

Auto dealer sues to open on Sundays

By MARTHA ROSE
Minneapolis Star Staff Writer

5236

5236

Car dealerships are among the few Minnesota businesses still required to close on Sundays, but a Minnetonka used-car dealer has filed suit in an attempt to remain open.

"I feel people should be allowed to shop when they want to shop," said Thomas Boettcher, president of Wheels West, 15200 Hwy. 7, who is challenging the constitutionality of the state law that prohibits car dealerships from being open on Sunday.

He said buying a car usually is "a family decision" and Sunday has become a major day for family shopping.

A hearing on the suit has been scheduled for Dec. 19 in Hennepin District Court.

THE LAW ORIGINALLY covered department stores, too, but that part was successfully challenged by Target Stores in the late 1960s. Off-sale liquor stores, barber shops and car dealers are virtually the only businesses that must close on Sundays.

The law covers people in the business of selling new or used motor vehicles, though not private individuals selling cars, according to Eric Schultz, a deputy attorney general for the Minnesota Department of Public Safety.

Boettcher filed suit after he got warning citations from a state inspector when he tried opening on Sunday. Violation of the law carries a penalty of not more than \$100 or 10 days in prison for the first offense.

Minnetonka—which would process any charges against the dealership—and Minnesota are defendants in the suit.

Suit over Sunday closing law dropped

A Minnetonka used-car dealer's suit challenging a state law requiring car dealers to be closed on Sundays was withdrawn yesterday before Hennepin District Judge A. Paul Lommen.

The suit was filed recently by Thomas Boettcher, president of Wheels West, 15200 Hwy. 7, who said that buying a car usually is a "family decision" and that Sunday

has become a major family shopping day.

Boettcher's attorney, Bruce Candlin, said Boettcher is considering testing the law by keeping his business open on Sunday and, assuming he is tagged, challenging the law's constitutionality in his defense. The charge would be a misdemeanor.

Boettcher could not be reached for comment.

12-27-77
KFR

Dealer

Car dealer opens business to challenge closing law

From Page 1A

tremendous day to do business," Lewis said.

Lewis wasn't the only one closed down Sunday. Bob Boone was operating his Carfair at the Skyline Drive-in Theater when he received a cease and desist order from the Hermantown Police Department telling him to close.

"They told me I couldn't open up again or I would get a ticket," Boone said.

Boone doesn't sell the cars in his Carfair. He charges people a registration fee to sell their used cars in an area he sets up. On Saturdays he operates his Carfair at the Mariner Mall in Superior.

Although Boone isn't a licensed dealer, he was contacted by State Dealer Examiner Carl Polla and told that he needed a broker's license or he would be shut down. He also was told he could not open on Sunday.

Car dealer challenges closing law

BY PATRICIA NEUBAUER
Staff writer

Bob Lewis fought the law on Sunday. The law won.

When Lewis opened his Olds-Mazda dealership at noon, customers didn't rush to his showroom, but Hermantown Police Officer Charlie Erickson did.

Lewis opened his business to challenge a 26-year-old Minnesota blue law that makes it a misdemeanor for a car dealership to be open on Sunday.

Erickson wrote Lewis a citation for the law and the dealership was closed again.

"That's just what I expected would happen," Lewis said. "My attorneys said I had to do this before we could challenge the law."

Lewis said he won't open again next Sunday because repeated violations could cost him his sales license.

The first violation can cost a dealer a \$100 fine or a 10-day jail term. Repeated violations can bring fines of \$750, six-month jail terms and suspension of the dealer's license.

Sunday business could push sales up by about 10 percent because customers would have an additional weekend day to car shop, Lewis said.

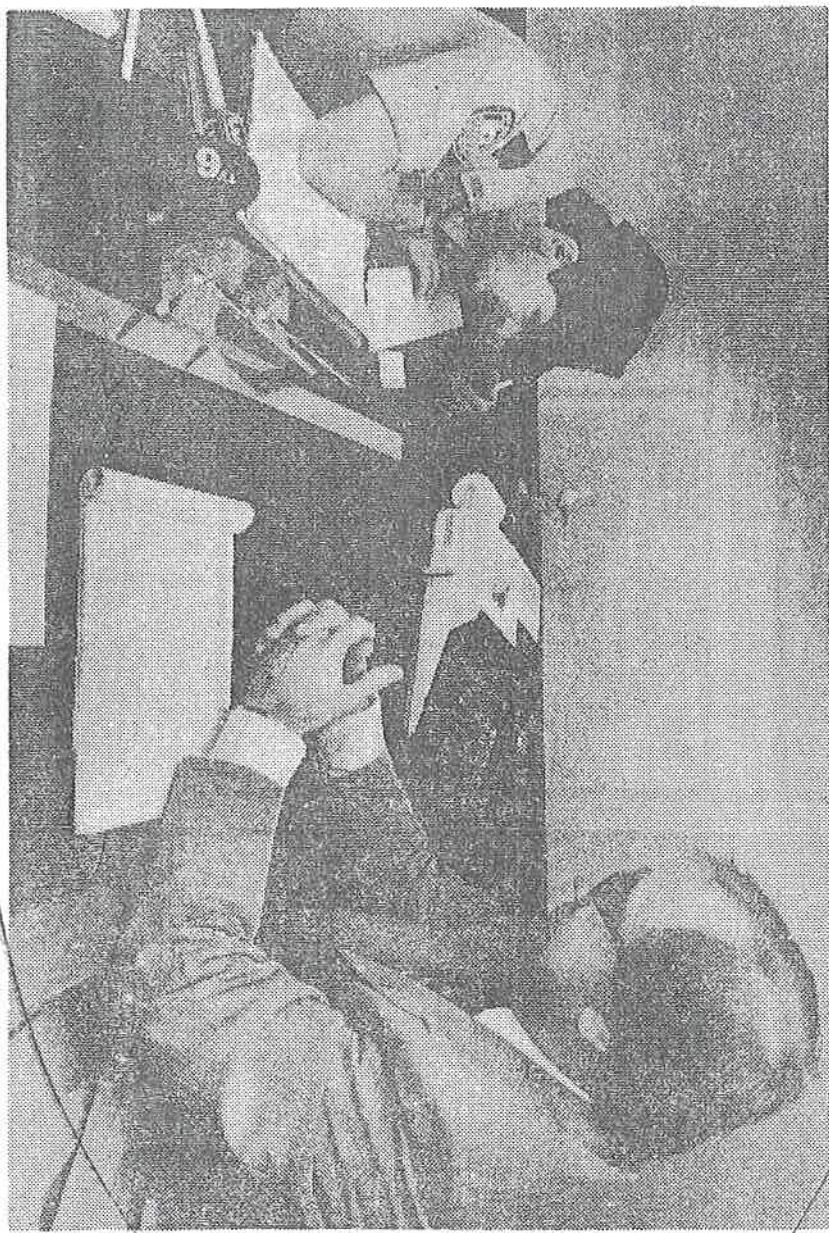
The blue law previously was upheld in 1977 when it was challenged by a Minnetonka auto dealer.

