

Insurance solutions for Indigenous cannabis based businesses in Canada



Options for cannabis based insurance in Canada are limited...

Despite recent regulations opening the industry, insurance solutions for cannabis based businesses in Canada remain limited.

There are only a handful of insurance companies who will provide coverage for cannabis dispensaries and related businesses.

A dispensary is really just a retail store – albeit one with extraordinary security. And while this is how industry insiders and cannabis consumers understand these facilities, it's a perspective still completely foreign to the vast majority of insurance underwriters and their companies. It's extremely difficult for them to accurately assess the relative risks of indoor agriculture, baking with cannabis, or extraction operations, which is why it is so challenging to place coverage for this segment.

Risk Management is a Key Component

Understanding the risks that your business may face is a key factor in ensuring you have the right coverage for your business.

This is why ATC provides a risk management component to all our coverage options.

The ATC Risk Management program includes an on-site visit and property inspection which helps ensure all safety credits are applied. We also use an in-person, face-to-face meeting to discuss any concerns you may have, or special coverages you may require.

Reputation is at the heart of everything your organization does—it must be protected when faced with a crisis.

Across The Country: Comprehensive Insurance Package developed for the Cannabis industry

- Product Recall liability
- Commercial General Liability
- Professional Liability
- Umbrella Liability
- Environmental Impairment liability
- Crime, Cyber and Hacking Coverage
- Directors and Officers Coverage
- Legal Expense including Criminal Charges
- Tax Bonds
- Property including course of construction
- Automobile including Cargo and Transit Coverage

Commercial General Liability



Commercial General Liability

ATC's Commercial General Liability program has been designed specifically for Indigenous cannabis manufacturers, distributors, and retailers, and we continue to adapt the coverage options along with changes in the industry.

The program will:

- Provide protection for company's balance sheet and their trading relationships
- Satisfy contractual obligations passed down by regulators and customers
- Include safety and government triggered contamination policy for licensed cannabis producers in Canada

Why you need Commercial General Liability

Commercial kitchens producing cannabis-infused products such as cookies, candies and drinks, must meet or exceed the same standards as those manufacturing everyday edible products found in the home, and the products must show a list of ingredients.

Any outside contaminants found in the product may be subject to lawsuits.

Every business that makes, distributes, tests or sells a cannabis product can be named in a lawsuit by a consumer who alleges that the product harmed them.

Effective defense is both complicated and expensive – a defined strategy is imperative.

Product Recall Coverage



Product Recall Coverage (Claims Made)

ATC's Product Recall Coverage addresses two major issues a manufacturer could face in the incidence of product recall:

- 1. Product recall expenses** can include costs associated with notifying customers, shipping and storing the recalled product, disposing of the product, and hiring extra staff to help with the recall.
- 2. Third-party liability** covers the legal obligation to pay for compensatory damages to third parties, i.e., those who have suffered damages related to use of the manufacturer's product. This may include third-party costs related to business interruption, repair and rehabilitation of brand reputation, and the purchase of goods to repair or replace the manufacturer's product.

Product Recall - Readiness

Product Recall Readiness is an assessment of the organizational recall readiness aimed at prevention and damage limitation through a review and development of:

- Product risk assessments to review manufacturing processes as well as internal infrastructure for managing a product safety issue
- Crisis management preparedness, recall procedures and communication plans
- Product traceability protocols, product disposal planning and regulatory compliance
- Product recall manuals and facility review, including review of company policies and procedures with physical site assessments, to identify strengths and areas for improvement and provide recommendations to reduce the potential for a product recall
- Product recall preparedness training, including malicious and accidental contamination response, product extortion response, product recall effectiveness checks and simulated incident workshops

Product Recall - Coverage Triggers

Accidental Contamination: Contamination, mislabeling, omission of ingredient, incorrect dosage that has or would result in bodily injury or property damage

Malicious Product Tampering: Actual or alleged intentional, malicious and wrongful alteration or contamination that renders it unfit or dangerous for use

