

Nova Scotia's Recreational Cannabis Legislative Framework

Recreational cannabis is being legalized in Canada. In creating a well-regulated legal market, government's priority is the health and safety of Nova Scotians, especially children and youth. The province has considered feedback from Nova Scotians, experts, and stakeholder groups, as well as decisions made by other jurisdictions.

Below is a timeline of announcements related to recreational cannabis legalization in Nova Scotia:

October 6, 2017

A consultation on key issues is launched. In total, 31,000 completed online surveys and 24 written submissions were received. Almost 200 from 49 organizations and 41 municipalities participated in the stakeholder sessions. The consultation concluded on October 31.

December 7, 2017

A summary of the consultation is released and the province announces its first policy decisions – legal age, distribution and sales, personal possession and cultivation limits, and establishment of provincial penalties for youth possession of up to five grams.

January 30, 2018

The province announces cannabis will be sold at nine Nova Scotia Liquor Corporation (NSLC) locations and online sales with home delivery from NSLC will be offered.

March 27, 2018

The province announces a strengthened Smoke-free Places Act will prohibit public consumption of cannabis in the same places as tobacco.

Cannabis Control Act

Nova Scotia's new Cannabis Control Act establishes rules related to the sale, distribution, purchase, possession, cultivation, propagation, and harvesting of cannabis. The Act has two parts.

Part I (responsibility of the Minister responsible for the NSLC):

- establishes the NSLC as the sole authorized seller of cannabis
- adds to NSLC powers and purpose to allow it to wholesale, store, distribute, and sell cannabis
- requires NSLC to comply with federal requirements
- adds promotion of social objectives for responsible consumption of cannabis to the NSLC's objectives

Part II (responsibility of the Minister of Justice):

- prohibits anyone but the NSLC from distributing or selling cannabis
- prohibits the purchase of cannabis from anyone except the NSLC
- sets a legal age of 19 for use, purchase, and possession of cannabis
- maintains federal rules on personal possession and home cultivation for adults
- prohibits consumption and restricts transportation of cannabis in a vehicle
- restricts providing cannabis or cannabis accessories to a young person
- provides authority for police officers regarding compliance and enforcement
- establishes penalties

The Cannabis Control Act enacts new legislation and amends seven other pieces of legislation. Amendments to the Liquor Control Act, Smoke-free Places Act, and Motor Vehicle Act are outlined in the content below. Minor amendments to four other acts are noted at the end of this document.

Retail and Distribution

This framework proposes the distribution and sale of cannabis through the NSLC both online and in existing NSLC stores. The NSLC will be the sole authorized seller of cannabis in Nova Scotia. The Cannabis Control Act will give power and authority to the NSLC to sell cannabis and requires the NSLC to comply with federal requirements.

Executive Council will also have regulatory powers under the new act to further ensure a tightly controlled market for cannabis.

Legal Age, Possession and Cultivation

This framework proposes a legal age of 19 for cannabis use, purchase, cultivation, and possession. Youth under 19 can be fined or criminally prosecuted if they're caught with cannabis. Adults can be fined for providing cannabis or cannabis accessories to a young person.

A young person (under the age of 19) found in possession of less than five grams of cannabis will have the cannabis seized and be fined no more than \$150. Parents or guardians may be notified. Restorative justice may also be an option.

Per federal legislation, possession of more than five grams by a youth under the age of 18 will be prosecuted as a criminal offence under the federal Youth Criminal Justice Act.

A person who:

- sells or distributes cannabis to a young person may be fined up to \$10,000
- involves a young person in the commission of an offence may be fined up to \$10,000
- sells cannabis illegally may be fined up to \$10,000
- operates an unauthorized store that sells cannabis may be fined no less than \$10,000 and up to \$25,000
- purchases cannabis from someone other than the NSLC may be fined up to \$250
- knowingly sells or distributes cannabis to an individual who is, or appears to be, intoxicated may be fined up to \$1,000

Private stores may sell cannabis accessories. Under federal legislation, if people under 19 years of age are allowed in the store, the accessories must be out of view, similar to tobacco.

Adults 19 years of age and older will be allowed to have up to 30 grams of dried cannabis or equivalent in their possession when outside their home. Federal legislation sets fines and other penalties for possession above this amount, which vary depending on the amount of cannabis in possession.

Adults 19 years of age and older will be allowed to grow up to four plants per household. Federal law defines a household as a "dwelling house." In general, each apartment in a house or larger building is considered a separate household. Federal legislation sets fines and other penalties for cultivation of more than four plants, which vary depending on the amount of plants.

The Liquor Control Act is being amended to bring provisions and penalties for alcohol in line with those proposed for cannabis, where possible.

Consumption

Public consumption of cannabis will be restricted by an amended Smoke-free Places Act. Smoke of all kinds, including cannabis, is already prohibited in all indoor public places and workplaces, and in many outdoor spaces, including school and daycare grounds, bar and restaurant patios, and within four meters of an entrance or air intake. The Act also prohibits smoking in vehicles where children are passengers.