"I'm not advocating opening 24 hours a day, seven days a week, but the best days for sales are on the weekend. Sunday is a

See Dealer Page 4A

Bob Lewis (right), owner of Bob Lewis Olds and Mazda on the Miller Trunk Highway in Hermantown, waits calmly while Hermantown

police officer Charlie Erickson writes out a citation for being open on Sunday. Lewis has decided to challenge the law.



Staff photo by Bob King

137 Bad way to challenge a bad law

If a law is bad, change it, don't disobey it.

We agree with a Duluth car dealer who believes it is silly for the state of Minnesota to force auto dealerships to close on Sundays. The times passed by that law years ago, yet it remains on the books.

But we don't agree with Bob Lewis' method of challenging the law. The operator of Bob Lewis Olds-Mazda in Hermantown has announced he will open his dealership on Sunday, thereby flouting the Minnesota blue law which is enforced by the state Department of Public Safety. Lewis faces misdemeanor charges backed by fines, jail terms and dealer license suspension if he proceeds with his plan.

There is a mechanism in place to remedy such situations. It is called the state Legisla-

ture, which enacted the law in the first place.

That body can also rescind it. Lewis and others of like mind can enlist the help of their representatives in the Legislature and have the law tested on its merits. That is the system. There are times when a case might be made for civil disobedience, but this is not one of them.

That said, it does seem unfair that automobile dealers are prohibited from doing business on the sabbath when the state has, over the past 15 years or so, struck so many similar blue laws from the statutes, including many involving the sale of alcoholic beverages. The choice of whether to do business on Sunday should be left to the dealer and not to the state.

Judge says Sunday ban on car sales is illegal?

A state law forbidding the sale of motor vehicles on Sunday is unconstitutional, Hennepin Municipal Judge Kenneth Jack Gill ruled yesterday.

The statute is one of the few Sunday-closing laws still enforced in the state.

Gill dismissed a charge brought Jan. 15 against Thomas Boettcher, operator of Wheel West, 15209 W. Hwy. 7, Minnetonka, by Minnetonka police.

The Minnesota attorney general's office decline to intervene to defend the law, as it can legally do, but it reserved its right to take part in any appeal.

Gill said the law is invalid because it violates the ban on "establishment of religion" and because there is no rational basis on which to distinguish between sales on Sunday and those made on other days.

He rejected arguments that motor vehicles should not be sold on Sunday because it is impossible to get some information, such as the existence of liens on vehicle, and to verify the buyer's credit immediately. The same difficulties exist at other times when sales are not banned, Gill said, such as holidays, Saturdays and evenings.

Gill also noted that the law has been held not to cover sales of unlicensed motor vehicles, such as mopeds, dirt bikes and riding lawn mowers.

He said the fact that most automobile dealers support the law is irrelevant. There is no constitutional justification for banning some businesses from operating on Sunday but not others, he said.

He also noted that private sales of cars on Sundays are not forbidden by the law.

"In contemporary society, where everything from private homes to toothpaste to liquor by the drink is sold on Sundays, the prohibition of the sale of motor vehicles by dealers on Sunday is an anachronism and unreasonable restraint that cannot be allowed," he said.

5236 18/ St. Paul Pioneer Press
Thurs., May 11, '78

Local and Regional

**Judge rules
Sunday car
sale is legal**

Associated Press

A state law which prohibits motor vehicle sales on Sunday has been ruled unconstitutional by Hennepin Municipal Judge Kenneth Jack Gill.

Gill dismissed Tuesday a Minnetonka police charge brought Jan. 15 against Thomas Boettcher, who operates Wheel West, Minnetonka.

The judge said the law, one of the few Sunday-closing laws still enforced, violates the ban on "establishment of religion." He also said there was no rational basis to distinguish between sales on Sunday and other days.

"In contemporary society, where everything from private homes to toothpaste to liquor by the drink is sold on Sundays, the prohibition of the sale of motor vehicles by dealers on Sunday is an anachronism and unreasonable restraint that cannot be allowed," he ruled.

Judge rules state can't ban Sunday car sales

By George White
Staff Writer

A state law that outlaws the sale of automobiles on Sunday has been ruled unconstitutional by Hennepin County Municipal Judge Kenneth Jack Gill.

Gill made the ruling Tuesday in connection with a hearing on a misdemeanor charge of violating the Sunday automobile sales ban, by Thomas Boettcher, operator of Wheels West, Inc., 15209 W. Hwy. 7, Minnetonka.

The statute prohibits "any business or lot" from buying, selling or trading in new or used automobiles on Sunday. The statute does not prohibit an individual from selling his or her car on Sunday.

Gill ruled that the law is a violation of the First Amendment to the Constitution because it "punishes individuals for refusing to abide by a particular religious faith." Gill also dismissed the charges against Boettcher.

"By requiring a particular group to refrain from business activities on a particular day, this Sunday closing sanctions the sabbath observance of certain religious groups," Gill said in his decision.

He also cited a previous court ruling that established that "neither a state nor the federal government may enact a law that aids a particular religious group or favors one religion over another."

The prosecutor, Minnetonka Assistant City Attorney Steven Simon, argued that Sunday automobile sales should not be allowed because, among other reasons, banks are closed that day and credit information is not available. However, Gill rejected that argument. He said that the same difficulties exist at other times, such as Saturdays, holidays and evenings, when automobile sales are not illegal.

"In contemporary society where everything from private homes to toothpaste to liquor by the drink is sold on Sundays, the prohibition of the sale of motor vehicles by dealers on Sunday is an anachronism and unreasonable restraint of trade that cannot be allowed in the future," Gill said.

Richard Meshbesher, Boettcher's attorney, said most of dealers will probably open on Sunday as a result of the ruling. "Consumers want to buy cars on Sunday," he said. "It's a day that most consumers are not working and are free to shop around."



We shall strive to report the news accurately and fairly and will express opinion leaving no doubt as to our position.

BERNARD H. RIDDER, 1883-1975
BERNARD H. RIDDER JR., President
THOMAS L. CARLIN, Publisher

WILLIAM G. SUMNER, Editor
JOHN R. FINNEGAN, Executive Editor
W. F. CENTO, Managing Editor

More Sunday selling is on the way

5/13/6

The last (almost) of Minnesota's Sunday blue laws has collapsed under a constitutional test, putting the state on what amounts to a seven-day week.

It was car dealing that most recently was added to the business-as-usual list. Seems Minnesota has a law that makes it illegal for a business firm to sell new or used cars on Sunday. Some dealer out in Minnetonka broke the law, got busted and had his day in court.

The municipal judge ruled that a Sunday sales ban is unconstitutional because it "sanctions the sabbath observance of certain religious groups." He also allowed as how since everything else from toothpaste to booze can be sold on Sunday it is an anachronism to prohibit the sale of automobiles.

We can't remember just how Minnesota ended up with the Sunday car sales law, but suspect not all car dealers will greet their new freedom with ecstasy. Even used car salesmen must need a day off once in a while. But that's the way it goes.

