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Ontario eases Sunday shop ban by letting each city set policy



BORIS SPREMO/TORONTO STAR

Stores overjoyed: Barry Agnew, vice-president of the Bay, beams after learning big retailers as well as smaller stores will be able to open Sunday, Dec. 27, without fear of prosecution by the

province. Solicitor-General Joan Smith told the Legislature yesterday the government has concluded that only municipalities can judge whether businesses should open on Sundays.

By William Walker
Toronto Star

Premier David Peterson's government will let municipalities decide whether Ontario businesses can open Sundays after attempting but failing to find province-wide agreement on the issue.

Solicitor-General Joan Smith announced yesterday that the government has given up attempts to rewrite the Retail Business Holidays Act because "circumstances vary enormously across the province" and no consensus could be reached.

And Attorney-General Ian Scott announced that retail stores of any size can open without fear of prosecution under the act on Sunday, Dec. 27. The day after Boxing Day is regarded as the largest retail sales day of the year.

□ 'Defiant' retailers welcome end of 'unjust' law. Page A12

Smith was booed by the opposition when she said the government had concluded that "only a municipality itself can best address the appropriate solution in its locality."

She also promised that Labor Minister Greg Sorbara will introduce legislation to protect workers from being forced to work Sunday shifts.

But it may come too late to protect retail employees on Dec. 27, government sources said.

Scott told reporters: "You'd better recognize that all but retail workers can be required to work Sundays now — people who work in offices, in businesses, manufacturing, warehouses can all be required to work on Sunday now."

'Passing the buck'

"The exemption for no work on Sunday goes to a relatively small group of retail workers and they value it highly. Efforts will be made to see to it that none of those workers will be compelled to work."

Smith told the Legislature that consumers in municipalities which "embrace the Sunday opening options . . . will clearly benefit from increased convenience. Yet this must not be achieved at the expense of retail workers."

Outside the Legislature, Peterson dismissed opposition claims that his government was "cowardly passing the buck."

"The reality is that the municipalities, by and large, control retail

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SUNDAY SHOPPING: Reaction is mixed

Defiant retailers welcome death of 'unjust' Sunday law

By Dana Flavelle Toronto Star

Three retailers who took their fight to stay open Sundays all the way to the highest court in the country — and lost — have praised Ontario's plans to ease restrictions on Sunday shopping.

"This is a big step forward," said Spadina Ave. furrier Paul Magder, who was served literally hundreds of summonses for violating the law. "The law is wrong. It's unpopular, unfair and unjust."

Magder has spent six years fighting the Ontario Retail Business Holidays Act and, along with the owners of Edwards Books & Art and Longo's Fruit Markets, took the battle all the way to the Supreme Court of Canada.

Yesterday, the province introduced legislation that would allow each municipality to decide whether its retailers should open for business on Sundays.

To address concerns raised by some

groups, the province also plans to amend the Employment Standards Act so retailers can't force employees to work on Sundays.

Reached in Montreal on a buying trip yesterday, Magder said he felt "vindicated" by the move. "I think it's great news," he said.

Magder added he has no problem with the protection for employees. In fact, he pays his Sunday workers at time-and-a-half, he said.

Edward Borins, the owner of Edwards Books & Art, called the province's plans "enlightened."

Borins won his own personal battle against the law last June when the province amended the act to exempt bookstores and art galleries.

He had been fighting the law since 1976 and at one point got around it by creating Edwards Book Club and charging members 10 cents admission on Sundays. Within two months, he had 10,000 members, he said.

Borins said he wishes the change in law

had happened sooner. "It would have saved a lot of people a lot of money, including the taxpayers," he said, referring to the lengthy and expensive court battles over the issue.

Many of his part-time employees want to work Sundays, he added, and the union representing them supported his bid to remain open seven days a week.

Jerry Levitan, a lawyer who lobbied the government on Borins' behalf, said he first suggested the province consider local exemptions back in 1985.

"That way areas that have the strongest concerns about Sunday shopping can deal with it."

