



1/26



**TOWN OF ACTON**  
472 Main Street  
Acton, Massachusetts, 01720  
Telephone (978) 264-9612  
Fax (978) 264-9630

**Don P. Johnson**  
Town Manager

January 9, 2004

**ACTON BEACON  
LEGAL NOTICE**

Dear Paula:

Below please find an ad to be placed in the Legal section of the Acton Beacon on Thursday, January 15, 2004

Please send bill to:

Board of Selectmen  
472 Main Street  
Acton, MA 01720

Thank You. Christine Joyce, Town Mgrs. Office.

**Please confirm receipt of this Ad to 978-264-9612.**

**SUNDAY OPENINGS  
LEGAL NOTICE  
NOTICE**

The Acton Board of Selectmen will be reviewing the Town's options regarding the Section 15 (Off Premises-Package Stores) option to allow Sunday openings after 12 Noon to 11:00 P.M. in Acton on January 26, 2004 at 8:15 P.M. in room 204 of the Acton Town Hall.

Acton Board of Selectmen

AD#414852  
Acton Beacon 1/15/04

**NOTICE**

The Acton Board of Selectmen will be reviewing the Town's options regarding the Section 15 (Off Premises-Package Stores) option to allow Sunday openings after 12 Noon to 11:00 P.m. in Acton on January 26, 2004 at 8:15 P.M. in room 204 of the Acton Town Hall.

Acton Board of Selectmen

**Christine Joyce**

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**To:** Christine Joyce  
**Subject:** FW: Sunday Liquor Sales

-----Original Message-----

**From:** Christine Joyce  
**Sent:** Thursday, January 08, 2004 9:43 AM  
**To:** Don Johnson  
**Subject:** Sunday Liquor Sales

I am in receipt of a letter from the local section 15 (Off Premise) (Package Stores) to be open on Sundays in conjunction with the new legislation that went into affect Jan 1st.

This legislation as I interpret it is as follows:

The Town after a public hearing may issue a permit which can be approved as a term of the Annual License

The Town may allow sales on Sundays if the Licensee obtains a Permit from the Local Licensing (BOS)

No sales before noon on Sundays and after 11:00 p.m. or 11:30 if the following day is a Monday Holiday

Employees must be paid 1 1/2 of the employees regular rate

Any Section 15 (off premise) who employ more than 7 persons must compensate all employee's working on Sunday at a rate not less than 1 1/2 of the employees regular rate.

No employee may be required to work on Sunday; refusal to work on a Sunday is not grounds for discrimination, dismissal, discharge, deduction of hours or other penalty.

The Town can approve the Sundays, and upon request by the licensee, has the discretion to allow them to close on another day if they wish

The Town May elect to go Completely Dry on Sundays

**MY RECOMMENDATION:**

1. Hold the Public Hearing on the 26th of January
2. Have the Sunday opening if voted be approved as a term of the Annual License (This avoids the need to publish and hold public hearing each year). We have for the past several years handled the Sunday Holiday Openings in this manner.
3. Approval only with the conditions noted above.

**ACTON MANAGEMENT, INC.**

P.O. Box 2350  
Acton, MA 01720

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(978) 263-2989

FAX (978) 263-0403

Email: [actonmgt@earthlink.net](mailto:actonmgt@earthlink.net)

December 18, 2003

Dear Christine:

Enclosed is a letter from most of the package store owners in Acton requesting the approval of the Selectmen for Sunday openings.

I believe an earlier version of the bill did not require such approval. However, I am informed that the bill as enacted and signed by the Governor does require the Board's approval.

Thanks for your help and I hope your holidays are enjoyable.

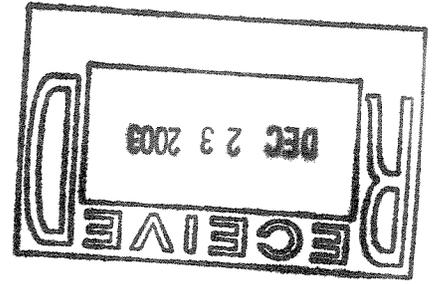
Sincerely,



Stephen P. Steinberg

December 19, 2003

Board of Selectmen  
Town Hall  
Acton, MA 01720



Dear Board Members:

We are writing in support of the recently enacted Commonwealth of Massachusetts statute which authorizes Sunday openings of Package Stores after noon time- *An Act Relative... To Promote Job Creation, Economic Stability and Competitiveness in the Massachusetts Economy* (Chapter 141 of the Acts of 2003). In order to receive the benefits of fair competition envisioned by this statute, the Board's approval as the local licensing authority is necessary.

