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Access to Interprovincial Trade in Alcohol Improving

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In April 2018, the Supreme Court of Canada issued its decision in *R v Comeau*, 2018 SCC 15, regarding the constitutional right of the provinces to restrict the trade of alcohol across provinces. The Supreme Court unanimously held that provinces can limit the interprovincial trade of alcohol, so long as the primary aim of any such legislation is not to impede trade. In this case, the Court concluded that the primary objective of the New Brunswick legislation at issue was to serve the interests of public health and safety within New Brunswick. A summary of the “Free the Beer” decision can be found [here](#).

On April 9, 2019, almost a year after the Supreme Court of Canada’s decision, the Minister of Intergovernmental and Northern Affairs and Internal Trade highlighted plans to eliminate the remaining federal barrier to trade in alcoholic beverages within Canada.[1] As outlined in the 2019 federal budget and [Bill C-97](#), the Government of Canada has introduced legislation which will remove the federal requirement that alcohol moving from one province to another go through a provincial liquor authority.

This federal requirement is contained in the [Importation of Intoxicating Liquors Act](#) (the “Act”), which will now be amended to limit its application to the importation of intoxicating liquors into Canada, rather than into and throughout (i.e., inter-provincially) Canada.

Once these changes enter into force, the Government of Canada will have lifted all federal impediments to alcohol moving across borders within Canada. The only remaining barriers fall under provincial and territorial jurisdiction. As a result, it will be up to the provinces and territories to amend their own laws in order to allow the free movement of alcohol, including direct-to-consumer shipping across Canada.

For its part, the Ontario government released its [2019 budget](#) on April 11, 2019. It included plans to loosen a number of restrictions with respect to the sale and consumption of alcohol. Some of the key proposals include:

- tailgating permits for eligible sporting events;
- allowing a 9:00 am start time for serving alcohol at licensed establishments;
- permitting municipalities to designate public areas, such as parks, for the consumption of alcohol;
- allowing licensed establishments to advertise “happy hour” promotions;
- pausing a “wine tax” that was set to increase on April 1, 2019; and,
- providing flexibility for alcoholic beverage producers to promote their products at manufacturing sites by removing the prescribed serving sizes for “by the glass” licences.

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[1] <https://www.newswire.ca/news-releases/canada-acts-to-eliminate-barriers-to-interprovincial-trade-in-alcohol-861009387.html>



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The Ontario budget was introduced only two days after the proposed federal legislation which eliminates the barriers to the interprovincial trade of alcohol. It remains to be seen if Ontario will follow the lead of the federal government, and its own recent trend of deregulating consumer access to alcohol, when it comes to alcoholic beverages coming in from out of province.

For more information, please feel free to contact the authors or one of our lawyers in the firm's [Alcoholic Beverages Practice Group](#).

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