



BILL NO. 72

Private Member's Bill

*2nd Session, 60th General Assembly
Nova Scotia
56 Elizabeth II, 2007*

An Act Respecting the Designated Day Closing of Retail Businesses

CHAPTER 32
ACTS OF 2007

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 13, 2007**

Stephen McNeil
Annapolis

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

This page is intentionally blank.

An Act Respecting the Designated Day Closing of Retail Businesses

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Retail Business Designated Day Closing Act*.

2 In this Act,

(a) “designated day” means

(i) Boxing Day,

(ii) Canada Day,

(iii) Christmas Day,

(iv) Easter Sunday,

(v) Good Friday,

(vi) Labour Day,

(vii) New Year’s Day,

(viii) Thanksgiving Day,

(ix) any other day the Governor in Council prescribes as a designated day in the regulations;

(b) “Minister” means the Minister appointed by Executive Council to administer this Act;

(c) “officer” means a police officer or an officer appointed by the Minister to enforce this Act;

(d) “performance” includes any game, match, sport, contest, exhibition, entertainment, dance, program, theatrical presentation or motion picture presentation;

(e) “retail business” means the selling or offering for sale of goods or services by retail.

3 (1) Notwithstanding the *Retail Business Uniform Closing Day Act* or any other Act but subject to subsections (2) and (3), no person shall, on a designated day,

(a) sell, offer for sale or purchase any goods or services by retail; or

(b) admit the public into any premises where a retail business is carried on.

(2) Subsection (1) does not apply to

(a) the operation of a drug store, except the operation of a drug store

(i) in a department store,

(ii) in a retail business whose principal business is selling groceries,

(iii) in a retail business that includes a retail sales area that is

- (A) larger than 2,000 square feet in total,
- (B) open to the public, and
- (C) dedicated to food items, or

(iv) in a retail business in which the total retail sales area that is open to the public is greater than 20,000 square feet;

- (b) the sale of agricultural products by the producer at the farm;
- (c) the sale of maple sugar products;
- (d) the sale of Christmas trees;
- (e) a retail gas station;
- (f) the operation of a restaurant;
- (g) the provision of accommodation, camping, food, beverage, recreation, related services and facilities and tourist information;
- (h) the operation of a private club, fraternal organization or veterans organization, but not including a private club established or operated for the purpose of selling or offering for sale or purchasing goods or services by retail;
- (i) a public game or contest for gain, prize or reward;
- (j) a performance or public meeting for which a fee is charged directly or indirectly for
 - (i) admission,
 - (ii) the use of a place where the performance or meeting is held, or
 - (iii) any service provided at the performance or meeting, but not including the operation of a public dance hall;
- (k) the hiring of motor vehicles or small boats for personal use;
- (l) the operation of any excursion on which passengers are conveyed for hire for amusement or pleasure;
- (m) the conveying of goods or travellers on railways, buses or other public transportation;
- (n) the operation of a ferry or boat authorized by competent authority to carry passengers;
- (o) the receiving, transmitting or delivering telegraph or telephone messages;
- (p) the publication of a newspaper, including all work necessary for or incidental to the preparation, printing and distribution of the newspaper; or
- (q) the provision of goods or services on an emergency basis.

(3) Subsection (1) does not apply to a retail business in any of the following categories:

- (a) a store
 - (i) whose principal business is selling groceries, and

- (ii) that at no time operates a retail sales area greater than 4,000 square feet or contrary to such other criteria as substituted by the Governor in Council by regulation;
- (b) a confectionery;
- (c) a store whose principal business is selling handcrafts, souvenirs and similar articles to tourists or travellers;
- (d) a canteen;
- (e) a fruit or vegetable stand whose principal business is selling local produce;
- (f) a flea market or rummage sale;
- (g) a fish store;
- (h) a laundromat;
- (i) a billiard hall or pool room;
- (j) the rental of video cassettes, video discs or similar media and devices;
- (k) a prefabricated-home or modular-home sales office;
- (l) a store whose principal business is the sale of nursery stock or the provision of gardening supplies;
- (m) a store whose principal business is the sale of books, newspapers and magazines;
- (n) an antique store;
- (o) an art gallery;
- (p) a used clothing store;
- (q) goods and services prescribed by the Governor in Council by regulation.

(4) In subsection (5), “related persons” has the same meaning as in paragraph 251(2)(b) of the *Income Tax Act* (Canada).

