

**2013 HOUSE INDUSTRY, BUSINESS AND LABOR**

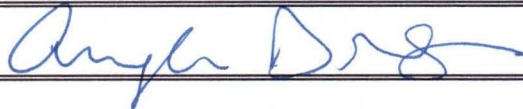
**HB 1437**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee  
Peace Garden Room, State Capitol

HB 1437  
January 30, 2013  
Job 18041

☐ Conference Committee



## Explanation or reason for introduction of bill/resolution:

Sunday closing

## Minutes:

Testimony 1, 2, 3, 4, 5, 6, 7

**Chairman Keiser** opened hearing on HB 1437.

**Representative Becker**, District 7 introduced HB 1437 (00:41) and provided attachment (Testimony 1). The blue laws are puritanical. Clearly, it is a moral imperative by many to control the behaviors of all in the state. The most appropriate thing to do is to allow local decisions and control.

**Representative Ruby**: Is this for all businesses that are currently limited at this time?

**Representative Becker**: It is certainly for the businesses currently listed. It would allow for partial lifting of the restrictions. It would be left entirely to the local subs.

**Chairman Keiser**: Is this removing the requirement to wait until noon to open or is it just for rental stores and for tourism related industries?

**Representative Becker**: It would be for the whole gamut. The bill allows the governing body of the city or county to allow businesses to be open to do retail sales before noon.

## Support:

**Bill Shalhoob**, Greater North Dakota Chamber of Commerce (04:33) testified in support of the bill (Testimony 2).

**Chairman Keiser**: This bill lists things which are prohibited for sale on Sunday unless the local political subdivision approves them.

**Bill Shalhoob**: Correct.

7:02 **Representative Ruby**: Is that the way it was done initially or was it a state-wide removal?

**Bill Shalhoob:** It was a state-wide removal.

**Representative Frantsvog:** Does this include alcohol?

**Bill Shalhoob:** As it I read it, it does not include alcohol. This pertains just to retail sales.

**Representative Beadle, District 27** (08:32) testified in support of the bill and provided written testimony from Bill Reid and Brad Schlossman (Testimony 3, Testimony 4). A good parallel to this bill is the 2:00 am opening for bars. This does not require stores to be open, but would give them the option.

**Chairman Keiser:** One of the arguments which will be made is that even though this bill is permissive in nature, it will become a requirement for cities that are close neighbors. For instance, if Bismarck allows it, will Mandan also have to allow it?

**Representative Beadle:** For a lot of areas that don't have a strong retail presence or where they are not competing with border cities, it could certainly make an impact.

**Rudy Martinson, Executive Director of North Dakota Hospitality Association** (13:10) testified in support of the bill. Shared frustrations voiced by Cracker Barrel in Bismarck in that they cannot sell retail items on Sunday mornings when they have customers there for food.

**Chairman Keiser:** What is the difference which allows a truck stop to be able to sell retail goods on a Sunday?

**Martinson:** I'm not familiar with the exemptions that relate to convenience stores.

**Opposition:**

**Mike Rud, President of the North Dakota Retail Association** (15:28) testified in opposition to the bill (Testimony 5).

**Representative Becker:** Is there a reason why a person could not continue to have a good quality family life if retail businesses open earlier?

**Rud:** The members of our association who believe they want to keep family time as quality time and who believe the business they are doing now is substantial. Finding a labor force for the weekend is already difficult. From a family standpoint, it is a personal opinion of the people I represent.

**Representative Beadle:** Some of the individuals are neutral or are in favor. What do you see as the difference between a retail establishment being open on Sunday and a travel center/truck stop?

**Rud:** I do not see the difference. I am sharing the responses of my members.

**Representative Beadle:** Would this bill require businesses to be open?

**Rud:** No, it would not. The competitive nature of businesses might require it.

**Representative Gruchalla:** Were any of your comments from retail petroleum marketers who are already open and have an advantage over the retail stores?