"In the City of Toronto, where you have interesting demographics, where the culture is so diverse, it makes sense not to have discriminatory legislation," Levitan said. "In smaller communities, where there are not very many pressures to stay open, it might make sense."

Magder finally won the right to remain

open on Sundays last July after launching a new court challenge under the equality section of the Charter of Rights. But the province appealed the decision and he's due back in court Jan. 25.

"I think the government should withdraw charges against everybody until this is clarified," he said yesterday.

He added he would have preferred the province simply declare Ontario wide open on Sundays instead of dumping the political hot potato in the local municipalities' laps.

Tommy Longo, who owns four fruit and vegetable markets just outside Metro, praised the province's plans to ease restrictions on Sunday shopping.

Longo stopped opening his Oakville store on Sundays and gave up the fight after the Supreme Court ruled against the three retailers on Dec. 18, 1986.

But he'll probably ask Oakville's council to allow him to reopen, he said.



Paul Magder: The furrier feels "vindicated" for court battles over Sunday closing law.

Liberals attacked for 'wimpy' move to 7-day shopping

By William Walker Toronto Star

The province's decision to allow municipalities to rule on Sunday business openings will snowball into wide open shopping across the province seven days a week, opposition MPPs say.

Progressive Conservatives and New Democrats jeered the announcement at Queen's Park yesterday, saying it was a "cowardly" and "wimpy" way of passing the buck to municipalities on a sensitive political issue.

"When in doubt, duck," said David Reville (NDP—Riverdale). "It strikes me as sad that this vast government, with its vast mandate, cannot get its vast mind around a problem like this."

Interim Tory leader Andy Brandt said if one municipality opens for business on Sundays, neighboring towns will be forced to do likewise.

"They'll be pushed by competitive pressure into Sunday openings," Brandt told reporters.

"I would doubt that, other than in very rural areas, there will be any municipalities in Ontario that won't ultimately end up with Sunday openings as a result of this law."

Brandt confronted Solicitor-General Joan Smith in the Legislature over the issue, recounting Smith's comment last week to reporters that a local option clause would be the "chicken way out."

"A week ago it was the chicken way out and now it has become the policy of the government of Ontario," Brandt said.

Smith replied the government worked to find a better Sunday retail law but "we were not able to come up with a definition that would apply right across the province."

'Felt better'

Reville, a former Toronto alderman himself, said municipal politicians won't want to deal with the issue any more than the provincial government.

Provincial government officials "could have made some policy on it," he said.

"I think people would have felt better about the provincial government if they'd said, 'Okay, we feel it's fine to shop 24 hours a day, or we think people want a common day of pause and that's the kind of policy we should implement.'"

"But, basically, they've said, 'We don't want to do anything about this at all. We're too wimpy to figure it out. We're going to give it to (North York Mayor) Mel Lastman and his chums at Metro.'"

"And all the councils will have to struggle with this and they'll have a terrible, terrible time."

Reville, who sat on the select committee on retail store hours along with Smith, said the current law has "some balance to it" because exemptions are given only when they appeared to be warranted. Besides, said Reville, the committee found no consensus to change the law.

Brandt predicted the municipalities would react to the option clause the same way they did to the province's ill-fated legislation to put beer and wine in corner stores, which was to "shove it right back at the province and tell it they wanted nothing to do with it."

Chains hail 'overdue' openings on Sundays

By Janice Turner Toronto Star

The provincial government has responded to the wishes of most Ontario residents by moving to ease restrictions on Sunday shopping, say spokesmen for some of Canada's largest store chains.

"It's long overdue," said James Kay, chairman of Dylex Ltd., whose giant retail group includes such chains as Fairweather, Thrifty's, Harry Rosen and Suzy Shier. "It's what the people want, and I've always said you have to give them what they want."

Kay said Dylex stores will be open Sunday, Dec. 27, because it's a "very, very desirable day to shop."