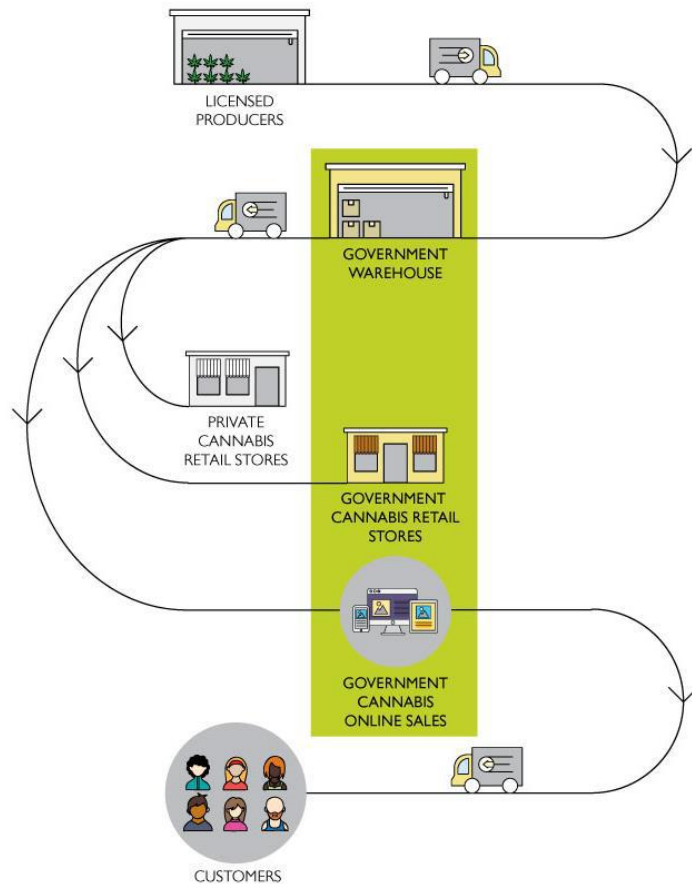
Extortion: Threat to commit a malicious tamper for the purpose of demanding a ransom

Government Recall: Deemed adulterated by Health Canada and classified as harmful to consumers

Product Recall - Costs Covered

- Recall costs – distribution, destruction, etc.
- Replacement costs – re-manufacturing, etc.
- Rehabilitation expenses
- Business interruption – loss of sales, extra expenses, etc.
- Extortion monies – ransom payments
- Consultant costs
- Pre-recall expenses – testing of products, named consultant costs, etc.
- Third-party recall costs
- Product tampering extension
- Barcode coverage

Product Recall Implications Throughout the Distribution Channel



Commercial Growers

- Brand damages
- Loss of market share

Distribution & Warehousing

- Restocking warehouse
- Transportation expenses
- Loss of revenue
- Inventory shortage

Retail Sales & Distribution Consumer

- Loss of consumer confidence
- Inconvenience

Product recall response

In the immediate steps following a product recall incident, the objectives are to preserve consumer health and safety and implement recall processes which protect the integrity of a company's brand. We offer a wide range of proven recall services, including:

- Issue identification, risk analysis and stakeholder mapping – assessing recall scope, identifying affected product(s) and investigating root causes through technology, forensics and data collection
- Assessment of company and supplier compliance with government regulations
- Strategic crisis management advice, decision-making support and formulation of response strategies
- Facilitation, liaison and oversight of the full product recall process and stakeholder management: this might include call centers, web registration, media communications, dark web analysis, government regulatory authorities and product destruction

Other ATC Coverages



Legal Expense and Defense Coverage

Since the cannabis industry is transitioning away from the illicit market. All cannabis companies must be operating with all of the provincial and federal licenses and permits necessary to operate legally. Missing, not understanding or forgetting to go through the proper measures to receive a valid license from your state will never be excusable.

Criminal prosecution coverage protects you against the cost of defending criminal actions including matters arising from Criminal, Health & Safety, WSIB, etc.

Employment disputes coverage protects you against legal expenses and awards of compensation incurred through defending legal proceedings brought against you by an employee, ex-employee or prospective employee, in respect of their contract of employment with you or a breach of employment-related legislation.

Legal Expense and Defense Coverage

Contract disputes coverage protects you against legal costs to pursue or defend your legal rights in a dispute relating to any agreement or an alleged agreement you've entered into for selling or buying goods or providing or obtaining services.

Tax protection coverage protects you against legal costs for a tax appeal or a tax audit relating to:

- Liability for income tax, GST, PST or HST arising from your business
- Payroll deductions compliance by your business
- Accountancy and legal costs and expenses involved in representing your business in any in-depth investigation by the Canada Revenue Agency.

Directors and Officers Coverage

If you are taking outside investor funds from private equity sources, venture capital or friends and family, you need D&O Insurance. Directors and officers bear the most risks associated with owning a privately held, non-profit or publicly traded corporation.

As the owner, director or officer of a cannabis business you may take on roles within the company that require providing professional advice or making difficult decisions. Any owner, director or officer in a management positions may be the focus of potential litigation.

Potential claims may come from a variety of constituencies, from employees or customers, to competitors or shareholders.

Directors and Officers Coverage

Directors and Officers coverage protects the personal assets of directors, officers and their spouses in the event they are personally sued by employees, vendors, competitors, investors, customers or other parties for acts while managing a company. It covers legal defense fees and settlements, and provides the standard indemnification provisions that hold officers harmless for losses due to their position at the company.