Economic conditions require that we now stay open seven days a week. For years, stores in the surrounding towns (that have any part of their municipal land area within ten miles of the New Hampshire border) have been open on Sunday. These towns include Littleton, Chelmsford, Groton, Westford, and Billerica. Of course, all New Hampshire, Vermont, and Maine stores are open on Sundays as well. This one sided situation permitted unfair competition, and many of our customers were lost. When customers are lost, so are Acton jobs and tax values.

The legislature has now corrected this situation. We anticipate the creation of new jobs for Acton citizens and the improvement of our businesses when the playing field is leveled. Moreover, we anticipate that stores in abutting towns (Concord, Maynard, Boxborough, Stow, Sudbury) and the "big box" retailers like Walmart, Costco, and BJ's will be selling alcoholic beverages on Sundays. They will further erode our business if local people can shop there but not in Acton.

We respectfully request your support so that we may compete without disadvantage. The new law takes effect on January 1, 2004. Therefore, in order to begin Sunday openings upon commencement of the statute, an affirmative vote by the Board would be required prior to January 4, 2004.

Thank you for your consideration.

Sincerely,

  
Stephen P. Steinberg  
Colonial Spirits

  
Stephen Zeitler  
Acton Wine and Spirits

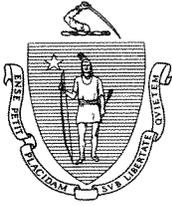
  
Regina Roblante  
Wine-Cask Cellars

  
Donelan's Supermarkets

  
Acton Convenience Store

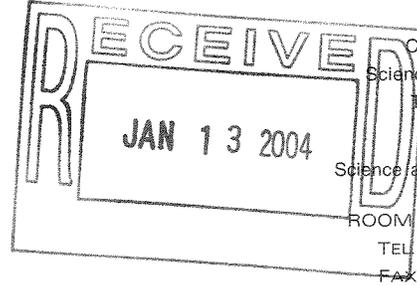
  
DRINKS & COMPANY.

  
Rixremi's



*The Commonwealth of Massachusetts*  
*House of Representatives*  
*State House, Boston 02133-1054*

CORY ATKINS  
STATE REPRESENTATIVE  
14TH MIDDLESEX DISTRICT  
ACTON, CONCORD,  
CARLISLE, CHELMSFORD  
E-Mail: Rep.CoryAtkins@hou.state.ma.us



Committees on:  
Science and Technology  
Transportation  
Chair of:  
Science and Technology Caucus  
ROOM 162, STATE HOUSE  
TEL (617) 722-2040  
FAX (617) 722-2347

Acton Board of Selectmen  
472 Main Street  
Acton, MA 01720

Dear Board Members:

I am writing in support of the statute which authorizes Sunday openings of Package Stores after noon time- An Act Relative to Promote Job Creation, Economic Stability and Competitiveness in the Massachusetts Economy (Chapter 141 of the Acts of 2003). As you are aware, in order for our local vendors to receive the same advantages as their competitors they must receive the Board of Selectmen's formal approval.

Allowing local package stores to stay open seven days a week would both level the playing field with competitors from surrounding towns, and create more jobs in our own community.

I urge you to grant approval to our local package stores to stay open seven days a week. I would be more than happy to discuss this issue with you in greater detail. As always, please feel free to contact my office with any additional questions or concerns.

Sincerely,

Representative Atkins  
14<sup>th</sup> Middlesex

January 4, 2004

Board of Selectmen  
Town of Acton  
472 Main Street  
Acton, MA 01720



Dear Sirs:

The Middlesex West Chamber of Commerce lends its strong support to the authorization of Sunday openings for Package Stores in Acton. We heartily endorse the letter sent to you by representatives of the Package Industry in our town, dated December 19, 2003. Their request for the right to open on Sundays as provided by the recent Act of the Legislature (Chapter 141 of the Acts of 2003) seems fair, reasonable and timely.

The letter from these local merchants speaks eloquently of the economic impact which the sales ban of packaged spirits on Sundays has had on our local economy. The fairness issue is also addressed in their letter. Now that the law has been changed at the state level, we see no reason for Acton businesses to be put at a competitive disadvantage with other towns in the state, or with those in New Hampshire.

Since the so-called Blue Laws were repealed a few years ago, most retail establishments have been allowed to open their doors on Sunday. Package stores have not. Restaurants and bars can sell liquor on Sundays. Package stores can not. It seems only fair that owners and operators of these businesses receive the same rights as other similar businesses, and be allowed to open on Sundays if they choose to do so. It is no secret that Sunday has become a major shopping day, particularly in towns such as ours, because working people are home and enjoy the convenience of running local errands on weekends.

For all of the above reasons, we at the Middlesex West Chamber of Commerce formally endorse the letter you received from our local merchants. We hope that you will recognize and support their very reasonable request for the right to operate their businesses on a level playing field.

