

LABOUR MANAGEMENT REVIEW COMMITTEE

May 16, 2012

Honourable Jennifer Howard
Minister of Family Services and Labour
Room 357
Legislative Building
Winnipeg MB R3C 0V8

Dear Minister:

Thank you for providing the Labour Management Review Committee (LMRC) with an opportunity to review and make recommendations on the issue of Sunday shopping in Manitoba under *The Retail Businesses Holiday Closing Act*.

On the issue of expanding Sunday shopping in Manitoba, both Labour and Management Caucuses acknowledged the need for balance between providing modernized Sunday shopping and family friendly initiatives. Based on much discussion, the LMRC agreed that extending hours from 9:00 a.m. to 6:00 p.m. while providing protection for workers (right to refuse work on a Sunday) would provide the necessary balance for both businesses and family life.

We would like to thank the members of the LMRC for their work on this issue, particularly for accommodating the turnaround time that was requested of them. We would also like to recognize the efforts of staff of the Department in providing assistance in this important matter.

Sincerely,

Original signed

Kevin Rebeck
Labour
Caucus Chair

Original signed

Michael Werier
Chairperson

Original signed

Peter Wightman
Management
Caucus Chair

Enclosure

cc: Members of the Manitoba Labour Management Review Committee

REPORT OF THE MANITOBA LABOUR MANAGEMENT REVIEW COMMITTEE

Sunday Shopping under *The Retail Businesses Holiday Closing Act* May 16, 2012

MANDATE OF THE LABOUR MANAGEMENT REVIEW COMMITTEE

The Manitoba Labour Management Review Committee (LMRC) was tasked with considering a proposal to review and make recommendations on the issue of Sunday shopping in Manitoba under *The Retail Businesses Holiday Closing Act*. Staff of the Department of Family Services and Labour provided background material for consideration by the LMRC. Staff was also available to provide further information and to answer the Committee's concerns.

RECOMMENDATIONS OF THE LMRC

Sunday Shopping in Manitoba

Under the current *Retail Businesses Holiday Closing Act* (the Act), retail businesses in Manitoba cannot be open on Sundays or certain holidays, except where a municipality has passed a by-law allowing stores to be open on these days. Although stores can open on these days under such a by-law, the Act specifies that hours of operation must be confined to the period from 12:00 p.m. to 6:00 p.m. The by-law exception also applies to Louis Riel Day, Victoria Day, and Thanksgiving Day.

Stores must always be closed on New Year's Day, Good Friday, Easter Sunday, Canada Day, Labour Day and Christmas Day.

It is recognized by the LMRC that some modernization of the hours is necessary in order to provide Manitobans with greater choice and freedom, while at the same time recognizing the needs of families.

Recommended Changes

Expanded Hours

It is recommended by the LMRC that the Act be amended to provide greater flexibility in opening hours on Sundays. The LMRC recommends that opening hours be changed to 9:00 a.m. to 6:00 p.m. from the current 12:00 p.m. to 6:00 p.m.

In those communities where bylaws currently allow wide open shopping from 12:00 to 6:00 p.m., a new bylaw would have to be enacted to allow for the wider hours. Municipalities could pass a by-law specifying that those hours - 9:00 a.m. to 6:00 p.m. – or any subset of those hours, are the hours that retail businesses can be open on Sundays within their municipality. A municipality could also choose to continue the 12:00 to 6:00 p.m. hours by not enacting a new bylaw.

A number of municipalities in Manitoba have never passed a Sunday shopping bylaws. In these municipalities Sunday shopping would continue to be prohibited unless a bylaw is enacted. In these communities only businesses that fall under specific exemptions of the Act (e.g., stores that always operate with four or fewer employees on shift) could remain open.

The expanded hours would also apply to the holidays that the by-law exception currently applies to: Louis Riel Day, Victoria Day, and Thanksgiving Day.

Stores would continue to be closed on New Year's Day, Good Friday, Easter Sunday, Canada Day, Labour Day and Christmas Day.

Right to Refuse to Work Expanded Hours on Sundays

While many businesses, employees, and consumers support the expansion of Sunday shopping hours, there are also retail workers who would prefer not to have their working hours on Sundays extended. Recognizing the needs of families, and in order to ensure that these workers are not negatively affected, it is proposed that provisions be added to the Act to make it clear that they have the right to refuse Sunday work. It is recommended that an employee be required to give 14 days of notice when exercising this right. This right to refuse provision would be similar to existing provisions that were put in place when Sunday shopping was initially opened up in the early 1990s.

Enforcement of Right to refuse working expanded hours on Sundays

It is recommended that the right to refuse provisions be enforced by allowing Employment Standards Officers to order compensation and reinstatement where appropriate. Employment Standards Officers would be given the ability to order compensation and reinstatement in those cases where employees are terminated or otherwise discriminated against for exercising the right to refuse. This would be consistent with the enforcement of leave provisions under section 96.1 of *The Employment Standards Code*.

Days off Work for Retail Workers

The LMRC recognizes the unique nature of the retail sector in that a very significant portion of shopping, and sales, occur on Saturday and Sunday. Given this, the LMRC recommends that the right to one day off each week for retail workers be maintained. This is consistent with the current requirements of *The Employment Standards Code*, and consistent with other sectors where work is performed at businesses with continuous operations throughout the week.

Leases and other agreements

Currently the Act provides that where a lease or other agreement provides that a store must remain open on a Sunday or other holiday, the business can choose to remain closed or open for fewer than the hours provided for in the lease or agreement.

It is recommended that the Act be amended to make it clear that a business could also remain closed on a Boxing Day that falls on a Sunday, or open for fewer hours, despite the requirements of a lease or other agreement.

Currently, the Act provides for unrestricted hours of operation on these Boxing Days. However, where a lease or other agreement requires a store to be open all day, the store can only refuse to be open before 12:00 or after 6:00 p.m. on that day.

Effective Date of Amendments

The LMRC felt that the amendments should be made as expeditiously as possible, keeping in mind that municipalities would require time to amend bylaws and the notice requirements for workers to exercise the right to refuse.

July 1

The Minister of Family Services and Labour also asked the Committee to review the situation where Canada Day falls on July 2, 2012 (i.e. Monday). The LMRC's consensus recommendation is that, given the recommendations above for expanded Sunday shopping hours, specific legislative changes relating to this are not required since Canada Day occurs on July 2nd only once every 7 years.

CONCLUSION

The LMRC has been able to reach consensus on a number of significant issues in recent years, and the desire was apparent from both caucuses to find common ground on which to build a consensus recommendation.

The Committee wishes to thank the Minister of Family Services and Labour for the opportunity to express its views to the Government on this important issue.