



## Article

### Cannabis Law

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# What you need to know about New Brunswick's new retail regulations

By Matt Maurer and Siena Hilley Bland

To date, and as matters currently stand, Cannabis NB, a subsidiary of the New Brunswick Liquor Corporation, is the only legal retailer of recreational cannabis in New Brunswick. However, this is set to change in the near future after Provincial Finance Minister Ernie Steeves' introduction of Bill 79 on November 30, 2021 for a first reading in the Legislative Assembly.

Bill 79, titled "*An Act Respecting the Retail Sale of Cannabis*", will modify the existing legislative scheme which governs the sale and distribution of recreational cannabis in the province to allow the retail model to expand through privately-owned retail outlets.

Apart from some modifications to the current legislation, including the *Cannabis Management Corporation Act*, the *Cannabis Control Act*, the *New Brunswick Liquor Corporation Act* and their related regulations, Bill 79's key changes come with the introduction of the *Cannabis Retailers Licencing Act* ("CRLA"), which if enacted would enable persons to apply to the Minister of Health for a licence to operate a cannabis retail outlet within the province. While much of the details will be contained in the yet-to-be drafted regulations, the CRLA itself does provide some insight about what the application and licensing system will look like for would-be retailers.

### Eligibility

Under the CRLA, in order to be eligible to apply for, or to hold a licence, a person needs to satisfy the following:

1. Be at least 19 years of age;
2. Has not been convicted within the previous 5 years of an offence under designated legislation;
3. Is not or has never been a member of a criminal organization, and is not, or has never been involved in, or contributed to, the activities of that type of organization; and

4. Meets all other eligibility requirements prescribed by regulation.

### Application Process

The application and approval process for a licence will be heavily dictated by regulations set by the Minister of Health, but at a minimum will include background investigations into the criminal and financial history of the applicant and the proposed location for the retail location.

It is important to note that although an applicant may receive *approval* for a licence, retail licences will only be issued to those applicants who have also entered into a “service agreement”, the definition of which can be found under the *Cannabis Management Corporation Act* and is proposed to be expanded by Bill 79 to include agreements between the Cannabis Management Corporation or a subsidiary of the New Brunswick Liquor Corporation and a third party.

Under the CRLA the Minister of Health will be permitted to issue different classes of licences for varying lengths of term, however the initial term of each licence will not exceed 5 years.

### Licenses Non-Assignable

Once a licence is issued, it will be non-assignable by the licence holder and will be subject to all terms and conditions both imposed by the Minister of Health, and established by regulations. Other provinces, such as Ontario, also have non-transfer and non-assignment provisions in their cannabis retail legislation but still permit the sale of a store through a process overseen by the regulator. Our expectation is that New Brunswick will follow a similar path, despite the existence of the non-assignability provision in the CRLA.

### Other Provisions

The CRLA and the yet-to-be drafted regulations will also regulate a variety of other issues, such as:

- The cost of the application and annual fee;
- The grounds on which a license may be restricted, suspended or revoked;
- Restrictions on who may enter a retail store (i.e. no one under the age of 19);
- Setting out a list of prohibited activities;
- Setting parameters around transport and delivery;
- Setting rules for who may be employed at the retail location;
- Setting rules around the display of products and advertising generally;
- Establishing required security measures; and
- Establishing record keeping requirements.

Once passed, Bill 79 will bring a new wave of promising opportunity to the New Brunswick recreational cannabis market. However, as noted above, many of the practical details including those related to: i) licencing eligibility requirements; ii) the licence application and approval process; iii) classes of licences; iv) the term, expiry and renewal of licences; v) licence fees; vi) the location of a retail outlet; vii) and the sale, marketing and operation of retail outlets, will be fleshed out at a later date in the CLRA’s regulations.

We will continue to monitor the progression of Bill 79 to keep informed of the potential opportunities on the horizon. Stay tuned for future updates as Bill 79 progresses through the legislative process and as the regulations are drafted. As always, feel free to contact us with any questions you may have.

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