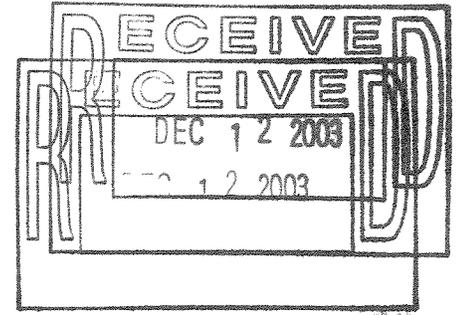
Thank you for your consideration and support.

Sincerely,

Bonnie L. Cameron  
Executive Director  
Middlesex West Chamber of Commerce

*This is on  
65r Jan 26 04*

NOTICE



TO: ALL LOCAL LICENSING AUTHORITIES AND  
ALL LICENSEES UNDER M.G.L. c. 138, § 15

DATE: December 10, 2003

RE: Sunday Sales By Holders Of Licenses Under G.L. C. 138, § 15 On An Annual Basis Pursuant To Chapter 141 of the Acts of 2003, *An Act Relative To Investments In Emerging Technologies To Promote Job Creation, Economic Stability And Competitiveness In The Massachusetts Economy*.

On November 26, 2003, Chapter 141 of the Acts of 2003, *An Act Relative To Investments In Emerging Technologies To Promote Job Creation, Economic Stability And Competitiveness In The Massachusetts Economy* ("the Act.") was approved (in part) by the Governor. The Governor approved sections 31 and 32 of the Act. These 2 sections operate together to amend existing law by expanding the opportunity for licensees under section 15 of chapter 138 of the General Laws to sell on Sundays annually on a statewide basis, subject to local control. Sections 31 and 32 of the Act became effective upon approval, on November 26, 2003. The opportunities created by the Act and the expanded potential for jobs and competitiveness may only be realized by full and complete compliance with both of these newly effective laws.

In response to several inquiries on the application of these new laws, the Alcoholic Beverages Control Commission ("the Commission") issues this informational Notice for review and direction for existing licensees under M.G.L. c. 138, § 15, local licensing authorities and the administrations within each community that issues such licenses.

1. Sales on Sunday may be made by a § 15 licensee ONLY IF the licensee obtains a PERMIT FOR SUNDAY SALES from the local licensing authority that issues alcoholic beverages licenses ("the Local Board").<sup>1</sup>
2. The Local Board can permit sales by a § 15 licensee on 6 days per week or 7 days per week.<sup>2</sup>
  - i. If a Local Board permits a § 15 licensee to sell on Sunday, the Local Board must allow a licensee to close on 1 other day of the week,

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<sup>1</sup> M.G.L. c. 136, § 6 (52), as amended by Acts 2003, Chapter 141, § 31 provides, in pertinent part, that "no such [Sunday] sale shall occur unless such permit has been granted."

<sup>2</sup> M.G.L. c. 136, § 6 (52), as amended by Acts 2003, Chapter 141, § 31.

without any risk or threat of canceling the license for failure to conduct the licensed business pursuant to G.L. c. 138, § 77.<sup>3</sup>

- ii. If a Local Board permits a § 15 licensee to sell on just 6 days per week, the Local Board in its discretion may also choose which day of the week the § 15 licensee must close.<sup>4</sup>
3. No sales by a § 15 licensee may be permitted on:
  - i. The last Monday in May (Memorial Day);
  - ii. Thanksgiving day;
  - iii. Christmas Day, or on the day following when Christmas day falls on a Sunday;
  - iv. Sunday Christmas Day, if Christmas day falls on a Sunday.<sup>5</sup>
4. Any sale by a § 15 licensee permitted on a Sunday must comply with the following 5 conditions:
  - i. No sales may be made prior to Noon;
  - ii. No sales may be made after 11:00 p.m.; no sales may be made after 11:30 p.m. on a Sunday that immediately precedes a legal holiday;
  - iii. Employees must be paid at a rate not less than 1 ½ of the employee's regular rate;
  - iv. Any § 15 licensee that sells on Sundays and employs more than 7 persons must compensate all employees working on Sunday at a rate not less than 1 ½ of the employee's regular rate;
  - v. No employee may be required to work on a Sunday; refusal to work on a Sunday is not grounds for discrimination, dismissal, discharge, deduction of hours, or any other penalty.<sup>6</sup>
5. ABCC approval of any Sunday sale permit to any § 15 licensee is not required.
6. A city/town may now choose to go COMPLETELY "DRY" ON SUNDAYS ONLY; that is, each city/town (including every city/town within 10 miles of the northern border of the Commonwealth in which Sunday sales were permitted on an annual basis under the prior law) may choose not to allow any sales of alcoholic beverages on Sundays within the city/town.<sup>7</sup>

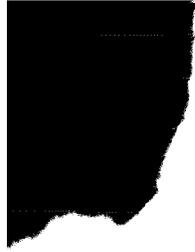
<sup>3</sup> M.G.L. c. 138, § 33(c), as created by Acts 2003, Chapter 141, § 32.