"We're delighted," said Barry Agnew, vice-president of sales promotion for The Bay and Simpsons. "Our main contention was to get rid of the discrimination and the segregation between large and small that we felt was unfair and prejudicial to our stores."

Last week the Hudson's Bay Co., which operates The Bay and Simpsons, appealed to Queen's Park to end the "inequities" created by the Retail Business Holidays Act.

The law now allows only retailers under 5,000 square feet and with fewer than seven employees to open Dec. 27 for Boxing Day. Saturday, Dec. 26 is considered a legal holiday.

The province yesterday announced that all retail businesses will be permitted to open Dec. 27 without fear of prosecution.

'Paying more'

George Schott, vice-president of Markborough Properties (Cloverdale Mall, Woodside Mall and Meadowvale Town Centre), said he is pleased the government is "dealing with the issue and not deferring it."

"I think both decisions are good ones," he said. "I think local municipalities will be able to deal with our concerns and I'm glad to see everyone will be treated fairly, regardless of size."

Meanwhile, Barb Beck, spokesman for the Consumers' Association of Canada in Ontario, gave the province's announcements mixed reviews.

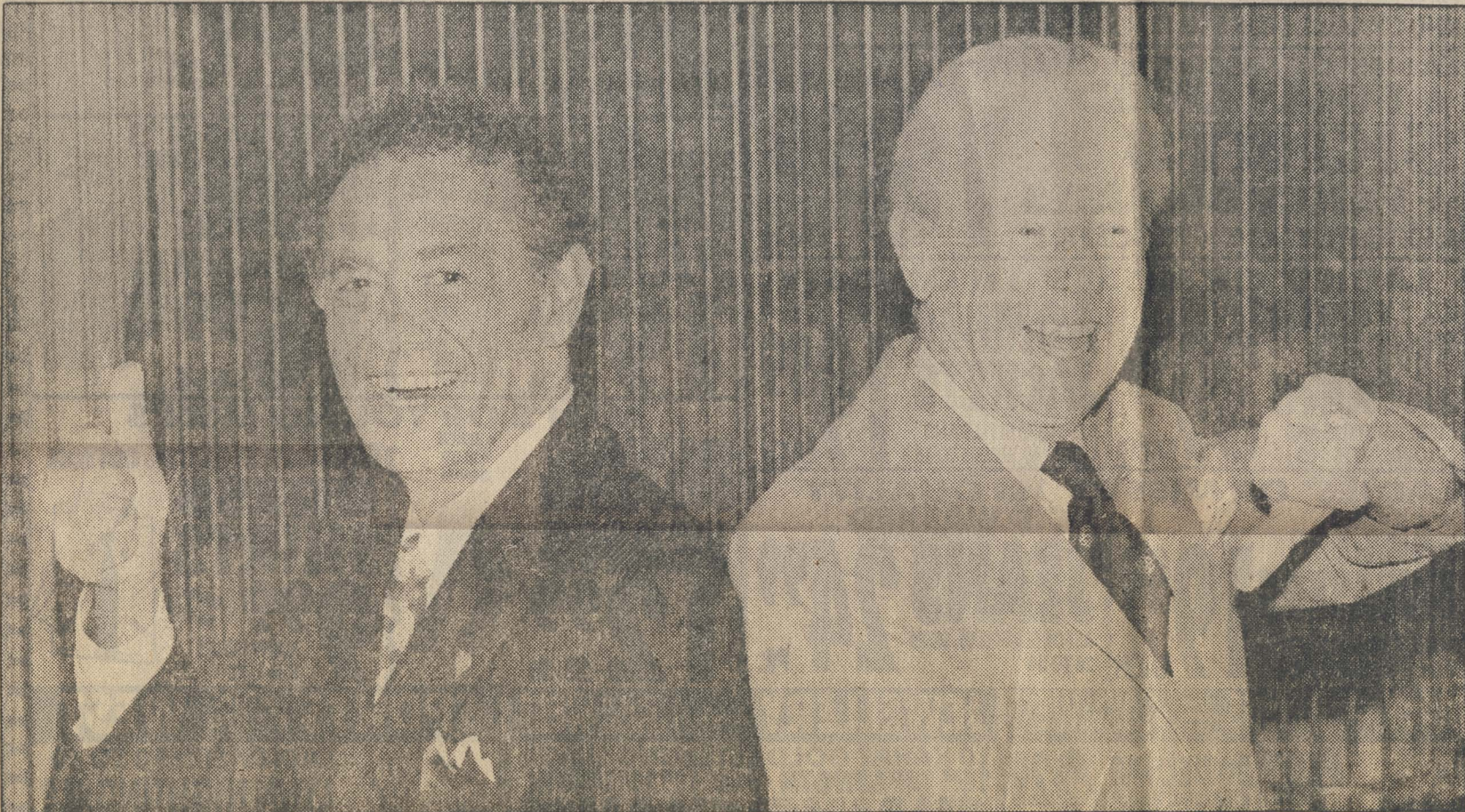
"Obviously the people who want to shop on Sunday don't think of the worker who might want to be at home," she said, adding residents in areas where Sunday shopping is permitted will face increased traffic on the roads from both customers and shippers.

