

Ontario's Provincial Emergency and Stay-at-Home Order: What It Means for Retail Today

April 14, 2021

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The Ontario government recently announced the province-wide Stay-at-Home order ("**Order**") that has taken effect pursuant to section 7.0.1(1) of the *Emergency Management and Civil Protection Act* ("**EMCPA**"). Starting April 8, 2021 at 12:01 a.m., every person is required to remain at home, except for essential purposes.

The Order is scheduled to run from April 8, 2021 for at least 28 days. Until then, and unless extended, the retail sector will continue to adapt to more stringent public health and workplace safety protocols. In particular, the restrictions can be summarized as follows:

General Non-Essential Retail Rules	
General	<p>Mainly limited to curbside pick-up and delivery, via appointment.</p> <p>Curbside is permitted from 7 a.m. to 8 p.m.</p> <p>Delivery is permitted from 6 a.m. to 9 p.m.</p>
Specific Rules	
Supermarkets, Convenience Stores, Pharmacies, Indoor Farmer's Markets, and Stores that Primarily Sell Food	In-person retail is limited to 50% capacity, with curbside from 7 a.m. to 8 p.m. and delivery from 6 a.m. to 9 p.m.
Shopping Malls	<p>Permitted access to grocery stores, pharmacies, health care services and government and court services.</p> <p>Limited access to non-essential retail, including access for curbside pick-up and delivery, via appointment.</p> <p>For curbside, there may be only one single designated location <u>inside</u> the shopping mall, but there may be any number of designated locations <u>outside</u> the shopping mall.</p> <p>Access is restricted to 7 a.m. to 8 p.m., with delivery from 6 a.m. to 9 p.m.</p>
Discount and Big Box Stores	In-person retail sales is limited to grocery items, pet care supplies, household cleaning supplies, pharmaceutical items, health care items, and personal care items only.
Garden Centre, Plant Nursery and Indoor Greenhouses	Permitted to operate at 25% capacity from 7 a.m. to 8 p.m.
Other In-Person Access (By Appointment Only)	<p>The following stores may operate in-person at 25% capacity from 7 a.m. to 8 p.m.:</p> <ul style="list-style-type: none"> • Safety supply stores; • Businesses that primarily sell, rent or repair assistive devices, aids or supplies, mobility devices, aids or supplies or medical devices, aids or supplies; • Rental and leasing services including automobile, commercial and light industrial machinery and equipment rental; • Optical stores that sell prescription eyewear to the public; • Businesses that sell motor vehicles, boats and other watercraft; • Vehicle and equipment repair and essential maintenance and vehicle and equipment rental services; and • Retail stores operated by a telecommunications provider or service, which may only permit members of the public to enter the premises to purchase a cellphone or for repairs or technical support. <p>Delivery is permitted from 6 a.m. to 9 p.m., where applicable.</p>

During the Order, affected retailers can continue to seek the benefit of support from both the federal and provincial governments.

What's Next: Subsidies and Support

Federally, businesses can seek relief under the Canada Emergency Rent Subsidy ("CERS") program. CERS was established to aid businesses that have experienced a drop in revenue as a result of the pandemic; certain of these businesses may be eligible to receive funds to help cover commercial rent and other qualifying eligible expenses. The last day to apply for the current claim period is **April 22, 2021**. The next claim period application date opens on May 9, 2021. For more details on CERS, please refer to [our previous publication](#) and the Canada Revenue Agency's [website](#).

Provincially, the Government of Ontario has established a non-enforcement period for commercial tenancies. Under O. Reg 763/20, this measure puts in place a 12-week eviction moratorium on tenants who have been approved for CERS. If a tenant is approved for CERS and provides its landlord proof of that fact, the 12-week ban on eviction will commence, starting on the date of CERS approval.

For businesses that remain open and operative, it is important to protect your community by complying with all safety standards and guidelines established by the Order and by your local public health unit. This will safeguard your business from hefty fines, as well as your customers from possible exposure to Covid-19.

If you have any questions or concerns about your rights or obligations, please contact Robert Eisenberg at reisenberg@weirfoulds.com.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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