

# Overview of Cannabis Legislation in Ontario

**This chapter provides a summary of your cannabis retail requirements under the relevant three pieces of legislation, being the *Cannabis Act* (federal) the *Cannabis Control Act* and the *Cannabis Licence Act* and its regulations. This is meant to be a guide it is not a complete list of all rules and is not legal advice.**

## General

To open a retail store and sell recreational cannabis, there are two licences and an authorization that are required from the AGCO. These are:

- Retail Operator Licence
- Retail Store Authorization
- Cannabis Retail Manager Licence

The holders of Retail Operator Licences are called “licensed retail operators”. To get this licence, you must meet all of the eligibility criteria set out in the *Cannabis Licence Act, 2018* and its regulations.

A Retail Operator Licence allows you to operate one or more retail stores in Ontario. However, you must have a separate Retail Store Authorization for every store you wish to operate.

References to “stores” or “retail stores” in this document refers to stores that sell or intend to sell recreational cannabis. A store that has a Retail Store Authorization is called an “authorized store”.

Individuals who have a Cannabis Retail Manager Licence are called “licensed retail managers”. Every retail store must have a licensed retail manager. The only exception is if the licensed retail operator is a sole proprietor or is in a partnership between two or more individuals, and will be both the licensed operator and performing the duties of the retail store manager for a particular store – in which case a Cannabis Retail Manager Licence is not required.

You may not sell cannabis unless you are licensed and authorized by the AGCO, and you have a supply purchase contract with the Ontario Cannabis Retail Store (OCS). You may only sell cannabis obtained through the OCS. You may not sell cannabis subject to a Health Canada/Licensed Producer recall.

Line of Business:

Cannabis

## Retail Operator Licence

To be eligible to open a retail store and sell recreational cannabis, you must have a Retail Operator Licence. If you operate several stores, you will need a separate Retail Store Authorization for each store.

You are not eligible for a Retail Operator Licence if:

- you are under 19 years of age. This includes directors, officers and shareholders of corporations.
- you have been convicted or charged with certain offences:
  - any offence under the *Cannabis Licence Act*
  - certain offences under the *Cannabis Control Act* (CCA) and *Cannabis Act* (CA)
- you have, or previously had, certain roles or connections with a criminal organization as defined in subsection 467.1(1) of the Criminal Code (Canada):
  - you are, or have been a member of the criminal organization

- you are, or have been involved in the criminal organization
- you contribute, or have contributed to, the activities of the organization.
- you are carrying on activities that are not in compliance with certain laws.
  - certain offences under the *Cannabis Control Act* (CCA) and *Cannabis Act* (CA)
- you have made a false statement or provided false information in your application.
- you are in default of filing a tax return under a tax statute administered and enforced by the government of Ontario, or have any outstanding amounts owing and past due of tax, penalty or interest under those laws and have not made payment arrangements;
- you have a business number with the Canada Revenue Agency and have not filed a tax return under certain Federal or provincial legislation;
- the application will be made by a corporation and more than 9.9 percent of the corporation is owned or controlled, either directly or indirectly, by a licensed producer or their affiliate .
- you will not be financially responsible in operating your cannabis business.
- you will not operate your cannabis retail business in compliance with the law, or with integrity, honesty or in the public interest.
- you will not have sufficient control over the cannabis retail business.

Generally, you must wait two years to apply again for a Retail Operator Licence if you:

- applied for a new licence or renewal licence in the past but were refused, or
- you had a Retail Operator Licence in the past but the licence was revoked.

You may have conditions put on your Retail Operator Licence to address any specific risks or concerns. There are also conditions in the *Cannabis Licence Act, 2018* that apply to all Retail Operator Licences.

You cannot transfer your Retail Operator Licence to another person or business.

Line of Business:

Cannabis

## Retail Store Authorization

To open a retail store and sell recreational cannabis, you must have a Retail Store Authorization. If you operate several stores, you will need a separate Retail Store Authorization for each store. However, you cannot have more than 75 Retail Store Authorizations, either on your own, or between you and your affiliates.

There are some places where you cannot open a cannabis retail store. More information about that is in the next section.

Generally, you must wait 2 years to apply again for a Retail Store Authorization if you:

- applied for a new Retail Store Authorization or renewal of a Retail Store Authorization in the past but were refused, or
- you had a Retail Store Authorization in the past but the authorization was revoked.