You don't have to be so very old to remember when most commerce in the state ground to a halt on Sunday, the "day of rest." One could go to a movie or eat in a restaurant that didn't depend on liquor sales to keep open. It was possible to buy a carton of Coke or get a prescription filled during the few hours the neighborhood drugstore was open. And the 3.2 beer joints

were open. There was the park . . .

One by one the prohibitions collapsed. For a time it was ludicrous: a visit to the drugstore on a Sunday morning would find some items legally for sale and others literally under cover. Now Sunday is still special: there are more shoppers, at least in the suburban malls. Supermarkets find it profitable (and convenient for their customers) to keep Sunday hours.

The Sunday quiet is not all gone, of course. Some business places maintain the tradition; some restaurants actually declined to take advantage of Sunday liquor laws and remain closed. But mostly it's a far different Sunday world than it was 10 or 20 years ago.

There are those who blame the desecration of the Christian Sabbath on greed — and there may be an element of truth in this — but mostly, we suspect, the change merely reflects some overall changes in American society. We buy and sell more things than our parents did (it's a patriotic duty) and the evolution of the "working wife" has made odd-hours shopping ever more attractive.

And now Ma and Pa can go car shopping on Sunday, too. Talk about togetherness. Come to think of it, though, they could discuss the purchase over a drink in a restaurant, but they couldn't buy a bottle to take home to really ease the pain.

An archaic Sunday law

WE'RE GLAD that Hennepin County Municipal Judge Kenneth J. Gill has ruled unconstitutional a 1957 state law that makes it a crime for a dealer to sell a new or used car as a regular business on Sunday but not if you peddle the old heap as a private party. This archaic law inconveniences the public in an age when Sunday is a major shopping day for most people whether or not they go to church.

However, Gill's decision has limited effect. It is binding only in Minnetonka, where the case arose. We hope the attorney general's office will appeal the case to the Minnesota Supreme Court in the interests of clarification.

The court 10 years ago in the Target case outlawed another law that forced Sunday closing on department and discount stores. But that case was a narrow one so it isn't clear how the court might rule on forced Sunday closing for automobile dealers. Therefore, the most expeditious course would be outright repeal, and we urge the Legislature to

wipe the law off the books in the next session.

Although it appears that many dealers will continue to favor Sunday closing, we think they should have freedom of choice. It is absurd in 1978 to have a law on the books that imposes a maximum punishment on dealers of a \$750 fine and six months in jail for selling a car while private parties can freely buy and sell cars.

Judge Gill hit the nail on the head when he said that the prohibition is "an anachronism and unreasonable restraint of trade" in an economy where everything from private houses to toothpaste to liquor by the drink is sold on Sunday. In earlier times Sabbath or "blue" laws were frankly religious in character. The purpose was to ensure the observance of Sunday as a day of worship. The car dealer law was motivated more by economic motives. Still, Gill held that this blue-law hangover violates the guarantee of religious freedom for those whose religion doesn't mark Sunday as a day of worship.

Sales ruling won't affect dealers

By Tom Lund

A district court decision in Minneapolis that struck down a Minnesota law prohibiting the sale of automobiles on Sundays has had little effect on the six auto dealers serving Detroit Lakes.

The law prohibiting Sunday auto sales was ruled unconstitutional in Hennepin District Court two weeks ago after a Minnetonka auto

dealer contested the law. The suit claimed the law constituted an unlawful restriction of trade.

The 1957 law prohibits any exchange in new or used motor vehicles in Minnesota and carries a \$100 fine or a 10 day jail term upon conviction of a first offense. A repeated offense constitutes a gross misdemeanor and the law carries the weight of a \$750 fine or a 6 month jail term or both.

The law was later amended in 1962 by an

attorney general opinion that ruled a demonstration ride given by a car dealer was unlawful even if the actual sale took place on Monday.

None of the six car dealers in Detroit Lakes anticipate plans to keep their showrooms and lots open on Sundays.

"We're not anxious to stay open on Sundays," George Sauvageau, owner of Nersemen Motors

Autos continued on page 3A

\$236

Autos

Continued from page 1A

in Detroit Lakes. He noted the complications that can arise out of the sale of high cost items like automobiles on Sunday.

The problems caused by banks and state registration offices not being open are too great he said. There is no way to check with banks financing the sale and titles on the cars can't be cleared or registered until Monday he said.

Nereson Motors, Kandt Motor Sales, Lakes Ford, Double N Motors and Ness Auto Sales all indicated that they did not have current plans to remain open on Sunday.

Many dealers in Detroit Lakes are taking a wait and see attitude concerning a final court decision. The law faces tests in higher courts and some of the local dealers indicated they planned no action until a final decision is made, possibly by the Minnesota Supreme Court.

Other dealers said they planned to wait to see what trend developed throughout the industry.

And one dealer looked at the possibility of staying open on Sunday from a different angle. "I've got no plans to stay open on Sunday. I figure a guy should have one day off," said Terry Nelson, owner of Double N Motors on Highway 10 East.

Becker County Record 6-5-70

House panel upholds auto blue law

By Daniel Egler
Chicago Tribune

5236

Chicago

4-2-87

SPRINGFIELD—Despite arguments that it prevented comparison shopping for consumers, opponents of the state's only "Sunday closing" law have again lost their nearly annual attempt to repeal the law prohibiting automobile sales on Sundays.

The House Transportation Committee voted 18-8 Tuesday against the repeal of the law. It was adopted in 1982 at the urging of auto dealers, who had watched their sales decline because of high financing costs, making it more difficult for them to pay employees to work on Sundays.

The law was upheld in 1984 by the Illinois Supreme Court.

"When the legislature begins to inter-

vene in free enterprise, whether it is a golf course or a funeral home or an auto dealership they say has to close on Sunday, it is an invasion of the American right of free enterprise," Sam Pfeffer, an auto dealer in Skokie, told the committee.

But Peter Sander, a spokesman for the New Car and Truck Dealers Association, said a majority of the 1,200 members of his organization supports Sunday closings.

"There is ample time for people to shop and compare prices," Sander said. "With an average price of a new car being \$12,000, this is not impulse buying."

Sander said that auto dealers are prevented from selling cars on Sunday in all the states surrounding Illinois.

Texas and Missouri retained their statutes prohibiting Sunday car sales, though they repealed other so-called "blue laws," he said.

Lawmakers agreed that there has been "no public outcry, no dealer outcry" for repeal of the law.

"This is just an idea whose time has not come," said Rep. Al Ronan [D., Chicago], chairman of the committee.

In other legislative action, the House Human Services Committee soundly defeated a proposal to require practicing physicians to demonstrate an oral proficiency in English.

Modeled after a proposal requiring university professors to speak English that was adopted over Gov. James Thompson's veto, the measure was defeated 17-1 by the House panel.