**Rud:** None of those comments were from petroleum marketers. They were not polled on this issue.

**Representative M. Nelson:** If a mall is open, do all of the stores have to be open?

**Rud:** I do not know. I'd say it is dependent on the contracts and competition.

**Representative Beadle:** Are there any other states that limit the sale of retail products, and if so, what hours?

**Rud:** I do not have specifics on that issue.

**Chairman Keiser:** Could you get that data?

**Rud:** I will try.

**Bill Shalhoob:** As far as the Sunday opening, in the original law it said that a mall could not force any store to open on Sunday regardless of the written contract.

**Christopher Dodson, Executive Director of North Dakota Catholic Conference (23:28)** testified in opposition to the bill (Testimony 6).

**Representative Boschee:** Shouldn't individuals determine for themselves how to spend their time?

**Dodson:** The purpose is not to dictate how you spend time on Sundays. It is to have a common period of rest from commerce because communities need rest.

**Representative Boschee:** Business owners who want to be open should be given that opportunity. Correct?

**Dodson:** No. We oppose weakening the Sunday closing law.

**Representative Beadle:** We have a lot of universities in our state, and some communities have many students. Often, those students are employed in part-time jobs and the only time they're available to work is on the weekend. Should they not have the right to try to work now to limit debts and to provide for a future family?

**Dodson:** It is difficult to find workers for those hours. It is often those with the least amount of bargaining power who have to work those hours.

**Representative Beadle:** They also have limited opportunities to work. Why would we limit their opportunity to work if they want to?

**Dodson:** It is in the interest of the common good for rest, family and community.

**Representative Beadle:** Are you implying that the rest of our country is slaves to commerce?

**Dodson:** The best interest of the community is the person. The purpose is to have periods of rest. Work itself has value and dignity. Work is not a problem, becoming a slave to work is a problem.

**Representative Beadle:** I don't know how shopping on my way home from church on Sunday takes away from my morals.

**Dodson:** I'm not saying it takes away from your morals. I'm saying it has proven to be in the interest of the common good. We can wait an hour if it means living in a nice community.

**Chairman Keiser:** Do we have any measure today of what percentage of our population in North Dakota attends church?

**Dodson:** There are relatively good measures on adherence and number of congregations. The only data I know of in terms of frequency are national or regional. If you go by adherence, it is higher than in most states.

**Douglas VanderMeulen, Pastor at Community Baptist Church, Fargo (32:02)** testified in opposition to the bill. We do work for a common end; a safe, wholesome place to live. Since the changing of the law in 1992, has the moral climate of North Dakota significantly improved? What about in other states that do not have blue laws?

**Tom Freier, North Dakota Family Alliance (42:43)** testified in opposition to the bill (Testimony 7).

**Representative Beadle:** Since the law was changed from being closed on Sundays to being open at noon, did you or the community of Linton see a significant harming of the collective good amongst the community?

**Freier:** I can't assess that. We can assess on a broader level, such as the number of intact families and alcohol consumption.

**Representative Beadle:** Would your organization be opposed to this bill if it stipulated a specific opening time?

**Freier:** No, we would not be in favor of anything that would expand the hours.

**Chairman Keiser:** If we would allow retail stores to open earlier on Sundays, would that have a negative impact on small towns more than the current opening time already has?

**Freier:** I think it would. If we want to isolate the faith aspect, this bill would impact that. In retrospect, there was a sizable decrease on local sales in Linton when the law changed to allow Sunday openings.

**Chairman Keiser** closed the hearing.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee  
Peace Garden Room, State Capitol

HB 1437  
February 4, 2013  
Job 18248

Recording job contains numerous other bills after 3:54

☐ Conference Committee

Committee Clerk Signature

**Explanation or reason for introduction of bill/resolution:**

Sunday closing

**Minutes:**

You may make reference to "attached testimony."

Committee reconvened.

