

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

March 16, 1978

Honorable Barbara Trafton
House of Representatives
State House
Augusta, Maine

Dear Representative Trafton:

This is in response to your request for an opinion of March 2, 1978, concerning the legal interpretation of Title 17 M.R.S.A. § 3204. Specifically, you have asked whether an open house displaying furniture on Sunday would be a violation of § 3204. You have stated that no furniture would be sold at such open house but would be on display for future sale.

Title 17 M.R.S.A. § 3204 provides, in pertinent part:

"No person, firm or corporation shall, on the Lord's Day, . . . keep open a place of business to the public except for works of necessity, emergency or charity."

This section further provides that "any person, firm or corporation found guilty of violating any of the provisions of this section shall be punished by a fine of not more than \$100 or by imprisonment for 30 days, or by both for the first offense. . . ."

The statute states: "each separate sale, trade or exchange of property or offer thereof, in violation of this section, and each Lord's Day or one of the aforementioned holidays a person, firm or corporation engages in or employs others to engage in the sale, trade or exchange of property in violation of the law constitutes a separate offense."

Although the statute addresses separate sales or the like as violations, the general prohibitory section seems to address simply the keeping open of a business to the public. Although the statute itself does not have a stated purpose section, the courts which have construed this law have found the purpose to be "to retain a day of rest and recreation. . . ." State v. Fantastic Fair and Karmil Merchandising Corp., 158 Me. 451, 468, 186 A.2d 352 (1962). The Law Court has held that while the statute does not prohibit a person from going into his place of business for certain purposes, the statute intends that one shall not keep open his place of business for the purpose of inviting trade, or inviting people to enter to transact business or to work therein. State v. Morin, 108 Me. 303 at 306, 80 A. 751 (1911).

Inasmuch as the open house which you describe would presumably be, at least indirectly, inviting trade and would directly involve entry to the premises by employees, it would appear to be in violation of § 3204 as it has been construed by the Maine Courts.

I hope this has been of assistance to you. If you should have further questions, please do not hesitate to let me know.

Sincerely,



SARAH REDFIELD
Assistant Attorney General

JEB/ec