Walter Pridham, vice-president of public affairs and corporate planning for Sears Canada Inc., said Sears continues to oppose Sunday shopping, but may be forced to open nonetheless.

He said the company's experience with Sunday shopping in Western Canada makes it a proponent of a "pause day."

"We have not as a company benefited," Pridham said. "It has not produced more sales nor has it produced more profit. What it has done is provide a need for more of our employees to work on Sundays and they don't especially like that."

A spokesman for the T. Eaton Co. said the firm would announce its plans for Dec. 27 today.



Hand jive: North York Mayor Mel Lastman, left, and Scarborough Mayor Gus Harris show their differing reactions to the province's announcement yesterday that municipalities will rule on

Sunday store openings. Harris says he is confident his council will back him, but Lastman says he's already prepared to introduce a motion in two weeks to open up North York on Sundays.

Ontario hands municipalities Sunday issue

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store hours at the moment, with the exception of the Sunday situation," he said. "We think it's a logical extension."

Smith also rejected complaints by municipalities that responsibility for Sunday hours should not be dumped on them.

"The only other option is to say to them, you can't put in any regulations," Smith told reporters.

If the province had created a law allowing some openings, municipalities would not have the option they will now of keeping stores closed altogether, she said.

Scott explained that the government decided not to close a loophole letting stores of a certain size open this Dec. 27 because of last year's Supreme Court of Canada ruling on a related case.

The loophole was to let businesses closing Saturday due to religious beliefs open Sunday.

Because Dec. 26, a statutory holiday, falls on Saturday this year, stores including many in the Eaton Centre planned to open Sunday after closing Saturday.

Court ruling

Scott said the law was not intended to allow Sunday shopping when Saturday was a statutory holiday. But the Supreme Court ruled that the province is not allowed "to make an inquiry about the religious motive," if any, of a business that closes Saturday.

"The result of that is that a section which was intended to be used for another reason has been used to advantage a certain group of retailers (those with under 5,000 square feet of space and fewer than eight employees).

"I don't think it's fair under those circumstances," the attorney-general said, "to proceed against another group of (larger) retailers who are in precisely the same competitive position."

Larger retailers, such as the Bay, Simpsons and Zellers, had complained that letting smaller retailers open Dec. 27 would be discriminatory under the Charter of Rights and Freedoms.

Speaking with reporters, Scott vowed to continue an appeal of Toronto furrier Paul Magder's acquittal on more than 70 Sunday charges based on a provincial court ruling last summer that the law violated equality provisions in the Charter. Magder has been charged more than 250 times.

Smith told reporters that blatant disregard for the law by many businesses was another reason to scrap the existing law.

She said a local tourist exemption designation available to municipalities was also abused.

The Retail Business Holidays Act will be replaced with a new bill to be drafted after consultation with municipalities, Smith said.

