



HOUSE OF REPRESENTATIVES

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Senator Curry, Representative Gere, members of the Committee on Housing and Economic Development, I am Representative Joshua Morris, and I am here today to present **LD 277, An Act to Repeal the Law Prohibiting Places of Business from Being Open to the Public on Sunday.**

One of the worst things that government does is pick winners and losers. This section of law is a great example of that. Some businesses are allowed to operate without interruption or government interference 365 days a year. Other businesses, in many cases that are offering the same services, are prohibited or restricted on certain days of the week or required to close on certain holidays.

This bill is about leveling the playing field. I believe that all businesses should be allowed to operate 365 days a year without government intervention. I have worked in retail having spent more than a decade working part time at L.L. Bean. L.L. Bean is one of the companies granted an exception under the "blue laws." I have even worked a couple of the holidays that currently other retailers are restricted from opening their doors. In past media coverage of these laws, L.L. Bean has referred to the exception that it allows businesses that sell boats, boating equipment, sporting equipment, souvenirs, and novelties.

My experience working at L.L. Bean was that they offered incentives for those willing to work on those holidays in the form of additional hourly pay. In my case, there was no coercion. The incentive of having a bigger paycheck was enough to make me volunteer. Additionally, during the holiday season, there were more seasonal workers who were willing to work as well because of the bigger paycheck.

District 91 Leeds, Turner & Wayne

Yet, under the current law, other retailers and retail workers are not given the same option. They are required to keep their doors shut on these holidays. It should be noted that some of these businesses may be competitors of those that receive an exception under this law. Many retailers are also hiring workers for the busy holiday season. The economy has changed much in recent years, and with the emergence of the gig economy, I am sure many seasonal workers may appreciate the opportunity to earn additional income at that time of year.

Society has also changed much since these laws were put in place. Not everyone celebrates holidays the same way. Some families may celebrate on a different day because that is when everyone can get together. Others may not celebrate the holidays at all.

It is true that there was a referendum in 1990 to open up the blue laws to where they are today. Since that time, however, Maine has legalized casino gambling, and recreational marijuana. I find it hard to believe that the same voter that supported these laws would oppose a grocery store being open on Thanksgiving.

Repealing this law will also be a help to Maine consumers. It will give them the option to shop closer to home. The state of New Hampshire does not have these laws which allow their businesses to reap the benefits of Maine being closed. Many retailers offer special deals on Thanksgiving and with state law requiring them to close, Mainers may not realize these deals.

While my preference is to repeal this statute to level the playing field, I recognize that these holidays are sacred. I would like to ask if the committee does not wish to repeal the full law, you consider at least making changes that will allow more businesses to be open.

A few options to consider are expanding the exception under HH from businesses with 5000 square feet to 10,000. This would allow smaller retailers and grocers to be open on those days.

Another option is under that same section, allowing all retailers to be open for Thanksgiving at least. This would give Maine retailers to be competitive during the beginning of the shopping season and not lose out to other businesses with an exception or to their competitors in New Hampshire.

A third option might be to allow them to open on the three holidays but like the exception under HH, they cannot require an employee to work. A hybrid of these three options could be explored.

As I close, I will reiterate that I believe this statute should be repealed as it picks winners and losers about which businesses are allowed to operate and when. I believe we should be leveling the playing field for all Maine businesses as much as possible. I would also ask the committee if they do not wish to do a full repeal, that you still explore other options to make the statute more equitable. Thank you and I would be happy to answer any questions that you may have.

Joshua Morris
State Representative

§3204. Business, traveling or recreation on Sunday

1. Restriction. A person may not keep a place of business open to the public:

A. On Sunday, except:

- (1) For works of necessity, emergency or charity; or
- (2) Between the hours of noon and 5:00 p.m. on Sundays falling between Thanksgiving Day and Christmas Day; or [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. On the following holidays:

- (1) On Memorial Day, the last Monday in May, but if the Federal Government designates May 30th as the date for observance of Memorial Day, the 30th of May;
- (2) On July 4th;
- (3) On Labor Day, the first Monday of September;
- (4) On Veterans' Day, November 11th;
- (5) On Christmas Day; and
- (6) On Thanksgiving Day. [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

2. Exceptions. This section does not apply to:

A. Common, contract and private carriers; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Taxicabs; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. Airplanes; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