35c

Friday, April 20, 1984

Midwest
Edition

Auto dealer Sunday closing law upheld

By Daniel Egler
and Michael Lang
Chicago Tribune

523

SPRINGFIELD—Consumers in the market for a new or used automobile will have to do their Sunday shopping through the windows of auto showrooms, under a ruling issued by the Illinois Supreme Court Thursday.

With two justices dissenting and arguing that the legislature had "legitimized restraints on trade and competition," the high court upheld a 1982 industry-supported law forcing car dealers to close on Sundays.

A spokesman for Secretary of State James Edgar, who had not enforced the law while it was being challenged, said his office would take complaints about dealers being open Sunday "whenever we get them." Earlier, he had said it could be as

long as 30 to 60 days before the law could be enforced, because of legal technicalities.

"Obviously, we do not have the manpower to be patrolling throughout the state looking for dealerships who are open Sunday. We will just be able to respond to reports from the public about dealers violating the law," said Michael Walters, Edgar's press secretary.

THE LAW WAS passed by the General Assembly and signed by Gov. James Thompson in 1982 when, the dealers associations argued, the economy was dragging, interest rates were high and some dealers could not afford to keep salesmen on the floor seven days and seven nights a week. Without the law, their attorneys argued at that time, competition might have forced auto dealers to stay open despite sagging sales "as a matter of self

preservation, to obtain a fair share of the available trade."

The depressed market for new cars has since improved, with new-car sales at their highest point in more than a decade, according to published industry reports. "Under the present law, the auto dealer who wishes to close on Sunday may defy the interest of purchasers and serve only his own, with the assurance that the law prevents his competitors from gaining any advantage by doing otherwise. The statute supplies a legislatively mandated respite from competition," Justices Seymour Simon and Robert Underwood said in a nine-page dissent from the majority.

The majority of the court, however, reasoned that the law was "part of the regulatory scheme" imposed on auto dealers by the legislature and rejected arguments that it constituted a violation of the First Amendment.

Special legislation to benefit a select group. It remanded the case to the Cook County Circuit Court, which earlier had ruled the law unconstitutional, with instructions to dismiss the complaints.

A SIMILAR LAW had been ruled unconstitutional by the state Supreme Court in 1962. "There were many dealers who were upset with the law; these were just the first," said Chicago attorney Gilbert Gordon, who represented Fireside Chrysler-Plymouth Mazda Inc. of Schaumburg and Celozzi-Ettleson Chevrolet Inc. of Elmhurst, as well as one other dealership now out of business in challenging the recent law. "Difficulties in the economy are a fluctuating trend, but legislation is permanent," Gordon said.

Continued on Page 2, col. 6

Sunday

Continued from page 1

Supreme Court is "possible."

Fireside owner Al Gaines said there will be a meeting next week of dealers opposed to the law to plot their next move.

On the other side, Ken Bennett, an Oak Park Dodge dealer and president of the Chicago Automobile Trade Association, said he had closed his agency on Sundays during the last two years and sales have improved.

during the last two years and "are selling" more cars than they ever did."

He said that Sunday openings didn't always help either dealer or customer. "With banks closed, there was no way to check credit ratings," he said, "and cars that were delivered on Sunday sometimes had to be returned on Monday."

In another case, the court upheld the constitutionality of the state's prevailing wage act, which requires contractors building public works projects to pay their employees wages at least equal those paid for other construction in the area.

The challenge originated in Ogle County, where the county board had adopted a prevailing-wage rate re-

Dealer to test Sunday ban against selling new cars

Associated Press

Hermantown, Minn.

Bob Lewis says he'll open his auto dealership in suburban Duluth Sunday, despite a state law making it a misdemeanor for auto dealers to sell new cars on Sunday.

"This law's time has come," Lewis said in an interview this week. "Someone has got to be the first to open on Sundays. I guess it'll be me."

Some Minnesota dealers have previously been open on Sundays for used car sales and to allow customers to inspect new cars, but sales of new cars had to be delayed to another day.

Lewis, owner of Bob Lewis Olds-Mazda, said the law is unfair to auto dealers because other sales operations are allowed to do business on Sunday.

"If someone is dealing on Sundays, we let them know that the law's still

on the books," said Jane Brust, supervisor of the department's auto dealer division.

Brust said she knew about Lewis' plans to open Sunday and has sent him a letter informing him about the law.

The blue law was challenged in 1977 by an auto dealer in Minnetonka, but it eventually was upheld.

Auto dealer gearing up for clash over sales law

HERMANTOWN (AP) — Bob Lewis will be breaking state law if he opens his car dealership for business today, but he says he'll do it anyway.

The time has come to get rid of a law that forbids auto dealers from selling new cars on Sundays, he said. "Someone has got to be the first to open on Sundays."

Some Minnesota dealers have previously been open on Sundays for used car sales and to allow customers to inspect new cars, but sales of new cars had to be delayed to another day.

The first violation of the law can cost a dealer \$100 or a jail term of 10 days and repeated violations bring fines of \$750, 6-month

jail terms and suspension of a dealer's sales license.

Lewis, owner of Bob Lewis Olds-Mazda, said the law is unfair to auto dealers because other sales operations are allowed to do business on Sundays.

It's also unfair to prospective car buyers because it deprives them of a weekend day that they could spend shopping, he said.

But officials at the state Department of Public Safety said they still enforce the blue law.

"If someone is dealing on Sundays, we let them know that the law's still on the books," said Jane Brust, supervisor of the department's Auto Dealer Division.

Brust said she had warned Lewis about the law.

State car dealer tagged for opening on Sunday

Bob Lewis kept a promise yesterday to open his Hermantown, Minn., auto dealership despite a state law forbidding a Sunday opening. **5236**

But he closed about 30 minutes later. He was tagged by Hermantown police about 10 minutes after he opened at noon. It took another 20 minutes for the reporters and photographers to clear out, Lewis said later.

"Basically we were looking for a citation," said Lewis. "We knew we were going to be cited. According to my attorneys, we needed to be cited

in order to proceed. And Monday or Tuesday we will sit down to discuss our options."

Lewis would not say how he planned to challenge the law. "I'm not a crusader, and I'm not made of money," he declared. "But if there's any economical, reasonable way to resolve this, that's what we're going to do."

Hermantown police were alerted to Lewis's plans by the state government, according to Patrolman Wayne Boucher. The auto-dealer division of the Department of Public Safety had notified Lewis last week

that he would be breaking the law by opening on Sunday.

The law survived a 1977 court challenge brought by a Minnetonka car dealer. It has been supported by the Minnesota Automobile Dealers' Association.

6-4-84

Lewis said he would not reopen next Sunday. Repeated violations could lead to more severe penalties than the \$100 fine or 10-day jail sentence called for by the law.

81
Worst of all, he didn't even sell a car.

Remove the car dealers' blue law

You can shop for a house on Sunday in Minnesota. You can buy the week's groceries, a stereo, disposable diapers, a newspaper or a plane ticket. You can buy just about anything, even an alcoholic beverage after 10 a.m. at a restaurant, on a Sunday. But you cannot buy a car at a new or used car dealership on a Sunday in Minnesota. This blue law should be eliminated.