The Smoke-free Places Act will be amended to include no smoking or vaping of cannabis or tobacco:

- on or within 20 meters of playgrounds located in an outdoor public space
- on or within 20 meters of a publicly owned sport and recreation event or venue, located in an outdoor public space
- on and within nine meters of public trails
- in provincial parks and on provincial beaches, except for within the boundaries of a rented campsite
- in vehicles used as part of one's job or work; this does not apply to a personal vehicle used for work purposes if they are the only person using the vehicle for work purposes.

A person may be fined up to \$2,000 for violating the Smoke-free Places Act.

Cannabis use of any kind in vehicles will be prohibited under the Cannabis Control Act.

There are no legislated restrictions on cannabis consumption in private residences.

The Cannabis Control Act provides authority for landlords to amend leases to put reasonable rules in place about recreational cannabis smoking, as defined in the Smoke-free Places Act, and cultivation. Landlords must provide tenants four months' notice of this change before April 30, 2019. When the landlord provides this notice, the tenant may then choose to terminate the lease. The tenant has one month to give the landlord three months' notice to terminate.

Road Safety and Impaired Driving

Federal changes to the Criminal Code of Canada (Bill C-46) will overhaul the impaired driving sections and authorize police to use new tools to detect drivers who drive while impaired by cannabis and other drugs.

Cannabis use of any kind in vehicles, including motorized boats, will be prohibited by the province. Drivers cannot be impaired while driving, passengers cannot use cannabis in any form in the vehicle, and cannabis must be stored in a closed, fastened package and out of reach or not readily available to anyone in the vehicle. This is in line with restrictions on alcohol in vehicles. A person may be fined up to \$2,000 for consumption in a vehicle or improper storage.

Through amendments to the Motor Vehicle Act, the province is putting administrative sanctions, like license suspension, in place to ensure road safety. Corresponding federal law may also apply, resulting in additional penalties including imprisonment.

Officers will have authority to decide how they handle drivers they suspect of being under the influence of cannabis. All drivers, including medical users, must not be impaired when driving.

The Criminal Code sets out that drivers suspected of impaired driving may be required to undergo a Standardized Field Sobriety Test (SFST), which involves coordination tests in combination with previously observed driving evidence. If the driver fails the SFST, a Drug Recognition Expert (DRE officer) may conduct additional tests at a secondary location to determine if the driver is impaired.

After completing the SFST, if an officer believes they have grounds to lay a charge of impaired driving, the driver's licence is immediately suspended for 24 hours. The driver is ordered to provide a bodily fluid sample and a charge for impaired driving is pending, subject to results. If the results confirm impairment under the Criminal Code, a charge is laid and the person's license is suspended for 90 days.

When someone is convicted of impaired driving, the driver is subject to the following penalties:

- First offence – fine of not less than \$1,000 and a one-year licence suspension
- Second offence (within 10-year period) – imprisonment of up to 30 days and a three-year licence suspension
- Third offence (within 10-year period) – imprisonment of up to 120 days and a five-year licence suspension
- Fourth offence (within 10-year period) – permanent revocation

Additional penalties may apply if there is bodily harm or death, a child is proven to be in the vehicle (additional 12-month revocation), or the driver has frequent driving suspensions. Drivers must also pay a licence reinstatement fee.

After completing an SFST, if an officer has reason to suspect a driver is under the influence of drugs, but does not have the grounds to lay a criminal charge, they have the authority to immediately suspend a driver's licence for:

- First incident – seven days
- Second incident – 15 days
- Third incident – 30 days

This is a similar approach to drivers who have alcohol in their system but are below the criminal legal limit. Drivers must also pay a licence reinstatement fee.

Authority is also given for seizure of vehicle to ensure safe removal from a roadway.

Like alcohol, there will be zero tolerance for drivers in the Graduated Driver's Licencing program. Where a driver fails either or both an SFST and DRE, they will be subject to sanctions, including restarting the phase of their program.

A number of housekeeping amendments are also being made to the Motor Vehicle Act to reference new Criminal Code sections, offences, and terminology/definitions.

Housekeeping Amendments

Four additional pieces of legislation are being amended for this framework.

Education Act – Adding use or possession of cannabis to a list of unacceptable behaviours, in line with how alcohol is represented.

Insurance Act – Housekeeping amendments to bring the Act in line with the amended Criminal Code of Canada with regards to impaired driving.

Safer Communities and Neighbourhoods Act – Adding possession, consumption, purchase, sale, distribution, cultivation, propagation, harvest or other uses of cannabis as a prohibited specified use under the Act.

Summary Proceedings Act – Adding reference to Cannabis Control Act to Schedule B.

NOTE: The fines outlined above are also subject to court costs and a victim surcharge.

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