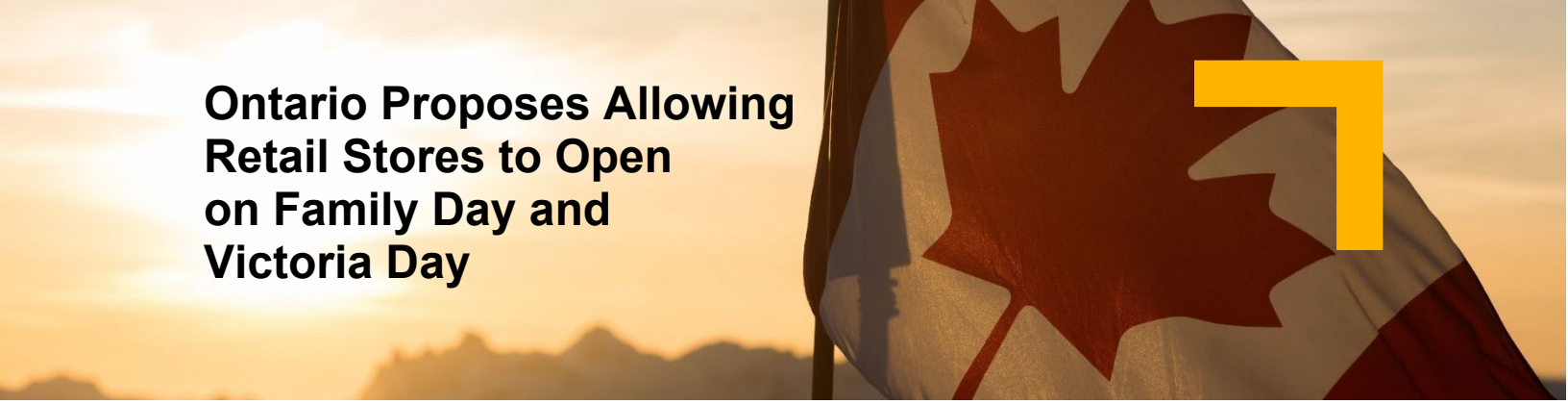

Ontario Proposes Allowing Retail Stores to Open on Family Day and Victoria Day

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By: Fiona Brown and Alyssa Marchese

The Ontario government has put forward a proposal that would permit retail stores to open on Family Day and Victoria Day, though retailers would not be required to do so. If the proposal proceeds, eligible retail employees who choose to work on those days would be entitled to time-and-a-half premium pay, in addition to their full public holiday pay under the *Employment Standards Act, 2000* ("**ESA**"). An effective date has not yet been confirmed, but the province has indicated that it is targeting implementation before Victoria Day on May 18, 2026. In the meantime, retailers may wish to review their public holiday staffing practices to ensure they remain ESA-compliant.

Currently, Ontario's *Retail Business Holidays Act* ("**RBHA**") mandates retail closures on nine holidays, including Family Day and Victoria Day. Under the proposed amendments, those two days would be removed from the RBHA's mandatory closure regime, while the remaining holiday closure requirements would stay in place. Provincial and municipal authorities would continue to regulate retail closures on other RBHA holidays. The proposed change is limited in scope and does not alter the broader structure of retail holiday regulation in Ontario.

Importantly, Family Day and Victoria Day would continue to be public holidays for ESA purposes. As a result, existing ESA rights and obligations would remain unchanged, including entitlements to public holiday pay and premium pay and, for many retail employees, the right to refuse public holiday work. Even where stores are permitted to open, employers may still need to rely on volunteer-based staffing and ensure managers are equipped to address refusals appropriately. In short, expanded retail openings do not reduce employee entitlements, and employers should ensure their scheduling, payroll and training practices reflect that reality.

Ontario's proposal is notable in the broader Canadian context. While several provinces permit retail stores to operate on Family Day, Victoria Day or both, Ontario is unique in proposing legislative reform in a jurisdiction where province-wide statutory retail closures remain in effect. By contrast, Alberta and British Columbia have no provincial legislation prohibiting retail operations on statutory holidays, and retailers in those jurisdictions have long been free to operate on Family Day and Victoria Day without legislative change. Saskatchewan likewise permits retail businesses to remain open on public holidays, subject to compliance with statutory wage requirements.