Cities angry at 'buck-passing' but expect open Sundays soon

Wide open Sunday shopping in Metro is "just around the corner," angry local politicians have predicted.

But after Queen's Park said yesterday it would let municipalities rule on the issue, just about every city politician interviewed agreed the buzz word is "buck-passing."

"The government of Ontario has completely abrogated its responsibility by passing the buck on Sunday shopping to municipalities," said Howard Moscoe, chairman of the large urban section of the Association of Municipalities of Ontario.

Bitter end

Toronto Mayor Art Eggleton said his city would reluctantly open up Sundays because it would be unfair to Toronto businesses to do otherwise.

"If one municipality decides to go, then we'll all be forced to go," Eggleton said. "This is one big urban area and if one municipality allows Sunday shopping the pressure (from businesses) would be so great in the others that they would have to follow."

Etobicoke Mayor Bruce Sinclair said he's personally opposed to open Sundays, but added he didn't know if his council supported that opposition.

Scarborough Mayor Gus Harris said he was confident his council would keep the doors closed on Sunday.

And acting York mayor Fergy Brown said he thinks "it's a damn shame" and will fight it to the bitter end.

He said, however, "It's regrettable, but our council will no doubt have to follow."

"We don't have much retail but we will likely follow the others," said East York Mayor David Johnson.

Eggleton said he was "surprised" the province passed the issue back to the municipalities. "I personally like the balance we have now. 'There's no doubt this is a buck-passing issue.'"

The ruling Liberals at Queen's Park "have the majority but they don't have the guts," said Scarborough Controller Joyce Trimmer.

"What they're trying to do now is duck a controversial issue," said Mississauga Mayor Hazel McCallion, calling for a provincial review with public hearings before any change is made in current legislation.

"I think it's a tremendous shirking of responsibility on the part of the province," said Markham Mayor Carole Bell.

The province is "copping out" on

Can't wait for new Sunday law Scarborough rug dealer says

Shashi Sharma says he will open his Scarborough-based rug company this Sunday to defy the current Sunday closing law, and he can't wait for the province to change legislation enabling local municipalities to decide on Sunday shopping.

Sharma, who puts lost sales at \$100,000 a month, said: "I've stayed closed for a year because I didn't want to break the law but I can't stay shut any longer."

In March, 1987, the president of the Indo-Persian Rug Company was charged with unlawfully opening his stores on Sunday, and he closed his Scarborough and Mississauga outlets Sundays.

Sunday shopping move a 'backward step,' foes say

By Alan Barnes Toronto Star

Sunday shopping would be "a very backward step for working people," says the Anglican archbishop of Toronto.

It's not the church's role to legislate a religious Sunday, but it should speak out to protect family life, Lewis Garnsworthy said yesterday after Queen's Park said it will let city councils rule on Sunday openings.

If the proposed Ontario legislation led to regular stores being allowed to do business on Sunday, it would mean "taking away from the family a pause day, a day of rest," Garnsworthy said.

"For a great many families this is

their only day together."

"The province is abdicating (its) responsibility," a spokesman for the United Church of Canada said. "People don't have a right to shop but they do have a right to one pause day in seven and a right of freedom of worship on their faith day," she said.

A spokesman for the Roman Catholic Archdiocese of Toronto said Rev. Massey Lombardi, director of the office of social action, was deferring comment until he sees the specifics of the proposed legislation.

But Bernie Farber, research director for the Canadian Jewish Congress, called the proposed legislation "a positive step forward."

"We do support a common pause

day for families — it's within Jewish tradition — but it has to be fair and in keeping with a multicultural Canada," Farber said.

"A religious group should not be penalized. I hope the municipalities will keep this in mind."

The United Food and Commercial Workers International Union, which represents 45,000 retail employees in Canada, "objects to Sunday opening under any conditions," a spokesman said.

"Our main objection is the effect that it has on family life," said Stephen White. "One day of rest is not a lot for the labor force to be asking for."



Archbishop: Lewis Garnsworthy cites losing "day of rest."