**Chairman Keiser:** Any discussion or amendments to this bill?

**Motion to do pass** made by Representative Beadle and seconded by Representative Boschee.

**Roll call vote** on Do Pass. **Motion to recommend a do pass carries.**

Yes = 9

No = 4

Absent = 2

**Carrier:** Representative Becker.

**Chairman Keiser:** Commentary on constituents' view versus his church's view.

**Representative Beadle:** (audio faint) Comment on Hobby Lobby's revenue over competitors'



Date: 2-4-2013  
Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1437**

**House Industry, Business, and Labor Committee**

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider ☐ Consent Calendar

Motion Made By Beadle Seconded By Boschee

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser	✓		Rep. Bill Amerman	✓	
Vice Chairman Gary Sukut	✓		Rep. Joshua Boschee	✓	
Rep. Thomas Beadle	✓		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker	✓		Rep. Marvin Nelson		✓
Rep. Robert Frantsvog		✓			
Rep. Nancy Johnson	✓				
Rep. Jim Kasper	✓	ab			
Rep. Curtiss Kreun	✓				
Rep. Scott Louser	✓				
Rep. Dan Ruby		✓			
Rep. Don Vigesaa		✓			

Total Yes 9 No 4  
Absent 2

Floor Assignment Becker

If the vote is on an amendment, briefly indicate intent:



**REPORT OF STANDING COMMITTEE**

**HB 1437: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO PASS** (9 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING).  
HB 1437 was placed on the Eleventh order on the calendar.

**2013 TESTIMONY**

**HB 1437**

Blue law

From Wikipedia, the free encyclopedia

① HB 1437  
1-30-2013

A **blue law** is a type of law designed to enforce religious standards, particularly the observance of a day of worship or rest. In the US, most blue laws have been repealed, declared unconstitutional, or are simply unenforced; though prohibitions on the sale of alcoholic beverages or prohibitions of almost all commerce on Sundays are still enforced in many areas. Blue laws often prohibit an activity only during certain hours and there are usually exceptions to the prohibition of commerce, like grocery and drug stores. In some places, blue laws may be enforced due to religious principles, but others are retained as a matter of tradition or out of convenience.[1]

Many European countries<sup>[which?]</sup>, such as Germany, ban at least some Sunday shopping. In Saudi Arabia, eating in public during the daytime is prohibited during the holy month of Ramadan.[2] In Islam, it is prohibited to trade at the time of the Friday prayer.

[edit]

History

The first occurrence of the phrase *blue law* so far found is in the *New-York Mercury* of March 3, 1755, where the writer imagines a future newspaper praising the revival of "our Connecticut's old Blue Laws". In his 1781 book *General History of Connecticut*, the Reverend Samuel Peters (1735–1826) used it to describe various laws first enacted by Puritan colonies in the 17th century that prohibited various activities, recreational as well as commercial, on Sunday (Saturday evening through Sunday night). Sometimes the sale of certain types of merchandise was prohibited, and in some cases all retail and business activity.

Contrary to popular belief, there is no evidence to support the assertion that the blue laws were originally printed on blue paper. Rather, the word *blue* was used in the 17th century as a disparaging reference to rigid moral codes and those who observed them, particularly in *blue-stocking*, a reference to Oliver Cromwell's supporters in the parliament of 1653.[3] Moreover, although Reverend Peters claimed that the term *blue law* was originally used by Puritan colonists, his work has since been found to be unreliable.[4] In any event, Peters

never asserted that the blue laws were originally printed on blue paper, and this has come to be regarded as an example of false etymology. Another version is that the laws were first bound in books with blue covers.

Southern and mid-western states also passed numerous laws to protect Sunday during the mid to late 19th century. Laws targeted numerous groups including saloon owners, Jews, Seventh-day Adventists, and non-religious peoples. These Sunday laws enacted at the state and local levels would sometimes carry penalties for doing non-religious activities on Sunday as part of an effort to enforce religious observance and church attendance. Numerous people were arrested for playing cards, baseball, and even fixing wagon wheels on Sunday.

Many European countries<sup>[which?]</sup> still place strong restrictions on store opening hours on Sundays, an example being Germany's Ladenschlussgesetz.