According to a 2016 CHUBB survey, financial losses due to lawsuits for the above reasons ranged anywhere from \$387,000 to \$17 million.

Needless to say, losses such as these would devastate most companies, especially a cannabis business trying to find footing in this complex space.

Directors and Officers Coverage

A director or officer could be sued for any of the following reasons:

- Failing at their fiduciary responsibilities
- Misrepresenting company assets
- Using company funds inappropriately
- Misrepresentations by the board of directors
- Failure of the board of directors to take appropriate actions
- Infighting between board members and shareholders
- Not following the laws of the workplace
- Stealing intellectual property or taking a competitor's customers
- Failure to meet regulatory requirements
- Fraud

Crime Insurance

A marijuana crop in its final stages has a high value of worth. It can be subject to criminal attack at various stages of its life cycle, though more likely at the time of harvest and delivery. Criminal violations against property and equipment are also common.

Computer Fraud - loss from a third party unlawfully taking or inducing a fraudulent transfer of money, securities or property through the use of a computer network or facility owned, operated or leased by the Insured

Funds Transfer Fraud - loss from a third party instructing a financial institution to transfer, pay or deliver money and securities from the Insured's account without permission from the Insured

In Transit - loss outside the Insured's premises from a third party conveying as the Insured or any authorised person, due to the disappearance, abstraction, or destruction of money and securities

Credit Card Fraud - loss from a third party altering or forging a written instruction in connection with a credit card linked to the Insured through employee or partnership

Crime Insurance

Counterfeit Currency - loss where the Insured accepts in good faith, either counterfeit currency, or a postal or money order supposedly issued by the post office that was not paid upon presentation

Employee Dishonesty - theft or forgery of money, securities and other property by an employee acting alone or in collusion with other employees

Forgery and Alteration - loss from a third party creating fraudulent documents made or drawn on company accounts

Inside the Premises - loss from the disappearance, destruction or wrongful abstraction of money and securities within, or from the Insured's premises or banking premises by third parties

Outside the Premises - loss from the disappearance, destruction or wrongful abstraction of money and securities outside the Insured premises while being conveyed by a messenger, or armored motor vehicle company

Crime Insurance – New Extension

Social Engineering / Impersonation Fraud

This is defined as the act of influencing others into disclosing private information and getting them to act inappropriately. Social Engineering Fraud insurance coverage insures the loss of vendor or supplier impersonation, executive impersonation, and client impersonation.

In a very recent case, a hacker gathered enough corporate information that he impersonated a contractor on a project and developed a rapport through emails with the CFO. In finalizing the payment, the 'contractor' convincingly advised of a recent change in their bank and to transfer the money to a new account. Total lost in this fraud - \$1,100,000.

Crop Guard

Complete crop coverage including disease, bacterial, fungal, and bugs up for up to \$25 million.

Whatever your growth method or cycle length, we can tailor the coverage to suit your needs and risk tolerance. If you suffer a crop loss, the insurance policy will pay the insured value for the impacted stage of the cycle. Growers both big and small can manage their risk and minimize premium costs with this program.

This **Seed to Sale** coverage includes:

- seedling/rooting stage
- vegetation stage
- flowering stage
- harvesting stage
- prepackaging processing

Cargo Insurance

Transporting marijuana is a necessary part of the cannabis industry. From growth to dispensary, there's a risk to all parties. And at the most valuable stage, the finished product is at risk of theft. As a result, dispensaries, cultivators and extraction companies have turned to armored car services to protect their product from loss.

Our stock policy is designed for companies that import, distribute, or export merchandise. The transfer of materials and goods through supply chains has never been more fragile. It insures a company's inventory and the flow of goods from the source of production to its final destination, whether at a place of storage or a retail store.

The policy has three transit components including ocean cargo insurance, inland transit, and property/storage.

Cyber and Hacking Coverage

From the storage of confidential patient information to conducting sales online, both cannabis producers and ancillary businesses are likely targets for hackers around the world.

Every Canadian entity collecting personal information must abide by Canada's Personal Information Protection and Electronic Documents Act or "PIPEDA", which establishes rules and regulations surrounding the collection and use of personal information.

However, licensed producers and cannabis clinics involved in the medicinal marijuana space also face the added regulations imposed under the "PHIPA" or the Personal Health Information Protection Act. Because they would be classified as an "information custodian" under the act, they are held to a much higher standard with respect to the collection, use and disclosure of patient information.

Consequently, those involved in the medical marijuana industry face significant exposure in terms of their cyber liability.