A car dealer in Hermantown protested the forced Sunday closure last weekend. He opened his dealership for 10 minutes and earned a misdemeanor citation so that he could challenge the law. But a 1977 court challenge was unsuccessful. A better place to reconsider the law would be the Legislature, which put it on the books in 1957. Repeal would serve the interests of weekend shoppers and promote competition, while eliminating an outdated law from the statutes.

Many Minnesota auto dealers don't want to sell cars on Sunday, but they don't want competitors selling cars either. Sunday closings are a convenience and a reprieve: a universal lock-up, courtesy of the state, that gives dealers and their employees a day off without worry about the competition.

Decisions about basic business operations, such as what days of the week to take off, should not be made by the state — especially not for one part of the business community. If department and discount stores, restaurants and other businesses find that the market permits or competition requires Sunday operations, then car dealers should be allowed to make similar decisions. Now that a Hermantown dealer has raised the issue, the Legislature should resolve it.

Lewis fined; will fight closing law

BY LARRY OAKES
Staff writer

6-9-84
5236

Hermantown auto dealer Bob Lewis was fined \$100 and ordered to do 20 hours of community service after pleading no contest to operating his business on Sunday.

But Lewis will challenge the blue law that forbids auto dealers from doing business on Sunday.

Lewis, owner of Bob Lewis Olds-Mazda, 2660 Miller Trunk Highway, thinks the law is a lemon and he opened his business last Sunday to say so. He immediately got what he bargained for — a citation from Hermantown police.

Instead of fighting the charge in criminal court, Lewis and his attorney, Conrad Fredin, have opted for the civil route. Fredin said he expects to file suit in Duuth District Court against the state.

Getting Lewis charged with a crime was not a wasted move, however, Fredin said. It was an effort to drive the point home.

See Lewis back page

Lewis

Auto dealer to sue state
over Sunday closing law

From Page 1A

"You can't just rail about something. You have to be affected by it," he said Friday. "I can't just sit here and complain about, say, the unreasonable cost of a Wisconsin fishing license. I've got to get caught fishing without one."

The suit will claim, among other things, that the blue law is unfair because an existing law prohibits other businesses from being open on Sundays. But that law, ruled unconstitutional, isn't enforced, Lewis said.

"The courts have said they'll refuse to enforce that one," said Fredin.

The law prohibits "all public selling or offering for sale of property" on Sunday.

Auto dealers have a blue law all their own because Minneapolis and St. Paul dealers pushed for one in the late 1950s, said Lewis. They had to stay closed on Sundays because of city ordinances, but dealers in the suburbs could stay open. Lawmakers made the ban standard equipment statewide.

The law survived a 1977 court challenge brought by a dealer in Minnetonka, in suburban Minneapolis.

Other blue laws still enforced apply to liquor establishments.

and barber shops.

Meanwhile, state officials say they will defend the law.

"If in fact they bring a lawsuit it's our responsibility to defend the constitutionality of the statutes," said Rick Slowes, head of the attorney general's civil litigation division.

But said Fredin: "When I can go to Knox Lumber Co. on a Sunday and buy enough lumber to build a garage, there's no reason why I shouldn't be able to cross the highway to Bob Lewis Olds-Mazda and buy a car to put in it."

Allow auto dealers to open on Sunday

Editor; I applaud Bob Lewis for his five-minute opening of his car dealership on June 3 before he was closed down.

The car dealers should be allowed to open on Sunday by the state of Minnesota. This law was put in effect about 24 years ago by the state, probably because of some personal feud with a dealer at that time. The law, however, affected all Minnesota dealers.

This obsolete law should be changed, as it is discrimination against dealerships by the state allowing other businesses to be open on Sunday. A lot of these places sell car parts on Sundays.

Why doesn't the state close these businesses down on Sundays? If this is what one calls free enterprise, why restrict the car dealerships from opening on Sundays. Bob Lewis Oldsmobile is right — more people like to shop on weekends as they can relax and shop around for automobiles.

Let the car dealerships be open on Sundays, too, or close everything open on Sundays, including the liquor joints. Let's be fair, let us all change this law, and become free enterprise again!

KEN NELSON

2823 Irwin Ave.
Proctor

236
Dutch Mart 61089

St. Paul Daily Dispatch 6/14/84

Other opinion

Sunday auto sales

Bob Lewis, owner of an auto dealership in Hermantown, has a point: If nearby stores can sell their wares on Sunday, he should be allowed to sell his new and used autos on that day also.

Instead of trying to convince a court of the unconstitutionality of the law, Mr. Lewis and his sympathizers should convince legislators of the unfairness of allowing most other businesses to operate on Sundays while prohibiting auto dealers from doing likewise.

In reality, few dealerships want to remain open on Sundays. The Minnesota Automobile Dealers Association, for instance, supported the law in the 1978 court challenge and, a spokesperson told us this week, probably would do the same if Mr. Lewis challenges the law in court.

In recent years, though, most of those earlier restrictions have been either ignored, lifted or modified. Sunday shopping has become a popular, accepted practice. The state should not be involved in dictating store hours to certain businesses simply as a matter of convenience for some owners.

Legislators should rescind the law so that Mr. Lewis and others, if they wish, can open the doors of their auto dealerships seven days a week.

ST. PAUL PIONEER PRESS

Sunday car sales ban stalled for one week

Chicago Tribune

S23

SPRINGFIELD—A state law banning the Sunday sale of automobiles is a step closer to reality but remains in a state of legal limbo, state officials said Wednesday.

No date for enforcement of the law has been set since the Illinois Supreme Court earlier this week completed its legal paperwork, and a top aide to Secretary of State Jim Edgar said enforcement of the controversial law will likely be delayed for a week after his office does receive official notification.

The high court's action technically must filter through the Illinois attorney general's office, which in turn is to notify Edgar's office to enforce the ban.

Bill Schaub, a spokesman for Atty. Gen. Neil Hartigan, said Wednesday that the paperwork

should be in Edgar's hands by sundown" Thursday.

BUT ELLEN Feldhausen, communications director for Edgar, said, "There is so much confusion over this that we probably will delay our enforcement for a week to give the dealers and law enforcement authorities notification. If we were to enforce it immediately, it would leave the dealers who have purchased Sunday ads hanging."

The U.S. Supreme Court two weeks ago declined to hear an appeal of the constitutionality the bill, already upheld by the state Supreme Court and passed by the legislature originally in 1982 when auto dealers sought it, citing the then-sagging economy and a slump in new car sales.

Chicago Tribune 10-15-84

Court OKs Sunday ban on car sales

10-30-89

5236

From Chicago Tribune wires

WASHINGTON—The U.S. Supreme Court on Monday left intact an Illinois law that bars automobile dealers from doing business on Sundays, turning back an appeal filed by three suburban Chicago dealers.

The justices, citing the lack of "a substantial federal question," rejected arguments that the Sunday closing law, which affects car dealers only, violates some dealers' equal-protection rights.