In Henry Taber's *Faith or Fact*, he writes:

The first observance of Sunday—that history records is in the fourth century', when Constantine issued an edict (not requiring its religious observance, but simply abstinence from work) reading, 'let all the judges and people of the town rest and all the various trades be suspended on the venerable day of the sun.' At the time of the issue of this edict, Constantine was a sun-worshiper; therefore it could have had no relation whatsoever to Christianity.

In Texas, for example, blue laws prohibited selling housewares such as pots, pans, and washing machines on Sunday until 1985. In Colorado, Illinois, Indiana, Iowa, Louisiana, Maine, Minnesota, Missouri, Oklahoma, New Jersey, North Dakota, Pennsylvania, and Wisconsin, car dealerships continue to operate under blue-law prohibitions in which an automobile may not be purchased or traded on a Sunday. Maryland permits Sunday automobile sales only in the counties of Prince George's, Montgomery, and Howard; similarly, Michigan restricts Sunday sales to only those counties with a population of less than 130,000. Texas and Utah prohibit car dealerships from operating over consecutive weekend days. In some cases these laws were created or retained with the support of those whom they affected, to allow them a day off each week without fear of their competitors still being open.[5]

2



HB 1437

1-30-2013

Testimony of Bill Shalhoob  
Greater North Dakota Chamber of Commerce  
HB 1437  
January 30, 2013

Mr. Chairman and members of the committee, My name is Bill Shalhoob and I am here today representing the Greater North Dakota Chamber of Commerce, the champions for business in North Dakota. GNDC is working to build the strongest business environment possible through its more than 1,100 business members as well as partnerships and coalitions with local chambers of commerce from across the state. GNDC also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in support of HB 1437 and urge a do pass from your committee on the bill.

The subject of Sunday opening is like an old friend for GNDC. We were the lead organization in the effort to repeal North Dakota's blue laws, one of the most contentious and divisive issues ND addressed twenty some years ago. I had the honor of chairing the Sunday opening committee from 1976 to the session the laws were repealed in the mid 80's. I am signing in support of the bill with the pen Governor Sinner used to repeal the closing laws and allow Sunday shopping and alcohol sales. GNDC has always believed that decisions like hours and days of operation are best decided in the market place, not the legislature. Our customers will tell us if they will support additional hours of operation. Retail stores do not open after nine or ten at night because it is not profitable to do so. They will choose to open before noon or after six on Sunday based on customer demand.

Thank you for the opportunity to appear before you today in support of HB 1437. I would be happy to answer any questions.

Champions  Business

PO Box 2639 P: 701-222-0929  
Bismarck, ND 58502 F: 701-222-1611

[www.ndchamber.com](http://www.ndchamber.com)

**Beadle, Thomas R.**

(3) HB 1437  
1-30-2013

**From:** Bill Reid <bill@shopcolumbiamall.com>  
**Sent:** Friday, January 18, 2013 9:59 AM  
**To:** Beadle, Thomas R.  
**Subject:** RE: ND Retail Sales Law - Sunday Closure

Mr. Beadle

I appreciate your inquiry and interest in considering a change.

I have spent 42 years in the retail industry. That time has been equally split between the department store side and then property management. Part of it was in another state, an equal amount here. This is my home yet I have seen enough variance to realize that North Dakota has imposed a restriction upon itself that is not in its own self-interest. Our population, the consumer, is capable of making their own decision. They constantly vote with their wallet and their feet! If they like something they buy it. If can find a better price, a more convenient location, or a more responsive salesperson they move on.....but it is and should be their decision!

Our company has malls in a number of Midwestern states. In Montana and Illinois we open at 11 AM. In Iowa we start at 12 AM. While in Wisconsin 11 AM was the norm. We should also note that our Canadian neighbors in Winnipeg are also able to begin shopping at 11:00. There has only been a one hour variance but the market and competition should be making the decision.

Limitations on the status of Sunday and/or any holiday should be a part of the lease negotiations between the business owner and landlord rather than the legislature. I strongly believe that the legislature should remove all references controlling the status of Sunday.