Cyber and Hacking Coverage

Some of the main types of cyber coverage and why they are needed are:

- Extortion coverage - denial of services (DDoS) due to a ransomware attack
- Business Interruption - lost revenue due to a cyber-attack
- Fraudulent funds - fraudulent transfer of money or securities
- Defense for regulatory claim - violating Canadian online regulatory law
- Information Security - release of confidential client or patient information
- E-commerce coverage - rerouting of customer payments & information
- Crisis Management - cost of forensic and PR consultants
- System Recovery - cost to repair and restore computer systems after a breach

Cyber and Hacking Coverage

- Information Assets
- Cyber Breach Injury Expense
- Cyber Extortion
- Fines and Penalties
- CASL Coverage

Environmental and Pollution Insurance

No one wants to be responsible for environmental contamination and pollution. Unfortunately, accidents do happen. Environmental policies are designed to provide funding in the event of a spill or contamination that needs clean up.

First party coverage: if a spill or chemical contamination occurs in your own facility.

Third party coverage: if the contamination is outside of your facility and affects other businesses or public utilities, or if there is a spill during third party transportation.

Coverage available:

- Clean-Up Cost Containment
- Environmental Liability Insurance
- Environmental Response & Compensation Insurance
- Hazardous Waste/Spill Response
- Industrial Clearing and Tank Clearing Insurance

Umbrella Liability

Umbrella liability provides protection against catastrophic losses. It is generally written over various primary liability policies, such as the Business Auto Policy (BAP), Commercial General Liability (CGL) policy, watercraft and aircraft liability policies, and employers liability coverage.

This coverage serves three purposes:

1. It provides excess limits when the limits of underlying liability policies are exhausted by the payment of claims
2. It drops down and picks up where the underlying policy leaves off when the aggregate limit of the underlying policy in question is exhausted by the payment of claims
3. It provides protection against some claims not covered by the underlying policies, subject to the assumption by the named insured of a self-insured retention (SIR).

Property Coverage

Property coverage up to \$100 million.

Have you wanted to purchase a building for contained cannabis growth, only to find out you could not obtain insurance due to your intended use? This is happening every day as insurance companies are becoming increasingly aware of grow operations in warehouses. Even if you obtain coverage, it may not be renewed should the insurance company inspect later and disapprove.

Your building insurance may also exclude coverages you're not aware of. Insurance companies want to avoid the higher risk of direct physical loss associated with grow operations. We work with carries who are comfortable taking-on this exposure.

Property Coverage

- Business Interruption
- Course of Construction and Wrap up Liability for new building construction projects up to \$250 million
- Boiler and Machinery (also called Equipment Breakdown). It covers the cost of repairing or replacing damaged equipment, and business loss incurred from the equipment not functioning. It can cover a wide range of equipment, including HVAC systems, ovens, boilers and furnaces, refrigeration units, elevators, and office equipment.

Automobile Insurance

Coverage available for fleets of 5 units and more;

- \$5,000,000 Third Party Liability
- All Perils Physical Damage

Although driving while under the influence of cannabis is illegal as it slows one's reaction time and will increase one's chances of being in a collision (similar to alcohol), we will likely come across instances where cannabis usage is a factor in automobile accidents.

Executive and Directors Accidental Death and Dismemberment

The vitality and economic health of a business can rely heavily on its key people.

ATC offers insurance to cover these key people – like directors and officers – so the business can keep running in the event of their injury or loss.

It's a scenario no one likes to think about, but every business has one or a few people whose incapacity would severely impact the business operations. It's important to be prepared and put safeguards in place.

Cannabis Surety Tax Bond

This bond is required to fulfill the legal requirements to operate your cultivation business in the marijuana industry.

There are some benefits to utilizing a financial instrument such as the L302 Bond rather than a traditional security measure such as irrevocable letter of credit. For example, a posted security equivalent of up to \$5,000,000 (the high-end of bond limits) can tie up the capital that you could be using to further your production operations.

The L302 Surety Bond for Cannabis enables you to pay a much lower premium to have our third party Surety guarantee these funds to the government – saving you money as well as working capital.

In 2017 the Canadian Government affirmed its commitment to implementing a new taxation regime on cannabis and to ensure they are taking steps to have taxation levels remain effective in the future.

Claims Triage Crisis Management

The best approach to protecting your company's future is to implement an effective crisis management program before a crisis ever occurs. ATC can help you design a crisis management program that protects your company, its people, and its operations. A crisis management program helps you prepare for, manage, and recover from issues and incidents that threaten your people, brand, valuation, customers, finances, or operations.

It is a systematic approach designed to help you manage crises that arise from more traditional risks like regulatory inquiries, natural disasters, and litigation to other threats to your business such as product recall.

ATC will help you design a multi-year crisis management program that achieves a crisis preparedness capability and culture of prevention, through:



Thank you!

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