Nova Scotia does not designate Victoria Day as a statutory holiday, allowing retailers to operate freely, although its equivalent to Family Day (Nova Scotia Heritage Day) is subject to retail closure restrictions. In New Brunswick, retailers are currently prohibited from opening on Victoria Day, while Family Day is recognized as a paid public holiday. Prince Edward Island's equivalent holiday, Islander Day, is also a paid statutory holiday. Retailers in Newfoundland and Labrador, Yukon and the Northwest Territories are prohibited from opening on Victoria Day but do not observe Family Day as a holiday.

Manitoba, which previously mandated retail closures on statutory holidays, repealed its *Retail Business Holiday Closing Act* in December 2020, removing restrictions for Victoria Day and its Family Day equivalent, Louis Riel Day. As of December 12, 2020, retail businesses in Manitoba are no longer required to close or reduce their hours of operation on these holidays.

What sets Ontario apart, then, is not simply permitting retail operations on these two holidays. Rather, it is the fact that Ontario is the first province to formally introduce legislation to do so while province-wide statutory closures remain in force.

Ontario's proposal does not diminish worker protections. If retail opening is permitted on Family Day and Victoria Day in Ontario, ESA public holiday obligations will continue to apply, and employers should ensure staffing and pay practices are structured accordingly. Retailers should begin reviewing their staffing, payroll and scheduling practices now, as well as related workplace policies, employee handbooks and training materials, to ensure alignment. We would be pleased to assist with ESA compliance and broader operational planning in advance of implementation.

Have more questions about doing business in Canada? Please click here or scan the QR code to access Aird & Berlis LLP's Market Expansion Dashboard, your one-stop-shop for market expansion resources.

Disclaimer: This article offers general comments on legal developments of concern to business organizations and individuals and is not intended to provide legal advice. Readers should seek professional legal advice on the issues that concern them.

Contacts



Fiona Brown

Partner

T 416.865.3078

E fbrown@airdberlis.com

Fiona has extensive experience advising international businesses entering the Canadian market. To date, she has advised more than 100 companies expanding into Canada. Fiona advises clients in this space all day, every day. She has been practising for more than a decade and is a regular speaker and writer on market expansion matters. Fiona is proud to have been recognized by *The Best Lawyers in Canada, The Canadian Legal Lexpert Directory* and *Benchmark Canada.*

A proactive and comprehensive approach is required to succeed in a new market. Fiona manages teams of other lawyers and patent agents to provide her clients with a full range of legal services to help their businesses grow. She acts as project manager to ensure her clients receive seamless legal services in all relevant areas.

Fiona takes great care to understand her clients' businesses and deliver advice that is tailored to meeting their specific needs. Her responsiveness, dedication to clear communication and hands-on approach show that she is personally invested in the success of her clients.

Fiona is pleased to offer a multitude of resources answering often- asked questions about expanding into Canada, including this video and this one-page guide.



Alyssa Marchese

Articling Student

Alyssa summered at the firm in 2023 and 2024. She recently graduated from the JD program at Osgoode Hall Law School. During law school, Alyssa held a variety of leadership roles, including Co-President of the Canadian Italian Association of Osgoode, Communications Director of the Environmental Law Society, Marketing Director of the Osgoode Society for Corporate Governance, Events Coordinator of the Osgoode Emerging Technology Association and Osgoode Ambassador to the Ontario Bar Association. She also participated in the Osgoode Business Clinic and worked as a caseworker at the Investor Protection Clinic.

Prior to law school, Alyssa earned a Bachelor of Environmental Studies from York University, graduating *summa cum laude*, and was recognized with many awards for community leadership and academic achievement. She was active in student leadership, leading the Italian Student's Association, acting as a Peer Mentor Coordinator, and serving as a member of the Equity Committee, the Faculty Council and the Inclusion Group.