If one or more of my stores feel that opening early will generate enough sales to cover their costs let them open. If I desire to capture more business from our Canadian visitors before they return to Winnipeg let me change this mall's hours. If the Kirkwood mall in Bismarck doesn't share the same traffic pattern let them decide to open at a different time. The fact is that it should be a retail decision.

Thank You

*Bill*

Bill Reid  
General Manager  
[bill@shopcolumbiamall.com](mailto:bill@shopcolumbiamall.com)  
(701) 746-7383



Columbia Mall  
2800 Columbia Road  
Grand Forks, ND 58201

**Beadle, Thomas R.**

4 HB 1437  
1-30-2013

**From:** Brad Schlossman <BradSchlossman@westacres.com>  
**Sent:** Tuesday, January 29, 2013 1:14 PM  
**To:** Beadle, Thomas R.  
**Subject:** RE: Sunday Closing Laws

Tom,

Thanks again for the alert on the proposed change to the Sunday Closing law. Here are a few notes which we would be pleased to be submitted as testimony in favor of the change.

The current law is a relic of a 1991 compromise bill that was passed to allow a partial opening of stores on Sundays. Prior to that session, most stores were required to be closed all day. This law was referred to the voters who in 1992 voted to keep the changes in place, which included the noon compromise that remains in effect today.

How would the bill change shopping hours in areas where permitted by the local option?

There is substantial precedent from other states to predict how ND retailers would operate on Sunday mornings. Those that are closed Sundays would stay closed. Malls would likely open at 11:00. Big boxes would operate longer, including those that may choose to operate 24 hours.

West Acres would expect to be open at 11:00 am for most of the year and likely earlier in December when the demand is high. We are closed on Easter.

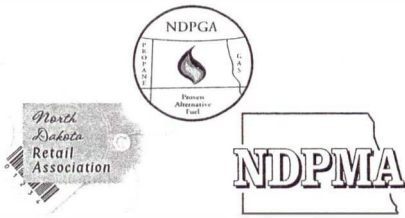
Of significance to West Acres are the Canadian weekend shoppers. A noon opening leaves them with very little shopping time if they want to be home before dark in November and December.

While we have successfully lived with the restricted Sunday opening for many years, we no longer see a need to regulate store hours. The fears of the original Sunday opening opponents have not been realized. Sunday retailing has not negatively impacted small towns, small retailers and families. It has merely offered businesses and customers to make the choice on Sunday shopping. This law no longer has a purpose. As a result, I would appreciate your Do Pass recommendation to the House.

Thank you for your consideration.

Brad Schlossman, CEO  
West Acres Development, LLP  
3902 13<sup>th</sup> Ave S, Fargo, ND 58103





North Dakota Retail Association  
ND Petroleum Marketers Association  
North Dakota Propane Gas Association

# LEGISLATIVE BULLETIN

Testimony- HB 1437

January 30, 2013- House IBL Committee

⑤ HB 1437  
1-30-2013

Chairman Keiser and Members of the House IBL Committee:

For the record, I'm Mike Rud, President of the North Dakota Retail Association. On behalf of our nearly 400 members, NDRA would like to see a "DO NOT PASS" recommendation on HB 1437.

It was about 20 years ago when Sunday Opening was a hot topic in the North Dakota Legislature.

Since then times have certainly changed in our state as the business sector has seen gains never before experienced.

But in spite of all the headway we've made, many North Dakota retailers still hesitate to just open the flood gates to Sunday shopping.

I'm not going to stand here and tell you all members of NDRA are opposed to changing the Sunday Opening Law. That wouldn't be truthful, but I was amazed by a majority of the responses that want the law to remain as is at this time.

It seems a thread of consistency still seems to run throughout many portions of the retail sector that believe Sunday mornings, no matter how hectic in this day and age, are still family time. It might be an archaic point of view to some, but it might also serve as a reminder that we should never forget where we came from and family is still the most important fabric in our society.

Again, I would urge a "DO NOT PASS" on HB 1437. Thank you for your time and consideration.

