

Recognizing anti-Indigenous discrimination and harassment in retail settings

Fact Sheet



Ontario Human Rights Commission

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The OHRC does not deal with individual complaints (known as applications).

If you need human rights legal advice or help filing an application with the Human Rights Tribunal of Ontario, contact the [Ontario Human Rights Legal Support Centre](#) at: 416-597-4900 or 1-866-625-5179 to speak with a Human Rights Advisor.

To file an application directly with the [Human Rights Tribunal of Ontario](#) visit their website and follow the instructions for How to file an application.

Learn more about Ontario's [Human Rights System](#).



**Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne**

Have you experienced discrimination as an indigenous shopper?

The **Ontario Human Rights Commission (OHRC)** and the **Indigenous Human Rights Program** (a partnership between Pro Bono Students Canada (PBSC) and the Ontario Federation of Indigenous Friendship Centres (OFIFC)) co-developed a guide to provide human rights information about anti-Indigenous discrimination in retail settings.

This fact sheet is a companion to this guide and can help you determine what discrimination in retail settings may look like and what to do if you think your human rights were violated.

Content warning: This guide deals with topics that may cause trauma to some readers. It includes references to mistreatment of First Nations, Inuit, Métis, and urban Indigenous people, including racial discrimination. Please engage in self-care as you read this material. There are many resources available if you need additional support, some of which are listed on the Ontario Human Rights Commission (OHRC) website, here: <https://www.ohrc.on.ca/en/list-supports>.

1. The Ontario *Human Rights Code*

Ontario's [Human Rights Code](#) (the *Code*) gives everyone the right to be free from discrimination in the areas of employment, housing, facilities and services, contracts, and membership in unions, trade or professional associations based on one or more personal attributes, called protected grounds.

The seventeen protected grounds are:

1. Age
2. Ancestry
3. Citizenship
4. Colour
5. Creed
6. Disability
7. Ethnic origin
8. Place of origin
9. Family status
10. Marital status
11. Gender identity
12. Gender expression
13. Sex
14. Sexual orientation
15. Race
16. Receipt of public assistance (in housing only)
17. Record of offence (in employment only)

Under the *Code*, Indigenous people have the right to be free from discrimination when accessing both public and private services. This includes the right not to be discriminated against or harassed while shopping, based on the protected grounds of race, ancestry, colour, ethnic origin, place of origin, or creed, among others.

Importantly, *Code* protections also apply in cases where an individual is perceived to be a member of a protected group, even if this view is not accurate.

2. How can I recognize anti-Indigenous discrimination while shopping?

Racial profiling is any action undertaken for reasons of safety, security or public protection, that relies on stereotypes about race, colour, ethnic origin, ancestry, creed, and/or place of origin to single out an individual for greater scrutiny or different treatment.

Racial profiling in itself may not violate the *Code*, but it may lead to discrimination or harassment (both prohibited by the *Code*) and has damaging impacts on Indigenous and racialized people.

This often looks like **targeted surveillance** by staff or security personnel, including:

- Watching or following Indigenous customers without reasonable grounds (e.g., by unreasonably identifying an Indigenous customer as a “suspicious person”).
- Arresting, questioning, or searching Indigenous customers without sufficient legal authority.
- Monitoring Indigenous customers when using dressing rooms or self-checkout machines or checking their receipts upon exiting a store due to unfounded suspicions of shoplifting.
- Physically removing Indigenous customers from a store or a mall, asking them to leave, or refusing service to them due to unfounded suspicions of shoplifting or due to stereotypes or negative attitudes toward Indigenous people.

- Over-scrutinizing tags on potential purchases when customers are checking out to ensure Indigenous customers have not changed them to obtain a lower price.
- Accusing Indigenous customers of stealing or not scanning all their items at self-checkout.
- Asking staff to be on the lookout for Indigenous shoppers because they are presumed to steal.
- Questioning Indigenous customers about the price of their purchases or possible returns (e.g., asking “can you afford this?”).
- Denying a return based on false accusations (e.g., falsely accusing them of damaging an item or altering the sales tag in some way) or ridiculing an Indigenous customer when they are attempting to make a return.
- Asking Indigenous customers to leave their bags or potential purchases at the counter while they browse due to unfounded suspicions of shoplifting.

