

# MAINE STATE LEGISLATURE

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RICHARD S. COHEN  
ATTORNEY GENERAL



79-189

STEPHEN L. DIAMOND  
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ROBERT J. STOLT  
DEPUTY ATTORNEYS GENERAL

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

October 25, 1979

Daniel E. Lambert  
State Adjutant  
Department of Maine  
The American Legion  
P.O. Box 900  
Waterville, Maine 04901

Dear Mr. Lambert:

I am in receipt of your letter of October 23, 1979, inquiring about the status of Monday, November 12, under the Sunday Closing Law.

I am aware that much confusion exists as to whether businesses can remain open on November 12, inasmuch as the traditional Veterans Day holiday, November 11, falls on a Sunday this year.

The relevant law on this subject, 17 M.R.S.A. §3204, states that "No person, firm or corporation shall, on... Veterans Day, November 11th...keep open a place of business to the public...." Unlike related statutes pertaining to holidays, the Sunday Closing Law does not provide that when the holidays in question fall on Sunday, the Monday following shall be observed.

As you noted in your letter, 4 M.R.S.A. §1051, pertaining to court holidays, does state that when Veterans Day and the other specified holidays fall on a Sunday, they shall be observed on the following Monday, "with all the privileges applying to any of the days above named."

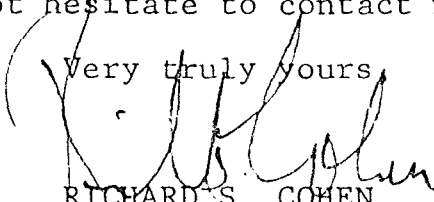
Of similar effect are 9 M.R.S.A. §131, relating to bank holidays, and 20 M.R.S.A. §801, governing public school holidays. Thus, the courts, banks and public schools in Maine should all be closed on Monday, November 12th. Likewise, under relevant Department of Personnel rules, state employees will celebrate November 12th as a holiday.

Daniel E. Lambert  
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However, since there is no provision in the Sunday Closing Law, 17 M.R.S.A. §3204, moving Sunday holidays to Monday, we cannot require businesses and stores to close on November 12th. Stores which choose to close voluntarily, of course, are free to do so, and, in some cases, private collective bargaining agreements may provide for a Monday holiday for employees, quite aside from the Sunday Closing Law.

I enclose two prior Attorney General opinions relating to this subject, for your reference. If you have any questions, please do not hesitate to contact me.

Very truly yours



RICHARD S. COHEN  
Attorney General

RSC:jtm

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STATE OF MAINE  
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AUGUSTA, MAINE 04333

October 25, 1979

TO: DISTRICT ATTORNEYS AND STAFFS  
FROM: RICHARD S. COHEN, ATTORNEY GENERAL

I am enclosing, for your reference, an opinion issued today relating to the Veterans Day holiday and the Sunday Closing Law.

As noted in that opinion, the courts, banks and public schools will be closed on November 12th, the Monday following Veterans Day. However, the Sunday Closing Law does not provide for Veterans Day to be moved to the following Monday when it falls on Sunday. Therefore, it is the opinion of this office that stores and private businesses may remain open on Monday, November 12th.

Recognizing that there is some confusion about this issue among private businesses, veterans groups and law enforcement, I hope that you will inform those in your area responsible for enforcement of the Sunday Closing Law of our opinion that businesses may remain open on that date.

If you have any questions about this matter, please contact Janet Mills in the Criminal Division of my office.

DANIEL E. LAMBERT  
STATE ADJUTANT

DEPARTMENT OF MAINE  
THE AMERICAN LEGION

STATE HEADQUARTERS  
P. O. BOX 900  
21 COLLEGE AVENUE  
WATERVILLE, MAINE 04901  
TEL. 873-3229



October 23, 1979

Hon. Richard Cohen Esq.  
The Attorney General of Maine  
State House  
Augusta, Maine 04333

Dear Attorney General Cohen:

The Department of Maine, The American Legion has been informed that places of business in Maine will remain open on Monday, November 12, Veterans Day. Some Chamber of Commerce groups are citing a ruling from the Attorney General's office allowing them to conduct business as usual.

It is our opinion that under Title 4 M.R.S.A. S 1051 and Title 17 M.R.S.A. S 3204 relating to business activity on holidays, it points up the fact that when Veterans Day, November 11, falls on a Sunday, that it will be observed on the following Monday with all the privileges accorded to that holiday observance.

May we have your comment relative to this matter?

Serving Maine Veterans,

Handwritten signature of Daniel E. Lambert.

