

THE SUNDAY CLOSING LAW

Bergen County has by referendum become the last county in New Jersey to retain the Sunday Closing Law, N.J.S.A. 2A:171-5.8 et seq. As a result, the sale of certain items is still prohibited and the law should still be enforced.

The Sunday Closing Law makes it unlawful for any person, firm, partnership or corporation to sell, or offer to sell or the engage in the business of selling clothing or wearing apparel; building and lumber supply materials; furniture; home, business or office furnishings; and household, business or office appliances. It should be noted that the so-called "flea markets" are within the purview of the Sunday Closing Law and are the most common violators of this law. "Garage Sales" are not included because they are isolated transactions. The following definitions are given in the law in order to assist in its interpretations:

"Person" includes natural persons, firms partnerships, corporations, associations, or other artificial bodies, forms of business designated or known as co-operatives, trustees, receivers and officers, employees, agents, and others acting for or on behalf of any person.

"Clothing and wearing apparel" includes any article or articles to be worn on the person by man, woman, or child as bodily covering or protection, including garments of all types, headwear and footwear.

"Furniture" includes all articles of furniture used inside or outside a house or office, including chairs, tables, beds, desks, wardrobes, dressers, bureaus, cupboards, cabinets, bookcases, sofas, couches, and

related items; and materials especially designed and prepared for assembly into furniture; and all such furniture whether finished or unfinished, painted or unpainted.

"Home furnishings" includes items of equipment and furnishings used in a home or office, such as floor coverings, lamps and lighting fixtures, household linens, drapes, blinds, curtains, mattresses, bed coverings, mirrors, china, kitchenware and kitchen utensils, silverware, cutlery.

"Household appliances" includes stoves, heating devices, cooking equipment, refrigerators, air conditioning equipment, electric fans, clocks, radios, toasters, television

sets, washing machines, dryers, and all such electrical and gas appliances used in the home.

“Building and lumber supply materials” includes all items used in the construction of buildings, whether residential or industrial and, particularly, but not limited to, lumber, cement, building blocks, sashes, frames, windows, doors and related items.

The definition of selling is very broad and includes agreements to transfer ownership even when no money changes hands and the delivery is set for a future date. It also includes describing or extolling merchandise while the seller is in personal contact with the buyer, such as at a fashion show. It does not include advertising or window displays of merchandise not available for purchase.

The penalty section in the law is structured as follows:

First offense – fine of \$250

Second offense – fine between \$250 and \$1,000

Third offense – fine between \$1000 and \$2000 and/or 30 days in jail.

Fourth offense and subsequent offenses – fine between \$2000 and \$5000 and/or 30 days to six months in jail.

A single sale of an article of merchandise to any one customer or a single offer to sell an article of merchandise to any one prospective customer, shall be deemed to be a separate and distinct violation of the Act. The Act allows complaints to be signed against the business owner as well as the employees.

In 1988, an exception was added to the Sunday Closing Law to permit educational organizations to hold fundraising events on no more than ten Sundays a year. “Educational organizations” include parent/teacher associations and student or alumni groups. The event must be designated to generate money for educational purposes, including, for example, scholarships or the purchase of athletic equipment. The money from the leasing of space to vendors and any sales by the organization itself must all go to educational purposes. The events may include flea markets, auctions or bazaars. They must be individually approved by the local school board and held on school premises. The law also provides that each municipality has the power to regulate or limit this exception or even to decide that it does not apply, this prohibiting all such sales.

Note that nothing in the Sunday Closing Law prohibits municipalities from enacting laws which are even stricter insofar as they prohibit a wider range of sales and services. On the other hand, no municipal governing body may pass an ordinance which repeals the Act or allows exceptions to it.

It should be emphasized that this law, despite its imperfections, should be enforced to protect the law-abiding merchants who continue to observe its provisions and also to enforce the will of the voters who approved it.

Lists of the items which may and may not be sold follow:

ITEMS WHICH MAY BE SOLD

(This list provides examples, but is not all-inclusive)

- Aircraft and aeronautical equipment and supplies
- Antiques (provided they do not fit a prohibited category such as furniture)
- Art Supplies
- Art (paintings, sculpture, photographs)
- *Automotive supplies and accessories
- Beauty supplies and barber supplies
- Boats and boating supplies
- Books
- Cameras
- Cassettes
- Cleaners
- Chemicals
- Cosmetics and perfume
- Coal
- Dental supplies
- Drugs
- Dry cleaning supplies
- Electrical supplies (but not appliances)
- Eyeglasses
- Fishing supplies
- Flowers
- Food
- Garden supplies
- Gasoline
- Greeting cards
- Hair products
- Hardware

Hospital supplies

*Note, however, that persons in the business of selling new or used motor vehicles may not do so on Sundays. (See N.J.S.A. 2A:171-1.1.)

Ice

Iron

Janitor's supplies

Jewelry

Laundry supplies

Leather goods (such as luggage and pocketbooks, but not clothing)

Laundry supplies

Magazines

Medical equipment

Metals

Musical instruments and music

Newspapers

Oil

Optical equipment

Paint

Paintings

Paper goods

Party goods

Pets and supplies

Photography equipment and supplies

Plumbing supplies

Railroad equipment

Rope

Shoe supplies (but not shoes)

School supplies

Scrap and waste products

Sporting goods (examples are bicycles, baseball bats, football helmets and cleats, but not ordinary clothing such as sneakers and sweatshirts)

Stationary

Surgical equipment

Textiles and sewing supplies (but not sewing machines)

Tobacco

Toys, games, hobby equipment

Undertakers supplies

VCR tapes

Wallpaper

Wiring supplies

ITEMS WHICH MAY NOT BE SOLD

All clothing and wearing apparel, including headwear and footwear.

All furniture, including:

- chairs
- desks
- tables
- beds
- dressers
- bureaus
- cupboards
- cabinets
- wardrobes
- bookcases
- sofas
- couches
- materials designed for assembly into furniture.

Home furnishings, including:

- floor coverings
- lamps
- lighting fixtures
- household linens
- drapes
- blinds
- curtains
- mattresses
- bed coverings
- mirrors
- china
- kitchen utensils
- kitchenware
- silverware
- cutlery

Household appliances, including:

- stoves
- heating devices
- cooking equipment
- refrigerators
- air conditioning equipment
- electric fans
- clocks

radios
toasters
television sets
washing machines
driers
“all such electrical and gas appliances”

Building and lumber supply materials, including:
lumber, cement
building blocks
sashes