Dealer sales and purchases of new and used cars in Illinois were allowed on Sundays until 1982, when the state General Assembly outlawed them. Violations could result in revocation of a dealer's license.

In signing the bill into law, Gov. James Thompson said the Sunday closing law was aimed at giving car salesmen a day of rest and reducing dealers' overhead costs.

Three Chicago suburban car dealers challenged the law soon after it went into effect, charging that it is arbitrary and unconstitutional. They were Fireside Chrysler-Plymouth, Mazda Inc.; Celozzi-Ettleson Chevrolet Inc.; and John Bybee Chrysler-Plymouth Inc., which since has gone out of business.

CIRCUIT JUDGE Joseph M. Wosik of Cook County struck down the 1982 law but the Illinois Supreme Court reinstated it last April 19.

The state high court said those dealers attacking the law had not proved that it—or the differing treatment car dealers were receiving—is unreasonable.

Illinois had not enforced the law, pending the appeal to the U.S. Supreme Court. "Our office's enforcement of the Sunday closing ruling depends on when the Illinois Supreme Court signs its own mandate and we don't know when that will be," said Jim Conway, spokesman for Secretary of State Jim Edgar's office.

The court's signing of the mandate is a formality, in effect saying that the U.S. Supreme Court's dismissal of the appeal upholds the constitutionality of the Sunday closing law.

"We thought it was a long shot that the U.S. Supreme Court would even hear the appeal," said Maury Ettleson of Celozzi-Ettleson Chevrolet. "We still don't think it's a good law. The bottom line is that it will affect us and the consumer by limiting him to one less day to shop for a car."

"IT'S ALSO GOING to have an effect on the people we employ, the ones we hire to work part time and on weekends," Ettleson said his dealership sold 24 new cars, 6 new trucks, 10 used cars and 4 used trucks this past Sunday.

Al Gaines of Fireside Chrysler-Plymouth in Schaumburg said a committee of 8 dealerships that formed a group called OPEN have hired a lobbyist in an attempt to have the law repealed by legislators.

In seeking help from the nation's highest

Continued on page 2, col. 1

High court

Continued from page 1
court, lawyers for the challenging dealers argued that car dealerships not wishing to compete for Sunday sales, "took their fight from the marketplace to the Illinois General Assembly."

The appeal labeled the law as "an unconstitutional exercise of legislative authority."

"Viewed as an economic regulation, the act illegitimately restrains trade to serve purely private interests," the appeal added. "Similarly, no recognized public purpose could rationally be served . . . when considered as an attempt to provide a day of rest for automobile salesmen."

In response, lawyers for the state, the Chicago Automobile Trade Association and the Illinois New Car and Truck Dealers Association contended that no court has the authority to decide whether the challenged legislation was the best way to help overworked car salesmen.

Car-sale ban starts, but not for everybody

By R. Bruce Dold
and Hanke Gratteau

S236

ONE AUTO DEALERSHIP had a "Closed Sunday" sign alongside its "Open Sunday" sign, and customers joined dealers in trying to sort out confusion surrounding the first day of enforcement of a state law that forces dealers to close on Sundays.

An eight-block stretch of North Western Avenue on the North Side was quiet Sunday, though it is home to 13 car dealerships. Twelve were closed. The other was staffed by a dozen salesmen who said they were there to "clean up," but conceded that they wouldn't turn down a sale.

In Schaumburg, Fireside Chrysler Plymouth opened its doors to do a fairly brisk business and by mid-day hadn't heard from any law-enforcement types.

And in Elmhurst, Nick Celozzi spent his first Sunday off in 17 years organizing his desk behind the locked doors of Celozzi-Ettleson Chevrolet.

Enforcement of the ban comes after two years of court battles by independent dealers who went all the way to the U.S. Supreme Court in an effort to stay open on Sundays.

LAST MONTH, the court left intact a 1982 law calling for dealerships to close on Wednesday, Illinois Secretary of State Jim

Continued on page 9, col. 6

Sept. 26, 1984 Section 1 9

Car sales

Continued from page 1

Edgar's office announced that enforcement would begin Sunday.

While the legal battles were being fought, the rationale behind the law—a sagging economy and a slump in new car sales—disappeared. New car sales are at their highest point in more than a decade, according to industry reports.

The fight and legal twists caused confusion among dealers, some of whom closed on Sunday two weeks ago, after the court issued its order.

And this week, despite Edgar's announcement, some dealers remained open.

"We have received no official statement about the ban," said Rick Weissberg, co-owner of Fireside Chrysler Plymouth. "Right now it's just a rumor."

Fireside was among three car dealerships that challenged the 1982 bill and took the fight to stay open to the U.S. Supreme Court.

SCHAUMBURG POLICE Sgt. Howard Winkelhake said the department received several complaints about Fireside. The complaints were reported to Edgar's office.

But Weissberg said that by mid-day, he had not received notice from authorities that he was in violation of the law.

Police in Niles paid a visit to King Datsun, 6200 W. Touhy Ave., said manager Al Hara. Police said they had received complaints about the dealership being open, Hara said, but did not ask him to close.

"I believe the law is unconstitutional and I'm going to stay open," Hara said. But he added, "If the secretary of state notifies us, then we'll be closed."

At "Z" Frank Chevrolet, 6116 N. Western Ave., a permanent "Open Sunday" sign stood a few feet from a paper sign that read "Closed Sunday."

A FEW BLOCKS away, Ray Kim Ford, 6500 N. Western Ave., was open with a dozen salesmen. New sales manager Steve Frank said employees were there to clean up the showroom, though no one was using mops and buckets.

"If somebody comes in to buy a car, though, we're not going to throw them out," said salesman Morrie Cohen.

"Two weeks ago we closed on Sunday thinking everyone would be closed, and they were all open," said Frank, voicing the frustration of car dealers over the confusion. "People especially in the city don't have any time to shop. Sunday is their only day."

"I think it's silly . . . [Sunday is] a good time to buy a car," said Cindy Flatner, 36, a Chicago elementary school teacher from the North Side. Flatner was checking out sticker prices at a closed lot on Western Avenue.

FLATNER SAID she couldn't understand why the state would pass a law that hurt business and could possibly put a dent in state revenue.

"They can collect their little taxes or whatever else they want," she said. "I don't see the point. You can buy most everything else on Sunday."

STS

LEGISLATIVE BRIEFING

S 236

Top story: Bill to allow Sunday car sales opposed by dealers and salespeople/1A

A freshman senator has introduced a bill to repeal the law forbidding Sunday car sales, but has run into a storm of opposition from car dealers and salespeople.

Kevin Chandler, DFL-White Bear Lake, says the bill would mean more convenience for consumers, but the dealers argue that it would not increase car sales and would increase their cost of doing business.

Louis Claeson, executive director of the Minnesota Auto Dealers Association, said dealers have never asked for and don't want this kind of help. Chandler's bill is "a solution in search of a problem," he said.