<sup>4</sup> M.G.L. c. 136, § 6 (52), as amended by Acts 2003, Chapter 141, § 31.

<sup>5</sup> M.G.L. c. 138, § 33(a), as created by Acts 2003, Chapter 141, § 32.

<sup>6</sup> M.G.L. c. 136, § 6 (52), as amended by Acts 2003, Chapter 141, § 31.

<sup>7</sup> M.G.L. c. 138, § 33(b), as created by Acts 2003, Chapter 141, § 32.

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7. A choice to become totally “dry” on Sundays is made by accepting the new statute created by the Act in M.G.L. c. 138, § 33(b), as created by Acts 2003, Chapter 141, and § 32.<sup>8</sup>
  8. The choice whether to go “dry” on Sundays is made by accepting the new statute as directed by G.L. c. 4, § 4, the state law that prescribes the process of accepting state statutes. This process can be generally described as follows:
    - i. In a city, by the city council, subject to the city charter provisions on acceptance of a statute;
    - ii. In a town, by the town meeting;
    - iii. In municipality with a town council form of government, by the town council.

SPECIFIC QUESTIONS ON WHICH PROCESS APPLIES TO ANY SPECIFIC CITY/TOWN SHOULD BE ADDRESSED TO THE CITY SOLICITOR/TOWN COUNSEL.

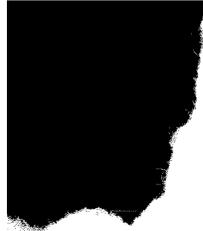
9. If the city/town chooses to go “dry” by accepting the new statute, no sales may be on Sundays by either § 15 licensees or § 12 licensees.<sup>9</sup>
10.
  - A. Sunday sale permits previously issued for the 2003 holiday season remain in full force and effect for sales occurring on the Sundays after November 26, 2003, the effective date of Sections 31 and 32 of Chapter 141 of the Acts of 2003. Every § 15 licensee must comply with the 5 conditions specified in the Act and identified in paragraph 4 above.
  - B. Any Sunday sales permits previously issued for the 2003 holiday season will be null and void and subject to revocation by the ABCC<sup>10</sup> if the provisions of M.G.L. c. 138, § 33(b), as amended by Acts 2003, c. 141, § 32, are accepted in a city/town and that acceptance is effective on or before Sunday, December 28, 2003.

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<sup>8</sup> M.G.L. c. 138, § 33(b), as created by Acts 2003, Chapter 141, § 32 provides, in pertinent part, that “in a city or town that accepts this subsection, there shall be no retail sale of alcoholic beverages on Sundays.”

<sup>9</sup> M.G.L. c. 138, § 33(b), as created by Acts 2003, Chapter 141, § 32.

<sup>10</sup> M.G.L. c. 138, § 64 provides, in pertinent part, that “[I]f it appears to the commission that a license has been issued under this chapter by the local licensing authorities . . . in violation of . . . any other provision of this chapter, the commission shall, after notice to said authorities and to the holder of such license and after reasonable opportunity for them to be heard by it, revoke such license.”



C. Sunday sale permits issued for the 2004 calendar year for the communities within 10 miles of the northern border of the Commonwealth remain in full force and effect for sales occurring on the Sundays after November 26, 2003, the effective date of Sections 31 and 32 of Chapter 141 of the Acts of 2003. Every § 15 licensee must comply with the 5 conditions specified in the Act and identified in paragraph 4 above.

D. If the provisions of M.G.L. c. 138, § 33(b), as amended by Acts 2003, c. 141, § 32, are accepted in a city/town, any Sunday sales permits issued for the 2004 calendar year will be null and void and subject to revocation by the ABCC<sup>11</sup> after the effective date of that acceptance by the city/town.

11. Any license or permit fee for a § 15 license that includes Sundays sales may be set within the sole and exclusive discretion of the Local Board, subject to the Local Board's compliance with the court decisions that direct how fees must be set.
12. The Local Board should forward to the Commission, on the Commission prescribed Form 43, information for each § 15 licensee that specifies the number of days and the specific days of the week sale of alcoholic beverages has been authorized and permitted by the Local Board.

Additional questions on the application of these new laws may arise. The Commission is happy to assist in resolving any question regarding the Act in cooperation with the both the Local Boards and all holders of § 15 licenses.

Dated at Boston, Massachusetts this 10<sup>th</sup> day of December 2003.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Eddie J. Jenkins  
Chairman

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<sup>11</sup> Id.