You are not eligible for a Retail Store Authorization for a store if:

- you do not have a Retail Operator Licence now, or would not have a Retail Operator Licence at the time when the Retail Store Authorization would be issued.
- you have a Retail Operator Licence that has conditions that do not allow you to apply for or receive a Retail Store Authorization for that store.
- the holder of the Retail Operator Licence, any person interested in the operator, or if the operator is a corporation including any director, officer or shareholder of the corporation, has been convicted of or charged with certain offences:

- any offence under the Cannabis Licence Act,
- certain offences under the Cannabis Licence Act
- certain offences under the Cannabis Control Act and Cannabis Act
- you have, or previously had, certain roles or connections with a criminal organization as defined in subsection 467.1(1) of the Criminal Code (Canada):
  - you are, or have been a member of the criminal organization
  - you are, or have been involved in the criminal organization
  - you contribute, or have contributed to, the activities of the organization.
- you are carrying on activities that are not in compliance with certain laws.
  - Certain offences under the Cannabis Control Act (CCA) and Cannabis Act (CA)
- you hire or plan to hire someone who does not have a Cannabis Retail Manager Licence, but should have that Licence because of the work they do
- it is not in the public interest, based on the needs and wishes of the people who live in the municipality where the proposed store would be located.
  - After you apply for a Retail Store Authorization, the Registrar will inform local residents and the municipality about the application by having a notice posted at the proposed store and on the AGCO's website.
  - The municipality or local residents submit written submissions to the Registrar about whether the proposed store is in the public interest, as set out in regulation. The submissions must be sent within 15 calendar days after the notice is posted.
  - Relevant submissions are limited to the following matters of public interest:
    - protecting public health & safety;
    - protecting youth and restricting their access to cannabis;
    - preventing illicit activities in relation to cannabis.
- the proposed store would be on a First Nations reserve, but the council of the band has not approved the location
- the store, equipment and facilities do not comply with the Cannabis Licence Act, 2018, regulations, the Registrar's Standards or requirements
- you do not have sufficient control over the store, equipment and facilities
- you have made a false statement or provided false information in your application

If you hold a licence under the *Cannabis Act* (Canada) to produce cannabis for commercial purposes:

- your retail store must be located on or within the site set out in that licence
- you and your affiliates, altogether, may not have more than one Retail Store Authorization.

You may have conditions put on your Retail Store Authorization to address any specific risks or concerns. There are also conditions in the *Cannabis Licence Act, 2018* and regulation that apply to all Retail Store Authorizations.

You cannot transfer your Retail Store Authorization to another person or business.

Line of Business:  
Cannabis

## Retail Store Location

There are some places where you cannot open a cannabis retail store. More information about those rules is provided below.

### Municipalities:

Ontario municipalities have a one-time option to opt out of having cannabis retail stores in their communities. They have until January 22, 2019 to notify the AGCO that their council has taken a resolution to opt out of having cannabis retail stores. Municipalities that choose to opt out can opt back in at any time—but once they have opted in, they may not reverse their decision.

Therefore, cannabis retail stores cannot be located in a municipality that has passed a resolution prohibiting cannabis retail stores from being located in the municipality.

- If a municipality has decided not to allow cannabis retail stores, they must inform the AGCO about their decision by January 22, 2019.
- The AGCO will keep a list of municipalities that have decided not to allow cannabis retail stores on its website.
- If you applied for a Retail Store Authorization before January 22, 2019, and the municipality where you want to open the store notifies the AGCO it will not allow cannabis retail stores, the AGCO will not issue you a Retail Store Authorization for that store, even if you meet all other eligibility requirements.

### **First Nations Reserve:**

A cannabis retail store can only be located on a First Nations Reserve if it has the approval of the Band Council.

- If the council of a band for a reserve decides not to allow retail stores, they must inform the AGCO about their decision. There is no deadline for this notification.
- The AGCO will keep a list of reserves that have decided not to allow cannabis retail stores on its website.
- If you have already applied for a Retail Store Authorization, and the reserve where you want to open the store notifies the AGCO it will not allow stores, the AGCO will not issue you a Retail Store Authorization for that store even if you meet all other eligibility requirements.
- A reserve that previously decided to allow retail stores, can later decide not to allow retail stores. If that happens, your Retail Store Authorization will continue to be valid until renewal. You will not be able to renew that Retail Store Authorization.
- Where the band council has decided to allow stores on reserve land, the approval of the proposed location of a retail store on reserve land must be obtained from the band council

### **Near Schools:**

A cannabis retail store cannot be located near a school or private school, as defined in the *Education Act*, if the proposed retail store is less than 150 metres away from the property line of the school or private school. This will be determined as follows:

- when the school or private school is the primary or only occupant of a building, 150 metres shall be measured from the property line of the property on which the school or private school is located.
- When the school or private school is not the primary or only occupant of a building, 150 meters shall be measured from the boundary of any space occupied by the school or private school within the building.

