

Goodmans^{LLP} Update

Ontario's Cannabis Retail Industry: Private Retail Cannabis Sales are coming to Ontario

It would appear that Ontario's provincial government no longer plans to move forward with the retail distribution of recreational cannabis through government-run stand-alone outlets. Less than three months before Canada legalizes the recreational use of cannabis, Premier Doug Ford looks set to shift policy, turning to private retailers to sell cannabis in private retail locations. Companies in Ontario will need to act quickly to take advantage of business opportunities that will be afforded to first entrants.

In this regard, in terms of what the Ontario government may contemplate, helpful guidance may be provided by Alberta's private retail model where 250 retail licenses are anticipated for year one.

Potential Implications

Similar to Alberta, Ontario may decide to prohibit the following:

- cannabis sales where alcohol, tobacco and pharmaceuticals are sold;
- agreements between retailers and suppliers to sell or promote the supplier's cannabis;
- signage using any term commonly associated with medicine, health or pharmaceuticals, including the terms pharmacy, dispensary, apothecary, drug store, medicine, medicinal, health, therapeutic or clinic or any symbol or graphic commonly associated with any of the above terms;
- business names containing any of the above terms;
- having cannabis products, accessories or any other cannabis related item or material visible from the exterior of the premises; and
- selling or possessing any consumable products other than cannabis.

Like Alberta, Ontario may decide to prohibit the granting of retail licences to applicants who have been convicted of certain offences.

Ontario may also choose to control the location of retail outlets. For example, in Alberta, a retail licence will not be issued for a location within 100 meters of a health care facility or a school. In addition, Alberta prohibits a single person or entity from holding more than 15 per cent of retail cannabis licenses in the province.

An additional consideration for private sector cannabis retail locations will be municipal by-laws which may affect signage, and which may also impose limits (beyond zoning by-laws of general application) on the location of outlets. For example, in Edmonton, cannabis stores must be at least 200 metres apart. Edmonton also implemented a lottery process that determines the order in which licence applications can be submitted to and reviewed by the City. The stated goal was to ensure a fair process to big and small companies alike, as well as ensuring that the expected large number of applications would be submitted and processed in an orderly manner.

Ontario may choose to adopt some, all or none of the foregoing Alberta regulatory initiatives. It may also look to other provinces, particularly British Columbia, for guidance. Most notably, in British Columbia, the currently illegal private dispensaries will be eligible for provincial licences. Whether Ontario will follow that lead with respect to the estimated 80 private dispensaries currently in operation is unclear.

However, what does seem likely is that, for the time being, the Ontario government will retain control of online sales, similar to most other provinces.

The Goodmans Cannabis Team has knowledge of the applicable federal, provincial and municipal legislation, all of which will inform the above issues, and is prepared to assist when the Ontario government announces further details.

Goodmans Cannabis Group

Goodmans LLP has a leading cannabis practice in the corporate/commercial field, having been actively involved in the industry from the beginning. Our corporate cannabis lawyers have extensive knowledge of the various players in the industry and have provided strategic business advice on governance, financing, licensing, regulation, capital markets, mergers and acquisitions and real estate matters. Our clients include start-ups, importers and exporters, and financial institutions related to the cannabis industry.

In addition, Goodmans is uniquely positioned with its extensive regulatory, health and intellectual property practices to advise new and existing market entrants. In particular, given our extensive work with respect to “traditional” pharmaceuticals regulated under the *Food and Drugs Act* and its associated *Regulations* (legislation used, in part, as the model for the upcoming *Cannabis Act Regulations*), we uniquely understand the industry, are equipped to address regulatory concerns that may arise, and know how to best protect and enforce our clients’ intellectual property. This includes matters such as licensing and regulation in the industry’s preliminary stages and future issues that may arise with regulators and competitors, including with respect to labelling and packaging, patent and trademark applications and prosecutions and the protection of trade secrets and confidential information.

For more information on any of the above information, please contact any member of our [Cannabis Group](#).

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