Daniel E. Lambert  
State Adjutant  
Administrator

DEL/jb

*The Legion's Pledge Forever* ..... **One God... One Flag... One Country!!!**

Holidays: Veterans Day

17 M.R.S.A. 3204

4 M.R.S.A. 1051

October 20, 1978

To: Paul K. Lovejoy, Manpower Affairs  
From: Joseph E. Brennan, Attorney General  
Subject: Veterans' Day Holiday

This responds to your request for advice as to the status of the Veterans' Day holiday under certain state statutes specifying holidays. The question arises because Veterans' Day, November 11, falls on a Saturday. This has created questions as to whether the holiday provisions of State law should apply to Friday, November 10, or Monday, November 13.

The statutes cited in your request are 4 M.R.S.A. § 1051, relating to legal holidays, and 17 M.R.S.A. § 3204, relating to business activities on holidays.

Title 4 M.R.S.A. § 1051 specifies the court holidays, and it is our understanding that this provision is used to trigger holiday provisions in other areas, including private contracts and collective bargaining agreements. As to Veterans' Day, § 1051 specifies that "Veterans' Day, November 11," is a holiday . . . "When any one of the above-named holidays falls on a Sunday, the Monday following shall be observed as a holiday, with all the privileges applying to any of the days above-named." In this case, the holiday falls on a Saturday, not a Sunday. Therefore, the provisions of § 1051 moving the holiday ahead to the next Monday do not apply.

Thus, the Veterans' Day holiday is observed on Saturday. It is not to be moved back to the preceding Friday or forward to the next Monday. It is our understanding that, pursuant to this provision, the courts will be open for business on Friday, November 10.

Title 17, § 3204 likewise specifies that the Sunday and holiday restrictions on business operations shall apply to "Veterans' Day, November 11." There is no provisions in § 3204 for moving the date on which the prohibitions for Veterans' Day apply to another day if Veterans' Day falls on a Saturday. Therefore, the holiday restrictions imposed by § 3204 for Veterans' Day will apply only on Saturday, November 11.

It must be emphasized that any application of legal holiday rules must be considered in the context of any applicable business practices, personnel rules, or collective bargaining agreements. For example, the State of Maine Department of Personnel has specified that Friday, November 10, will be a holiday for State employees. However, such provisions are in addition to the limitations imposed as a result of 4 M.R.S.A. § 1051 or 17 M.R.S.A. § 3204 both of which limit the application of the holiday rule to Saturday, November 11, 1978.

I hope this information is helpful.

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JOSEPH E. BRENNAN  
Attorney General

JEB:mfe

*Holiday Closing Business  
17 AUGUST 1977*

JOSEPH E. BRENNAN  
ATTORNEY GENERAL



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DEPUTY ATTORNEYS GENERAL

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

September 19, 1977

Robie M. Liscomb, Executive Vice President  
Maine Merchants Association, Inc.  
124 Sewall Street  
Augusta, Maine 04330

Dear Mr. Liscomb:

We are responding to your letter of September 7, 1977, in which you noted that there is confusion regarding applicability of the Sunday Sales Statutes to Monday, December 26, of this year. We assume that this confusion is generated by the fact that December 25, 1977, will not only be a Sunday but will also be Christmas Day, and many businesses and industries may choose to allow their employees to remain away from work the following day for this reason.

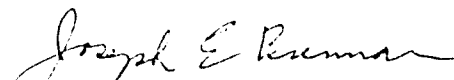
The primary statute relating to your question is 17 M.R.S.A. § 3204, which prohibits the opening of places of business on Sundays and specified legal holidays. Christmas Day is among those legal holidays included in § 3204. However, there is no provision in the section which would prohibit businesses from opening on the day following a specified legal holiday simply because that holiday happens to also be a Sunday in any given year. Prohibitory statutes, such as § 2304, should be strictly construed, and since there is no mention of Mondays following legal holidays, it is our opinion that Monday, December 26, 1977, should be treated as any other Monday during the year for this purpose. In other words, unless a specific business is prohibited from opening by some statute other than § 3204, businesses would be permitted to open on December 26.

We are giving this advice solely because of the apparent State-wide nature of the question you have raised, and it



should not be interpreted as a comment on the question of whether any business should open on December 26. It should also be noted that there may be private contractual provisions, such as those in a labor contract, which might change the answer in any given case. These latter questions are ones which will have to be decided by the individual businessman.

Sincerely,

  
JOSEPH E. BRENNAN  
Attorney General

JEB/ec