(5) For the purpose of clause (3)(a), two or more stores that are owned, occupied or operated by related persons are deemed to be one store if they are

- (a) in the same building; or
- (b) adjacent or in close proximity to each other.

4 (1) The Minister is responsible for the supervision and management of this Act and the regulations.

(2) The Minister may designate officers as necessary for the administration and enforcement of this Act and the regulations.

5 (1) Notwithstanding any other Act, any other Act empowering a municipality or the council of a municipality to regulate the closing or hours of operation of a business, including

a retail business, does not include the power to permit the carrying on of the retail business on a designated day if to do so is prohibited by this Act.

(2) Nothing in this Act affects or shall be construed to affect any power conferred on a municipality or the council of a municipality to prohibit the operation of a business, including a retail business, on a day when the operation of the retail business is not prohibited by this Act.

(3) Nothing in this Act empowers a municipality or the council of a municipality to permit the operation of an industry within the meaning of the *Remembrance Day Act* on Remembrance Day in contravention of the *Remembrance Day Act* and nothing in the *Remembrance Day Act* permits a retail business to operate in contravention of this Act.

6 Nothing in this Act affects the meaning of any provision in a collective agreement.

7 For the purpose of ensuring compliance with this Act and the regulations an officer may

(a) at a reasonable hour of the day or night enter and inspect any retail business or related office, conduct tests and make such examinations as the officer considers necessary or advisable;

(b) require the production of records, drawings, specifications, books, plans or other documents in the possession of any person that relate to the retail business and remove them temporarily for the purpose of making copies;

(c) require the production of documents or records that may be relevant to the investigation of a complaint pursuant to this Act and remove them temporarily for the purpose of making copies;

(d) take photographs or recordings of the retail business and any activity taking place at the retail business;

(e) make any examination, investigation or inquiry as the officer considers necessary to ascertain whether there is compliance with this Act and the regulations;

(f) inspect, take samples and conduct tests of samples, including tests in which a sample is destroyed, of any material, item, equipment, machine or device being produced, used, sold or offered for sale at the retail business;

(g) examine a person with respect to matters pursuant to this Act or the regulations;

(h) for the purposes of an investigation, inquiry or examination made by the officer pursuant to this Act or the regulations, summons to give evidence and administer an oath or affirmation to a person;

(i) in an inspection, examination, inquiry or test be accompanied and assisted by or take with the officer a person having special, expert or professional knowledge of any matter; and

(j) exercise such other powers as may be necessary or incidental to the carrying out of the officer's functions pursuant to this Act or the regulations.

- 8 (1)** Every person who
- (a) contravenes any provision of this Act;
 - (b) authorizes, counsels, requires, directs or knowingly permits anything to be done in contravention of any provision of this Act; or
 - (c) interferes, fails to co-operate, or fails to comply with an officer while that officer is exercising the powers in Section 7,

is guilty of an offence and is liable on summary conviction to a fine not exceeding the greater of fifty thousand dollars or the gross sales of the retail business establishment on the designated day on which the contravention occurred.

(2) In a prosecution for an offence under subsection 3(1) of this Act, it shall be sufficient that there is evidence that the retail business advertises that it is open for business on a particular date to establish a *prima facie* case that the retail business is open to sell, offer for sale or purchase any goods or services on that date.

9 (1) Upon application by the Attorney General to the Supreme Court of Nova Scotia, the Court may make any order that is necessary to ensure compliance with this Act by any party named in the application.

(2) An order made pursuant to subsection (1) is in addition to any penalty otherwise imposed under this Act.

10 (1) The Governor in Council may make regulations respecting any matter or thing that the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act, and without limiting the generality of the foregoing, may make regulations

- (a) prescribing a day as a designated day for the purpose of subclause 2(a)(ix);
- (b) respecting the establishment of restrictions on any exemptions to subsection 3(1);
- (c) determining or modifying the meaning of a clause of subsection 3(2);
- (d) determining or modifying the meaning of a clause of subsection 3(3);
- (e) respecting the establishment of substitute criteria as contemplated by subclause 3(3)(a)(ii);
- (f) prescribing goods or services as contemplated by clause 3(3)(q);
- (g) defining a word or expression used but not defined in this Act;
- (h) further defining or expanding the meaning of any word or expression defined in this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

11 Schedule B of Chapter 450 of the Revised Statutes, 1989, the *Summary Proceedings Act*, as enacted by Chapter 30 of the Acts of 2002 and amended by Chapter 4 of the Acts of 2004, is amended by adding immediately after “*Railways Act*” the following:

Retail Business Designated Day Closing Act