D. Newspapers; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

E. Radio and television stations; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

F. Hotels, motels, rooming houses, tourist and trailer camps; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

G. Restaurants; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

H. Garages and motor vehicle service stations; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

I. Retail monument dealers; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

J. Automatic laundries; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

K. Machines that vend anything of value, including, but not limited to, a product, money or service; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

L. A satellite facility approved by the Superintendent of Financial Institutions under Title 9-B; or comparable facility approved by the appropriate federal authority; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

M. Pharmacies; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

- N. Greenhouses; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- O. Seasonal stands engaged in sale of farm produce, dairy products, seafood or Christmas trees; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- P. Public utilities; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- Q. Industries normally kept in continuous operation, including, but not limited to, electric generation plants, pulp and paper plants and textile plants; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- R. Processing plants handling agricultural produce or products of the sea; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- S. Ship chandlery; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- T. Marinas; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- U. Establishments primarily selling boats, boating equipment, sporting equipment, souvenirs and novelties; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- V. Motion picture theaters; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- W. Public dancing; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- X. Sports and athletic events; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- Y. Bowling alleys; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- Z. Displaying or exploding fireworks, under Title 8, chapter 9-A; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- AA. Musical concerts; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- BB. Religious, educational, scientific or philosophical lectures; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- CC. Scenic, historic, recreational and amusement facilities; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- DD. Real estate brokers and real estate sales representatives; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- EE. Mobile home brokers and mobile home sales representatives; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- FF. Stores in which no more than 5 persons, including the proprietor, are employed in the usual and regular conduct of business; [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- GG. Stores that have no more than 5,000 square feet of interior customer selling space, excluding back room storage, office and processing space; and [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
- HH. Stores with more than 5,000 square feet of interior customer selling space that engage in retail sales and that do not require, as a condition of employment, that their employees work on Sundays. If an employer decreases the average weekly work hours of an employee who has declined to work on Sundays, it is prima facie evidence that the employer has required Sunday work as a condition of employment in violation of this section, unless the employer and employee agreed that the employee would work on Sundays when the employee was initially hired. In no event, however, may any store having more than 5,000 square feet of interior customer selling space be open on

Easter Day, Thanksgiving Day and Christmas Day. [PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

This subsection does not exempt the businesses or facilities specified in sections 3205 and 3207 from closing in any municipality until the requirements of those sections have been met.
[PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

3. Scope. For the purpose of determining qualification, a "store" is an operation conducted within one building advertising as, and representing itself to the public to be, one business enterprise regardless of internal departmentalization. All subleased departments of any store for the purpose of this section are considered to be operated by the store in which they are located. Contiguous stores owned by the same proprietor or operated by the same management for the purpose of this section are considered to be a single store.

[PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

4. Penalty. A person who violates this section commits a Class E crime. A violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. A complaint charging violation of this section may not issue later than 5 days after its alleged commission.

[PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

5. Injunctive relief. In addition to any criminal penalties provided in this section, the Attorney General, a district attorney or any resident of a municipality in which a violation is claimed to have occurred may file a complaint with the Superior Court to enjoin any violation of this section. The Superior Court has original jurisdiction of these complaints and authority to enjoin these violations.

[PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

6. Application. This section does not apply to isolated or occasional sales by persons not engaged in the sale, transfer or exchange of property as a business.

[PL 2003, c. 452, Pt. I, §55 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1969, c. 236, §3 (AMD). PL 1969, c. 504, §24-A (AMD). PL 1971, c. 334, §2 (AMD). PL 1973, c. 27, §2 (AMD). PL 1973, c. 114, §4 (AMD). PL 1973, c. 142 (AMD). PL 1973, c. 350 (AMD). PL 1973, c. 567, §20 (AMD). PL 1973, c. 625, §91 (AMD). PL 1975, c. 418, §3 (AMD). PL 1975, c. 623, §18-G (AMD). PL 1977, c. 284, §3 (AMD). PL 1981, c. 352, §5 (AMD). PL 1983, c. 156 (AMD). PL 1983, c. 480, §A13 (AMD). PL 1985, c. 114, §3 (AMD). PL 1985, c. 509 (AMD). IB 1989, c. 2 (AMD). PL 1991, c. 315 (AMD). PL 1999, c. 657, §7 (AMD). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF). PL 2003, c. 452, §155 (RPR). PL 2003, c. 452, §X2 (AFF).

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