The bill does not require dealerships to be open; it merely gives them that option. But dealers said competitive pressures would force them to open on Sundays.

Smoking in family day-care targeted Senate committee approves restriction/1B

Car dealers fight bill to allow sales on Sunday

By Dennis J. McGrath
Staff Writer

S 2 3 6
Freshman Sen. Kevin Chandler thought he would be doing Minnesota's car dealerships a favor by repealing the "blue law" that prevents them from selling cars on Sundays.

Ever since, he has felt as if he's been hit by a truck.

2 - 1 7 - 9 9
"They told me this is a drop-everything, fight-to-the-death issue," said Chandler, a DFLer from White Bear Lake.

S T S
While Sunday shopping no doubt would be a convenience for shoppers, the dealers argue that it would not increase car sales and would increase their cost of doing business. Car salespeople also have rallied against the idea, making hundreds of calls to Chandler's office and home.

Despite the opposition, he introduced the bill and is sticking by it, saying it would be good for consumers.

Louis Claeson, executive direc-

Car sales continued on page 11A

Car sales/ Bill is 'a solution in search of a problem,' dealers association says

Continued from page 1A

tor of the Minnesota Auto Dealers Association, said dealers have never asked for and don't want this kind of help. Moreover, he questioned whether the public is clamoring for Sunday car sales. Chandler's bill is "a solution in search of a problem," Claeson said. And the convenience would come with a price.

The idea for the bill arose during last fall's campaign, when several voters complained about not being able to buy a car on Sunday. Chandler, a lawyer, investigated and found that the prohibition dates to 1957, when a series of blue laws were passed to close retail businesses on the Christian Sabbath. Most of those laws have long since been repealed.

"The issue is, should hundreds of thousands of consumers be inconvenienced by an outdated law that serves no valid purpose in modern times?" said Chandler. If the repeal of the prohibition means that dealers will add more weekend hours, that would help car buyers, he said. It would be especially helpful, Chandler added, for families in which both the wife and husband work during the week.

Still, his bill does not require dealerships to be open. It merely gives them that option.

"The one thing I hear from businesses all the time is, 'Get government out of our business,'" Chandler said. "This is an example of getting government off their back. Government should not be involved in a decision like this." Twenty-nine states have no prohibition on Sunday car sales, he added.

"It's not going to increase the number of cars sold, but it will increase costs," said Claeson. "It means dealers will have to hire more employees and it will increase overhead." And that probably would mean an increase in car prices to cover the extra costs, he said.

While the bill would not require Sunday hours, that would be the practical effect, dealers complain. "Competition dictates we'd have to stay open on Sundays" if the prohibition is removed, said Mike Schrank, a co-owner of several Walser dealerships.

Car salespeople have also roundly criticized the bill because it would mean that they would have to work on Sundays. In addition to receiving hundreds of phone calls, Chandler has gotten many letters from salespeople, including one scribbled by what appears to be the child of a salesman.

"Dear Senators: I want my dad home Sunday," said the barely legible note, written on stationery from Rudy Lu-

ther's Toyota dealership.

Many car salesmen say that most salespeople already work far more than 40 hours a week, mostly on commission, and that this bill would extend their work week. "From a selfish standpoint I would be against it," said Jerry Chapman, who has sold cars for eight years at the Walser Ford dealership in St. Louis Park. "Sundays have been an important day for me. I've got three kids and a family."

He said he works six days one week and five days the next. Chandler's bill would mean working more weekends, he said.

Opposition to the bill is also developing among labor unions such as the Teamsters and the International Association of Machinists, which represent workers in the service departments. If the showrooms are open on Sundays, the service departments would be too, dealers said.

Chandler said he sympathizes with the employees. Their opposition, like the opposition of the dealers, was something he said he did not anticipate when he drafted the bill. "They have a legitimate concern," he said. "But is it vastly different than the concerns of a lot of other people who have to work Sundays?"

52 Readers' views on opening car dealerships on Sunday

When State Sen. Kevin Chandler, DFL-White Bear Lake, proposed legislation that would allow car dealers to be open for business on Sundays, it touched a nerve with On the Money readers. We received more than 300 responses to our request for feedback, and opinions varied greatly. Here are some of the responses, compiled by staff writer Josephine Marcotty:

We shopped for a car last year and it's practically impossible because we have a baby. We'd love to have the ability to shop on Sunday. Why have a law? People want to be open Sunday, they should have a choice. Everyone else is open — Target, Dayton's — why can't they be open?

— Brad Churns, Minneapolis

That is our only day, [those of us] who are looking for some sanity, in not having anyone breathing down your neck or pitching. Mr. Kevin Chandler, our freshman senator, does not have to go any further with this.

— Katherine Surles, Minneapolis

A car is not like groceries. You only buy a car once every year or two years. I think they should leave the law the way it is.

— Frankie Simmonds, Jordan

This is typical of legislators fooling around, playing away their time, spending taxpayers' money by [wasting] resources, money and so on. He [Chandler] would be far better served . . . to go see if there is any waste and boondoggle in state government . . . instead of fooling around with something as innocuous as car dealers being open on Sunday. Who really cares?

— John Cash, Hopkins

Consumers will not win with this goofy law, and it's a waste of taxpayers' money that he [Chandler] is introducing this type of legislation. I think it's really stupid.

— Ruth Gangi, Columbia Heights

The prohibition of car sales on Sunday is Minnesota's last relic blue law, and an extension of one of the first laws ever passed in this country — mandatory church attendance. . . . The introduction of blue laws was for the suppression of all activities except church attend-

ance. The state has no right to mandate nor restrict the hours of private business based on restricting competition for church attendance.

— Steven Petersen, Falcon Heights, Co-Chair, Minnesota Atheists

The car shopper law is indicative of why we don't respect our Legislature anymore. They spend time on how a business should be run instead of governing themselves. Let the consumer decide.

— Richard Young, Minneapolis

I work 60 hours a week the way it is. Sunday is the only day I have off with any degree of regularity whatsoever. Most people come to lots on Sunday because there is no salesman to bug them. Many of the sales made early in the week are made to people who have the option of being on the lot without being pestered by salespeople.

— Norman Yeager, Shoreview. Car salesman at White Bear Mazda/Polar Chevrolet.

It simply is not required. People don't buy cars every week, month or every year. Chandler is proving once again that our state Legislature could be better served with fewer people with more important things to do.

— Dean Joachim, Forest Lake

As a consumer I would be more interested in having state government open Sunday through Saturday from 8 a.m. to 9 p.m. . . . That would be a real service that consumers could benefit from.

— David Sears, employed at a car dealership

I have strong opinions on the fact that I don't feel the government should be regulating when this business should be open or closed. It should be subject to competition. . . . The consumer would be better served by having them open on Saturday and Sunday. Why should we be dictating when car dealerships should be open?

— Bruce Miller, Champlin

It's sort of terrible that in America there is no day of rest. . . . Why do consumers need to be able to consume at all times? You can plan ahead. Give these poor suckers a

day of rest.

