

Regulatory hurdles for new venture entrants in the Cannabis industry:  
Pitfalls and lessons from the Canadian experience

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Entrepreneurs who eye opportunities in the emerging and burgeoning cannabis industry face specific challenges that bias the field toward established corporate structures and connections to wealth. The regulatory features of the Canadian market construct direct and indirect barriers to the average aspiring entrepreneur, as we describe below. Further, medical and recreational markets are treated differently at the distribution end, with medical cannabis being sold directly to consumers with prescriptions under federal regulations. By comparison, recreational distribution is regulated by the provinces, creating a range of regulatory environments more or less friendly to entrepreneurs. In addition, a municipal governance framework creates additional regulatory challenges for retailers, through the imposition of location specific restrictions on proximity to each other and schools or other public buildings. Collectively, this landscape is a regulatory thicket that is difficult for an aspiring entrepreneur to navigate.

One of the most challenging barriers is the regulatory framework that requires companies to construct (or renovate) their facilities to industry-specific code requirements before applying for a license. At the Federal level growers are regulated, and there is a list of requirements to ensure quality and security of production. Retailers are regulated at the provincial level, and most provinces also require the companies to have a code-compliant location before applying for a license. From a business perspective, the problem is obvious. Unless the licensing process is quick and approval rates are high, entrepreneurs take a considerable financial risk in preparing facilities to code with no guarantee that the sunk costs will be recovered. Even if approval rates are high, significant front-end investment is necessary, and the funds are committed well in advance of approvals. For growers, the initial investments can be several million dollars; for a retailer, renting commercial space and renovating to code is also a big financial commitment, particularly for small-scale entrepreneurs who aspire to open a single location. In addition, systemic bottlenecks in the approval process also play a role. In Alberta, delays in licensing retailers stretched up to a year or more, as the government tried to control the growth of retailers to match supply chain capacity.

Additional barriers exist in the form of restrictive branding, marketing, and packaging regulations that favor larger, established corporate structures over the interests of new entrants.

This paper will outline and delineate the various regulatory hurdles new entrants face in this environment, and provide some transferable lessons from the Canadian regulatory context that would be of interest and application as American states begin to develop more sophisticated regimes.

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