\*Hi Mike, I don't support any change, personally I think that there needs to be some family time set aside. Take care.....Mark

\*No change from our side. Hours are long enough on Sunday's.  
Tim

\*Mike..... No change for Sunday closing law. I was at the Jamestown Sun at the time this first came up. We don't want to go thru this again....Wayne Deery

\* Because we are located in clinics that have weekend walk in services, we have been open Sundays for the last 25 years. I would support a neutral position. I fully understand the need and desire for family time but many people only have week ends to do their business and Sunday closing would be a major imposition to them. Dave O.

\*I would like to keep the Blue Law as it is  
Smile and Say Hi  
Janine Eberhart

\*Mike, I would not support a change and like it the way it is. Quality of Family / Community life is my foundation for my position.

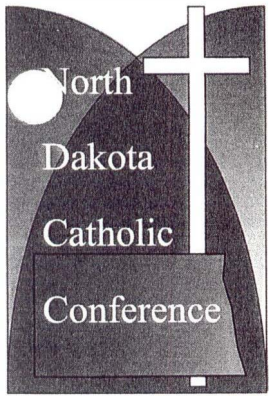
Musically,  
Jeff

\*I know we will do little either way, no extension of hours on our part. We see as just spreading out sales and potential added expense.)

Take care,  
Tim

\*Oppose the repeal.  
Dennis

\*I have no problem with it as we are open at 9:00 am already. It would be good for our liquor store.



*Representing the Diocese of Fargo  
and the Diocese of Bismarck*

Christopher T. Dodson  
Executive Director and  
General Counsel

**To:** House Industry, Business and Labor Committee  
**From:** Christopher T. Dodson, Executive Director  
**Subject:** House Bill 1437: Sunday Closing Law  
**Date:** January 30, 2013

6

HB 1437

1-30-2013

The North Dakota Catholic Conference opposes House Bill 1437.

House Bill 14377 has the potential to significantly weaken current state law concerning commercial activity on Sunday mornings and, as such, erodes the common good.

The purpose of North Dakota's Sunday closing law is not to impose times of worship. Nor is it to demand adherence to religious doctrine. The purpose of the law is to preserve the common good by ensuring that society is not overtaken by work and profit.

Humans and communities need periods of rest and free time that allow them to tend to family, cultural, social, and religious life. Only when communities set aside time devoted to these functions can human persons prosper and develop.

Rather than restricting individual freedom, closing laws liberate and free people from the antisocial degeneration of human work. Indeed, the need for closing laws is even greater in societies like ours that place a high value on economic liberty. Economic liberty can only thrive in healthy communities. A community that races to the bottom in its demands on workers, especially those of less means, is not a healthy community.

We urge a **Do Not Pass** on House Bill 1437.

# North Dakota Family Alliance

*A Trusted Voice Impacting Our Legacy*

Tom D. Freier, EXECUTIVE DIRECTOR

House Industry, Business, and Labor Committee

HB 1437

January 30, 2013

⑦ HB 1437  
1-30-2013

Mr. Chairman and members of the House, Industry, and Labor Committee, I am Tom Freier with the North Dakota Family Alliance here in opposition of HB 1437.

*We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. Life, Liberty, and the Pursuit of Happiness, pretty much the whole spectrum of our lives. The Declaration of Independence doesn't stop there; it goes on "That to secure these rights, governments are instituted among men".*

The government through its wisdom is tasked with determining the manner in which it will influence the lives of the governed in respect to 'life, liberty, and pursuit of happiness'. The action taken on this bill, and if it passes the action taken by local political subdivisions, will have an influence on the people, on society.

At issue in this bill is a narrow window of opportunity for some in North Dakota to spend time with their family, attend a worship service, or simply have a time of rest.

We live in a time of broken homes, unexplainable violence such as in Newtown, and a general decline in worship attendance. Should a government representing the people, by its action send a message standing for the family and the general good of society?

Mr. Chairman, I am asking this committee to take that stand with a Do Not Pass on HB 1437.

*Dedicated To Strengthening Families*

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