

**INTERPRETATION
BULLETIN No.**

ESKIB-2019/05

EFFECTIVE DATE: NOVEMBER 1, 2019

SUBJECT

ALCOHOL & CANNABIS AS A CORRUPT PRACTICE

REFERENCE

SECTION 193, 195 AND 198 OF *THE ELECTION ACT, 1996*

Disclaimer

This interpretation bulletin sets out Election Saskatchewan’s current interpretation of provisions of *The Election Act, 1996* (the “Act”) and are issued to provide assistance and guidance in understanding and complying with the Act. The views expressed in interpretation bulletins are not law and are not intended to replace the official text of the Act. How the Act applies to any particular case will depend on the individual circumstances of that case. Elections Saskatchewan reserves the right to reconsider any interpretations expressed in interpretation bulletins, either generally or in light of the actual circumstances of any case, and in accordance with continuing legislative and judicial developments.

Introduction

This bulletin discusses what, during an election or a by-election, is considered a corrupt practice with respect to the “giving” of alcohol to voters during an election or by-election under sections 193, 195 and 198 of *The Election Act, 1996*.

Context

The Act contains three provisions that define the supply of alcohol and cannabis to voters as a corrupt practice.

Section 193(1) prohibits candidates or their representatives from giving alcohol or cannabis at voter meetings where the purpose of the meeting is to promote the election of the candidate:

No supplying beverage alcohol at meetings

193(1) No candidate, no business manager and no other person acting on behalf of a candidate shall give any beverage alcohol or cannabis at a meeting of voters assembled for the purpose of promoting the election of the candidate.

Because section 193(1) does not refer to a specific time period during which the prohibition applies, the time period must be inferred based on the definition of a candidate found in section 2 and section 44 of the Act:

2(h) “**candidate**” means any individual who is nominated in accordance with section 44 as a candidate at an election

44(1) A nomination paper must be filed with the returning officer at any time after the issue of the writ and before 2:00 p.m. on nomination day.

Section 195(1) prohibit candidates or their representatives, during an election, from giving alcohol or cannabis, directly or indirectly, to any person for the purpose of influencing the person’s voting at an election:

No beverage alcohol

195(1) During an election, no candidate, no business manager of a candidate and no other person acting on behalf of a candidate shall, directly or indirectly, give or cause to be given beverage alcohol or cannabis to or for any person, for the purpose of persuading that person to vote for the candidate or for the purpose of influencing that person or any other person to vote or refrain from voting at an election.

Finally, section 198(1) applies to the giving of alcohol or cannabis on the day of polling and contains a prohibition against giving alcohol or cannabis (or any money, ticket or other thing used to obtain alcohol or cannabis) before 8:00 p.m. to any voter:

No beverage alcohol or cannabis on polling day

198(1) No person shall, before 8:00 pm on polling day, directly or indirectly give:

- (a) beverage alcohol or cannabis to any voter; or
- (b) any money or other thing to enable the voter to obtain any beverage alcohol or cannabis

In each of these three sections, the provision goes on to state that a contravention is a corrupt practice.

All three provisions refer to “giving” of alcohol or cannabis in different circumstances; however, the term “give” is not defined in the Act. In one sense, “give” could possibly mean to transfer possession of something (to hand over) even in exchange for payment. However, in the present context, the appropriate definition of “give” is contained in *Black’s Law Dictionary*, 10th ed. (Thomson Reuters, 2014) as follows:

To voluntarily transfer (property) to another **without compensation**. [emphasis added]

Chief Electoral Officer’s Interpretation

The textual meaning of “give” within the provisions of the Act regarding alcohol or cannabis, read in its ordinary sense and in accordance with the established legal definition, very likely refers to the gratuitous giving of alcohol without consideration.

The scheme of the Act and its sections prohibiting corrupt practices, and the object and purpose underpinning the provisions regarding alcohol and cannabis, further support the proposition that the provisions are intended to apply to the supply of alcohol or cannabis to persons for free in order to corruptly influence elections.

Furthermore, the giving of alcohol or cannabis at meetings of voters as referred to in section 193 only applies once a writ of election has been issued and a candidate has been officially nominated.

Examples

- a) A person who is planning to run in an upcoming election holds a meet-and-greet at which free refreshments, including wine and beer, are served. The writ for the election has not been issued.
- b) A nominated candidate holds a fundraising event during the election period. The fundraiser has a ticket price which includes a limited number of drink tickets that can be exchanged for alcoholic beverages at the fundraiser;
- c) A registered political party sells tickets to a dinner at which the party leader will attend. The ticket price includes the cost of dinner and wine.
- d) A registered political party extends an invitation to its members to a local brewery for beer after they have voted. The beer will be provided at no cost to the voter.
- e) Two voters, who are neighbors, meet each other at the poll and one neighbour invites the other neighbour to his house for a mid-afternoon glass of wine once they have finished voting.

In example **a)**, the alcohol is being given to voters but the election period has not started and the potential candidate has therefore not been officially nominated. Section 193 does not apply and this is not a corrupt practice.

In examples **b)** and **c)**, the writ of election has been issued and the candidate has been nominated so the giving of alcohol at no charge for the purpose of influencing a voter would be a corrupt practice. However, there is a cost of admittance to the fundraiser which presumably is higher than the cost of the alcohol being provided (otherwise there are no funds being raised). Since the alcohol is not being provided for free, there is no corrupt practice and neither section 193 nor section 195 apply.

In example **d)**, the alcohol is being provided at no cost and the invitation to attend the pub is associated with the act of voting, the act of giving the alcohol to the voter would be considered an attempt to influence that voter to vote for the party and therefore section 195 would apply and this would be considered a corrupt practice.

In example **e)**, taking into account legislative intent, purpose and history and the context of the provision in the Act, Elections Saskatchewan would not view this example as involving a contravention in normal circumstances. If, however, one of the neighbours (the neighbour supplying the wine) were a candidate, a representative of a candidate or a representative of a registered political party, the conclusion would likely be otherwise.

Note

This interpretation bulletin has no application to legislation or regulation regarding the sale, purchase, processing, consumption or distribution of alcohol or cannabis. Nothing in the Interpretation Bulletin should be read as pertaining to such other legislation or regulation.

A handwritten signature in blue ink that reads 'Michael D. Boda'.

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CHIEF ELECTORAL OFFICER
PROVINCE OF SASKATCHEWAN

November 1, 2019