(The above rules do not apply if the private school is located on a reserve or if the private school only offers classes through the Internet.)

Please refer to the *Education Act* for further details and definitions on what is considered a school or private school.

Line of Business:  
Cannabis

# Cannabis Retail Manager Licence

Every cannabis retail store must have a licensed retail manager. People who perform certain duties within the cannabis retail store must get a Cannabis Retail Manager Licence. People who:

- supervise, manage or hire employees of the store
- manage the sale of cannabis
- manage compliance issues relating to the sale of cannabis
- buy cannabis for the store
- enter into contracts for the store.

The only people that can perform the duties listed above are people with a Cannabis Retail Manager Licence or a Retail Operator Licence.

You are not eligible for a Cannabis Retail Manager Licence if:

- you are under 19 years of age
- as a licensed retail manager, you will not act in compliance with the law, or with integrity, honesty or in the public interest
- you have been convicted or charged with certain offences:
  - any offence under the *Cannabis Licence Act*
  - certain offences under the *Cannabis Control Act* (CCA) and *Cannabis Act* (CA)
- you have, or previously had, certain roles or connections with a criminal organization as defined in subsection 467.1(1) of the *Criminal Code* (Canada):
  - you are, or have been a member of the criminal organization
  - you are, or have been involved in the criminal organization
  - you contribute, or have contributed to, the activities of the organization.
- you are carrying on activities that are not in compliance with certain laws.
  - certain offences under the *Cannabis Control Act* (CCA) and *Cannabis Act* (CA)
- you have made a false statement or provided false information in your application

Generally, you must wait 2 years to apply again for a Cannabis Retail Manager Licence if you:

- applied for a new Cannabis Retail Manager Licence or renewal Cannabis Retail Manager Licence in the past but were refused, or
- you had a Cannabis Retail Manager Licence in the past but the licence was revoked.

You may have conditions put on your Cannabis Retail Manager Licence to address any specific risks or concerns. There are also conditions in the *Cannabis Licence Act* that apply to all Cannabis Retail Manager Licences.

You cannot transfer your Cannabis Retail Manager Licence to another individual.

Line of Business:  
Cannabis

## Retail Store Requirements

There must be separation between your cannabis business and other businesses. If an existing retail space is renovated to create two or more spaces, the space that is intended to be a cannabis retail store must adhere to the listed criteria below and all the eligibility requirements set out in the *Cannabis Licence Act*, 2018 and regulation.

The retail space where you will sell cannabis:

- must be enclosed by walls separating it from any other commercial establishment or activity
- does not include an outdoor area
- cannot be entered from or passed through in order to access any other commercial establishment or activity, other than a common area of an enclosed shopping mall.

In addition, the area where cannabis will be received or stored cannot be accessible by any other business or by the public.

Line of Business:

Cannabis

## Operating a Store

There are rules you must follow when operating your store.

You must:

- begin selling cannabis at your authorized store within one year of getting your Retail Store Authorization, and continue to sell cannabis
- open only during permissible hours: between 9:00 a.m. and 11:00 p.m. on any day
- display the official cannabis retail seal. You must post the seal in a place where people can easily see it from outside the entrance to the store. The seal must be at least 17 centimetres wide and 20 centimetres long. You can choose to post the French version of the seal, or the English version, or both.
- remove the seal as soon as possible if your Retail Store Authorization is revoked or not renewed
- post your Retail Store Authorization in the store in a place where people can easily see it
- only sell cannabis that has been made by someone who is authorized under the *Cannabis Act* (Canada) to make cannabis for commercial purposes
- keep records of specified information and activities
- have measures in place to reduce the risk that your cannabis will be redirected to the illegal market or illegal activities
- only sell things you are allowed to sell. These are:
  - cannabis that you bought from the Ontario Cannabis Retail Corporation. The cannabis must in the same packaging you bought it in. You must buy all of the cannabis you will sell in your store from the Ontario Cannabis Retail Corporation.
  - cannabis accessories that are used in the consumption of cannabis, such as a bongs, rolling papers, or vaporizers.
  - shopping bags.
- record all sales
- make information about the responsible use of cannabis available to patrons
- ensure that all licensed managers and other employees working in your store successfully complete the required Board approved training courses or programs prior to their first day of work at the store.
- request identification of anyone who looks under 25 years old and be satisfied the person is at least 19 years of age prior to allowing them to enter the store.

