

**Position of the Tourism Industry
Association of Nova Scotia On The Retail
Business Uniform Closing Day Act:**



Updated: 23 June. 2006

THE ISSUES:

1. Focus should be "Consumer"
2. "De-regulation" not "Sunday Shopping"
3. The Act discriminates against certain businesses
4. The Act discriminates against certain religions
5. The Act places Nova Scotia at a competitive disadvantage to other provinces/territories/states and is encouraging outbound travel

THE ARGUMENTS:

1. TIANS policies are market driven and meeting visitors' needs. The Act does not consider the choice of the consumer.
2. The Act needs repealing – The Act is Uniform Closing – it is not Uniform
3. If the government is serious about "fairness and equality" and wants to truly curtail commercial activity on Sunday, then the government should close everything - restaurants, convenience stores, movie theatres, farm markets, craft stores, etc. The present situation discriminates against certain types of businesses in certain locations.
4. The Act is in violation of religious freedom. If a Jewish retailer were to choose to close on Saturday to observe his Sabbath and then open on Sunday in order to take advantage of part of the weekend to sell his products, the government law currently would prevent him. The Sunday closing was contested in Ontario for this reason and the government was not allowed to stipulate which day a retailer had to close.
5. Amherst is at a disadvantage with New Brunswick "open for business." There are large contingencies of tours and individuals going to Maine for the weekend to shop. The government loses tax dollars, Nova Scotians lose employment opportunities, the province's productivity ration is affected.

TIANS policy is:

In a free enterprise system, the business owner/operator should have the ability to set his/her own hours of operation.

The government should not have the right to set hours for some businesses and allow others to use loopholes or "necessary services" to conduct business on Sunday.

The two top activities of our visitors:

1. Sight-seeing - non revenue producing, available seven days a week
 2. Shopping - revenue producing - restricted to six days a week
- 16% of the Tourism \$ is spent on Accommodation
 - 16% of the Tourism \$ is spent on retail sales.
 - In 2001: 16% = that amounted to almost \$192 M
 - Therefore, by adding one more day, an estimated additional \$24 M would be the immediate potential increase in sales and \$3.6 M increase in HST.

Market Potential

- The cruise market and the RV'rs are two markets that expect stores to be open any day of the week and could be further developed if we had deregulation.
- Motorcoach companies would revise their itineraries re: Halifax if shopping hours were deregulated.
- Throughout Nova Scotia, many municipalities choose to allow retail operations to be open seven days a week. TIANS feels that decision should be in the hands of the business owners who may or may not want to be open Saturday or Sunday or any other day of the week.

1. Let the Market decide
2. Deregulation will cause the opportunity of CHOICE for the "customer", the "business owner/operator" and the "employee"

The Retail Business Uniform Closing Day Act: Exemptions

- a) a local or convenience retail store, the primary purpose of which is the sale of groceries and operates at all times with a retail sales area not in excess of four thousand square feet; Clause (a) amended: O.I.C. 87-125, N.S. Reg. 23/87.
- b) a confectionery store
- c) a store in which the principal business is the sale of handcrafts, souvenirs and similar articles, principally to tourists or travellers;
- d) a canteen or fruit stand;
- e) a flea market or rummage sale;
- f) a retail fish store;
- g) a laundromat;
- h) a billiard hall or pool room;
- i) the rental of video cassettes and video cassette recorders; Clause (i) added: O.I.C. 87-125, N.S. Reg. 23/87.
- j) a prefabricated or modular home sales office; Clause (j) added: O.I.C. 87-190, N.S. Reg. 34/87.
- k) a store the principal business of which is the sale of nursery stock or the provision of gardening supplies; Clause (k) added: O.I.C. 87-1237, N.S. Reg. 215/87.
- l) a store the principal business of which is the sale of books, newspapers and magazines; Clause (l) added: O.I.C. 87-1237, N.S. Reg. 215/87.
- m) an antique store; Clause (m) added: O.I.C. 87-1237, N.S. Reg. 215/87.
- n) an art gallery; Clause (n) added: O.I.C. 87-1237, N.S. Reg. 215/87.
- o) a used clothing store. Clause (o) added: O.I.C. 91-560, N.S. Reg. 102/91.

Policy Issue – Sunday Shopping

Background:

Nova Scotia is now the only province in Canada which maintains restrictions on Sunday Shopping through the Retail business Uniform Closing Day Act – 1989, 1993. Tourist operators strongly feel that they lose business due to the Act's inclusions of Sunday as a restricted day to conduct business. Opinion within the business community is not united however. Labour and public opinion also seem to be against the policy of making Sunday a working day like any other.

See:

- (Department of Justice – Press release, March 2001)
 - Retail Business Uniform Closing Day Act – 1989, 1993
 - “Retain Workers Voice Opposition to Sunday Shopping”
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- The laws of Nova Scotia are unclear.
 - The labour Standards Code implies that Sunday should be considered a holiday like any other holiday.

“general holiday” defined

37 (1) In this Section and Sections 38, 39, 40 and 41, “general holiday” means New Year’s Day, Good Friday, Canada Day, Labour Day, Christmas Day and a day specified as a general holiday in a regulation, and includes any day substituted for one of those days pursuant to Section 39.

The Retail Business Uniform Closing Day Act designates Sunday as a ‘Uniform Closing Day’ but groups Sunday with all the other ‘holidays’.

- d) (d) “retail business” means the selling or offering for sale of goods or services by retail;
- e) (e) “Uniform closing day” means
 - (i) Boxing Day,
 - (ii) Canada Day
 - (iii) Christmas Day,
 - (iv) Good Friday,
 - (v) Labour Day,
 - (vi) New Years Day,
 - (vii) Sunday,
 - (viii) Thanksgiving Day

These interpretations need clarification.

We must consider this: Is Sunday a holiday or a working day?

If Freedom of Association, for example, extends to the freedom to associate to conduct business, the Charter of Rights and Freedoms would support Sunday as a working day.

Furthermore, The Government of Newfoundland decided to lift restrictions because it wanted to “...minimize its intervention in the marketplace...”

See:

- Charter of Rights and Freedoms
- Press Release – Government of Newfoundland – Sunday Shopping Dec. 12, 1997.

Those who choose to do business on Sunday have the right to do so.

If the Province maintains that Sunday is a holiday, then it should be subjected to all articles in the Labour Standards Code governing holidays, including time in lieu and rates of pay.