products with cannabis and its derivatives (reported [here](#)).

Since the guidelines were issued, two batches of products were authorized and announced in highly publicized press conferences. This was pretty much everything the agency got to do before the new president was elected and the new administration officers took over government agencies such as COFEPRIS. The permits were issued but claims have been made that COFEPRIS purportedly has not completed the process granting the final permit to import the authorized products. We inquired with current and former COFEPRIS employees regarding status of current applications and all responses mentioned in one way or another that an instruction was given to halt review of all applications and look into any signs of irregular activity.

On the other hand, Secy. Alcocer informed the Senate during the aforementioned appearance that the COFEPRIS guidelines would be "substituted" with a new set of rules to be issued jointly by the Secretary of Health and the Secretary of the Interior. Mr. Alcocer stated that the current guidelines are "lax and limited" and cause serious concerns regarding potential ability of minors to unrestricted access cannabis products, among others. When drafting the new rules, the participating entities will carefully review loopholes and improve ambiguous sections.

This decision may not be as bad as it sounds. The current guidelines were issued by a COFEPRIS under high pressure to meet certain legal deadlines after the Supreme Court resolutions and the 2017 amendments to the General Health Law *but* before the new administration took office. After such guidelines were issued, many industry players or lobbying groups raised their voices to express concerns about provisions that made no legal or practical sense, the lack of technical distinctions and legal treatment for the various types of plant derivatives, or the absence of important pieces that a solid set of cannabis rules should have.

It is worth noting that applications for COFEPRIS permits can still be filed as long as the new rules are not officially enacted.

Furthermore, the attention being now given to the matter will mix well with the new push to the proposed bill for the Federal Law for the Regulation and Control of Cannabis (*Ley General para la Regulación y el Control de Cannabis*) (the “Proposed Cannabis Law”) as discussed below.

### Proposed Cannabis Law

Discussions on the Proposed Cannabis Law are underway at the Senate. Its Health Committee hosted two public consultation meetings on March 13 and 20, 2019. Experts from various backgrounds were invited to share their views on the cannabis plant, its uses, risks and its impact on the nation’s economic and social life.

When welcoming attendants to the March 13, 2019 meeting, Sen. Miguel Angel Navarro (Chairman of the Senate’s Health Committee) said he considered that first meeting to be held on a “historic day for the legislative power” regarding cannabis regulation and that they would aim to approve the Proposed Cannabis Law in October at the latest.

It is worth noting that a good number of senators attended the meetings and agreed on the importance of producing the best cannabis legislation possible. Sen. Ricardo Monreal (Senate majority leader and who, along with then Sen. Olga Sanchez Cordero, now Ministry of Interior, introduced the bill) emphasized importance of acknowledging and learning from the long road travelled to get to this point. He also stressed the need to have a thorough regulation of the plant’s entire chain of value and pointed out that prohibition is not a rational policy nowadays.

Sen. Patricia Mercado said we need to embrace modern cannabis regulation and end outdated punitive policy. According to her records, since 2007 - when the first amendments to the law were proposed in order to allow recreational use - more than 40 bills or drafts have been submitted in Congress to no avail.

Congresswoman Miroslava Sanchez, Chairman of the Health Committee in Mexico’s lower house, was present and spoke in favor of legalization. This could be a good sign to the extent members of Congress are on the same page with the Senate’s conclusions in this legislative process, as it could expedite the passing of Proposed Cannabis Law.

Signs of political willingness were also found on members of minority Senators. Sen. Marco Antonio Gama Basarte (Partido Accion Nacional) brought attention to the need to address other legislative tasks around the cannabis industry, such as tax and criminal codes. In his opinion, the Proposed Cannabis Law should prioritize protection of the most vulnerable demographics and the Senate committees should make a serious assessment of the risks derived from decriminalization. He did not express opposition to legalization.

Sen. Jesusa Rodriguez hosted the second consultation panel held on March 20, 2019. Anthropologists, activists, academics and regulation experts – including a participant from Uruguay - presented their perspective of cannabis in Mexico and the need for legalization. Comments made included social concepts such as the importance of keeping profits in Mexico, preserving “social justice” with producers but also acknowledged Mexico’s potential to be a global cannabis power.





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Valuable contributions were made by the various participants in the discussion meetings. Below are some ideas worth highlighting that may have resonated among Senators:

- Public health and population security must be a priority over corporate profits. Importance of preserving quality in our plants before multinational companies interests and incentives for domestic companies that can seize the opportunity before large corporations arrive to acquire control of the industry.
- In light of the Supreme Court's resolutions last year, there is an unavoidable (i.e. legal) responsibility for the Senate to deliver a thorough regulation for private cultivation, possession without intent to sell and consumption.
- The Proposed Cannabis Law should specifically regulate the various markets within the Mexican cannabis industry, such as:
  - o Industrial hemp use, incentivize agroindustry cultivation projects with benefits for communities;
  - o Medical cannabis products: identify what is pharmaceutical product and distinguish from the plant as a "*remedio herbolario*" (herbal remedies, alluding Mexico's long tradition of plant use to cure or treat disease); and
  - o Personal use: which can be recreational or for other purposes, regulate private use and open market, as well as the entry for US, Canadian companies/investors.
- Bring attention to the need for regulation in other areas applicable to cannabis such as taxes, advertisement, foreign investment restrictions, and we will add industrial property.

The Senate will host a third public meeting on April 8, 2019. Throughout the first two meetings, several participants mentioned the importance of learning from other countries' regulatory experience, but only one came from the United States and another from Uruguay. A strong emphasis was repeatedly made on preserving social justice and the importance to protect communities from "foreign corporate interests". This leads us to strongly believe that senators and congressmen should have access to information about how cannabis companies in Canada or the United States work in their respective jurisdictions subject to strict rules and high compliance standards on different fronts, and how their investments could bring not only money but also technical knowledge or academic and scientific benefits.

If you're interested in learning more about cannabis regulation and business in Mexico, or have any comments or questions, feel free to email me at [larmendariz@caamlegal.mx](mailto:larmendariz@caamlegal.mx).

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