You must not:

- sell cannabis or cannabis accessories to anyone who is under 19 years old
- allow anyone who looks under 25 years old to enter the store, unless you first request identification and are satisfied the person is at least 19 years of age
- sell cannabis to anyone who is intoxicated or looks intoxicated

- sell more than 30 grams of dried cannabis (or equivalent amount of another kind) to a person in a single visit
- hire anyone who is under 19 years of age.

All sales, including ordering and payment, must happen in the store.

You cannot sell cannabis or cannabis accessories from a display that allows self-service, or from a vending machine.

You must display your cannabis and accessories in a way that they cannot be seen by a young person, even from outside the store.

Line of Business:  
Cannabis

## Renewing your Licence or Authorization

You must apply to renew your licence or authorization before the current term expires.

Your licence or authorization will be renewed if you have met the application requirements and paid the required fee. However it will not be renewed if:

- you have failed to comply with the legislation or regulations
- you no longer meet the eligibility requirements for the licence or authorization.

If your Retail Store Authorization is not renewed, you must follow any rules set by the Registrar regarding the disposal of cannabis that has not been sold or distributed.

Line of Business:  
Cannabis

## Background Checks

As part of its review of your application for a new licence or authorization, or renewal licence or authorization, the AGCO may do background checks and investigations on applicants, as needed. The AGCO may look at the character, financial history and competence of persons applying for a licence or authorization. You may be required to pay some of the costs of the background checks or investigations.

Line of Business:  
Cannabis

## Training

The following individuals are required to successfully complete training courses or programs that have been approved by the AGCO Board:

- holders of a Retail Store Authorization
- holders of a Cannabis Retail Manager Licence
- employees of a cannabis retail store

Line of Business:

# Suspension or Revocation of Licences & Authorizations

All owners/operators of cannabis retail stores along with store managers are subject to the provincial *Cannabis Licence Act, 2018*, its regulations and the Registrar's Standards.

If you do not comply with legislation and regulations or are no longer eligible for your licence or authorization, your licence or authorization may be suspended or revoked. You will be advised of the licence or authorization being suspended or revoked and can request a hearing before the Licence Appeal Tribunal.

In some cases, depending on the reasons, the licence or authorization may be suspended or revoked immediately.

If your Retail Store Authorization is suspended, you must post a sign about the suspension in a place where people can easily see it from outside the store.

If your Retail Store Authorization is revoked or suspended, you must comply with any rules set by the Registrar regarding the disposal of cannabis that has not been sold or distributed.

Line of Business:

Cannabis

## Inspectors

AGCO inspectors may visit the retail store location to confirm compliance with the *Cannabis Licence Act, 2018* and regulations. You must allow the inspection, and you must not interfere with the inspector, refuse to answer questions related to the inspection, or provide false information.

When doing an inspection, an AGCO inspector may:

- ask you for and look at certain records that are relevant to the inspection
- take certain records away from the store to review, examine, test or copy. In this case, the inspector will give you a receipt confirming which records have been taken.
  - After the inspector has taken the records, you can request that the records be made available to you.
  - The records will be returned to you in a reasonable time, unless the records cannot be returned because of the testing done.
- take photographs or other recordings
- ask about financial transactions, records or other matters relevant to the inspection.

If an inspector asks you for a record, you must provide it. You must also must help the inspector understand the record or provide it in a readable form.

Line of Business:

Cannabis

## Inducements



If you have a Retail Operator Licence, a Retail Store Authorization and/or a Cannabis Retail Manager Licence, no one is allowed to offer you, or your employees, a material inducement or benefit.

You are not allowed to give or offer to give away cannabis or cannabis accessories to someone without charge. You cannot offer things or services to induce a person to purchase cannabis.

Line of Business:

Cannabis

## **Advertising and Promotion**

Cannabis retail store operators are subject to the federal *Cannabis Act* and its regulations which outline permissible and prohibited advertising and promotional activities. Please refer to the *Cannabis Act* for more information.

Line of Business:

Cannabis