Additional examples of discrimination or harassment by staff and/or business owners may include:

- Speaking to Indigenous customers or asking questions in a rude, hostile, patronizing, or suspicious way.
- Directing racial slurs toward Indigenous customers.
- Ignoring, denying, or providing slow service specifically to Indigenous customers.
- Accusing Indigenous customers of being intoxicated.
- Become physically violent towards Indigenous customers.
- Selling merchandise that contains derogatory terms and/or offensive imagery related to Indigenous people, including names and logos of sports teams or Indigenous-themed Halloween costumes.

3. Using a Status card or other Indigenous documentation

Indigenous people can also experience **discrimination when using a Status card to get a tax exemption** at the point-of-sale and/or when they **use their Status card or other Indigenous documentation as a form of identification**. This can include:

- Making race-related comments (e.g., commenting on whether a customer looks Indigenous or asking about blood quantum).
- Expressing negative or stereotypical comments about Indian Status.
- Behave as though providing a tax exemption is a hassle even though the business' policies allow it to be provided at the point-of-sale.
- Being rude, including through body language (e.g., eye rolling, scoffing, or exasperation), to a First Nations customer after a tax exemption was requested or after a customer's Indian Status was mentioned.

If a business owner expresses that they do not offer a tax exemption because of negative views about Indigenous people and their rights, or if an employee refuses to provide a tax exemption to a Status individual despite the business offering it, **this may also constitute discrimination directed at the Indigenous customer**.

Lastly, businesses **must ensure that a poisoned environment does not exist** for Indigenous customers (as well as others protected under the *Code*). As a result, retailers may need to address discrimination and harassment toward Indigenous customers by other customers – for instance, if they express frustration about waiting longer in line while a cashier collects the required information to provide a tax exemption or if they make comments about Indigenous people receiving unfair advantages.

Not providing First Nations customers with the option to receive the partial tax exemption at the point-of-sale is likely not discrimination under the *Code* on its own. While vendors can provide an 8% exemption at the point-of-sale to Status individuals, vendors do not have a legal obligation to provide the tax exemption (see *O. Reg 317/10*). **If the tax exemption is unavailable at the point-of-sale, First Nations customer can request a mail-in rebate with the Ontario Ministry of Finance.**

For more information, please contact the Ontario Ministry of Finance:

Toll Free: 1-866-668-8297

TTY Toll Free: 1-800-263-7776

Website: <https://www.ontario.ca/document/harmonized-sales-tax-hst/hst-ontario-first-nations-rebate>

4. What can I do if I think I've experienced discrimination?

Prioritize your safety

Take precautions to protect your own safety. This may include removing yourself from the situation and contacting a local Indigenous organization for support. Once you are safe, you may wish to record the details of the incident in the format that best suits your needs (e.g., writing, audio).

Assert your rights under the *Code*

You can file an application with the Human Rights Tribunal of Ontario (HRTO).

Toll Free: 1-866-598-0322 // **TTY Toll Free:** 1-866-607-1240

Website: www.hrto.ca

Indigenous services: <https://tribunalsontario.ca/en/indigenous-services/>

File an application online: <https://tribunalsontario.ca/hrto/forms-filing/>

Contact the Human Rights Legal Support Centre (HRLSC)

This fact sheet is not legal advice. If you need legal advice, the HRLSC helps people assert and protect their rights, including through an Indigenous Services team that can offer services in Cree, Oji-Cree, Mohawk, and Ojibway.

Toll Free: 1-866-625-5179 // **TTY Toll Free:** 1-866-612-8627

Website: www.hrlsc.on.ca

Indigenous services: <https://hrlsc.on.ca/indigenous-services/>

Find more information

The OHRC publishes policies, guidelines, brochures, and other resources that can help you better understand your rights under the *Code* on its website: <https://www3.ohrc.on.ca/en>

You can also find information about the Indigenous Human Rights Program on **PBSC's website:** <https://www.probonostudents.ca/indigenous-peoples>