— Mary Ann Crolley, Minneapolis

We're open seven days a week. A lot of our people have [weekend] days off and would like to shop for cars those days. It might open the competition a little bit.

— Marvin Krichmar, Plymouth, owner of Hold It! stores

I think the law is good. I don't shop for anything on Sunday. It's nice that employees have a break and there are six other days to shop.

— Margaret Koch, Prior Lake

I've been trying to get ahold of my congressman and senator for the longest time and they are not there at night. I would like these senators and congressmen to introduce a bill where they have to work 90 hours a week, get there at 7:30 a.m. until 9 p.m. at night, or do what I do and stay at the store until all the customers are handled. I think they should stay at their office until they can get back to my phone calls.

— Jack Lucking, general sales manager, Friendly Chevrolet, Fridley

I think the bill is a waste of time. If car dealers want to stay home on Sunday, let them. We go on Sundays to look at what's new and what's available without being hounded by a salesperson. We did spend Christmas Eve buying a car and I would not choose to do so again.

— Sharon Castle, Ham Lake

I believe that most car dealers are open a sufficient time, including evenings and Saturdays, to give the average person sufficient time to select a car. If car dealers were open on Sunday, many employees would not be able to be with their family and it would prevent people from going to church. . . . It's noteworthy that since many businesses are open on Sunday the family divorce rate has increased.

— Clyde Undine, Bloomington

Star Tribune news assistant Colleen Greene contributed research for this story.

MCLU lawsuit drives dealers to distraction

► Rochester auto dealers don't want to be open on Sundays *5236*

By Jill Burcum
The Post-Bulletin

Paul Miller of Clements Chevrolet has never been a big fan of the Minnesota Civil Liberties Union.

But now, he says, the organization has made him really mad.

Earlier this week, the sometimes controversial MCLU filed suit in Ramsey County to overturn an aging state law prohibiting car sales on Sundays. Despite the dozens of prospective customers that typically mill around the Clements lot on Sundays, Miller is irked by the suit.

"I'd really like to have a conversation with these people. I'm absolutely against it," said Miller, Clements' sales manager. "We already work six days a week. Can't we have one day in our lives to rest and spend with our families?"

Miller's ire is shared by numerous other Rochester car dealers and their sales staffs. As the MCLU prepares to overturn the law, in place since 1957, area dealers say they want no part of anything that will change their existing hours.

"I'm against it," said Dar Halverson, general manager of Kuehn Motors. "You have to have time for your family. Your job can't be number one." *Rochester P.B.*

Bruce Domaille of Domaille-Buick-Mazda-Mitsubishi agreed. "This would be bad for the dealers. We already work six days a week as it is without being open on Sundays." *8-10-95*

The MCLU lawsuit is one of several recent attempts to repeal the law. In 1994, a Minnesota legislator introduced a bill thinking he would help dealers by erasing the law. After dealers and sales staffs overwhelmed his fax machine with protests, the legislator withdrew the bill.

"This would be bad for the dealers. We already work six days a week as it is without being open on Sundays."

— Bruce Domaille
Domaille-Buick-Mazda-Mitsubishi

p.m. and is also open on Saturdays, in addition to regular business hours. To remain open on Sunday would require about 25 employees to be on the premises, he said. It also would result in more overhead costs.

Somehow those costs must be made up, he said. "It's likely the consumer would see the price going up to compensate."

But Domaille and other dealers say their main concern is for the employees. Should the lawsuit succeed, it's likely most dealers will be forced to remain open on Sunday for competitive reasons, dealers say. And that will likely put pressure on dealership employees who already work long hours.

"If we went to seven days a week, that's going to create lots of problems in a household," said Halverson of Kuehn Motors, noting that most of those on his sales staff are married and have children.

Jeremy Sankstone, a sales representative at Rochester's Johnny Kinsella Auto Sales, agreed. "I'm already working 70 hours a week. I don't want to be working Sundays, too."

Said Chuck Love, a sales representative at Universal Ford-Toyota, "There's good and bad sides to working on Sundays. The lot is normally filled with customers, so there's a lot of opportunity. However, you'd have to sacrifice your family."

Ultimately, dealers say, sales staff dissatisfaction would affect them. "This would cause the very best sales people to start getting out of the business," Domaille said.

Dealers also said changing the law would not likely bring them additional business. Many customers, they say, prefer browsing on Sundays when no sales reps are present. When customers decide on a car, dealers say, they're going to come back during a time when the business is open.

"If they're going to buy a car, they're going to find the time to buy a car," said Miller of Clements. "I've never in 14 years had anyone say to me they wished we were open on Sundays."

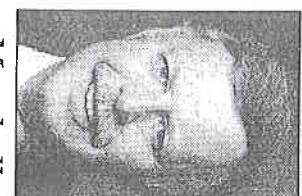
"Why do we need to fix something that isn't broke?"

The MCLU lawsuit involves a different, non-business issue; specifically, freedom of religion. Two of the people represented by the group are car dealers who say their religion's sabbath is on Saturday. They claim their freedom of religion is impeded because other religions' sabbath practices are being imposed on their car dealerships.

Domaille said he sees the situation differently. Just a few individuals, he said, could have their will imposed on the thousands of people in Minnesota's car sales industry. And that, he said, could affect the well-being of dealers, their sales staff and the pocketbooks of consumers.

Domaille noted his dealership is open four nights a week until 8

Never on Sunday: Alcohol and autos in Minnesota



"Puritanism: The haunting fear that someone, somewhere, may be happy."

— H.L. Mencken,

"A Book of Burlesques" (1920)

Marshall H. Tarnick

The Minnesota Legislature during the past session enacted a law, signed by Gov. Tim Pawlenty, permitting municipalities to allow bars to stay open and dispense liquor until 2 a.m. on weekends. The measure promptly triggered

extension of the closing time by an hour in Minneapolis, while similar ordinances are pending elsewhere. Minnesota was, prior to the legislation, one of about four states that required commercial on-sale of liquor to cease by 1 a.m. or earlier. The new law was supported by convention interests, who sought the measure in order to make the area more conducive to visiting groups, although a number of stay-at-home Minnesotans have been known to imbibe into the wee hours of the morning as well.

But other restrictions on the sale of liquor remain intact, some of which have been the subject of failed efforts to remove statutory restrictions in the past. Grocers still cannot sell hard liquor, despite prodigious but unsuccessful efforts in the past to lift legislative curbs under Minn. Stat. sec. 340A.405, subd. 1(b).

Meanwhile, this spring the New York Legislature repealed a prohibition on the sale of liquor on Sundays. The long-standing restriction, dating back to the days of Prohibition, is not likely to be emulated soon in Minnesota, where Sunday liquor off-sales have been prohibited for many years under

Minn. Stat. sec. 340A.504, subd. 4(1). Forbidding the sale of liquor on Sundays in Minnesota, a limitation followed in many other states, is traceable to puritanical laws of the 17th century, which prohibited a vast number of recreational, social activities and other diversions for religious reasons, ranging from the sale of products to sporting events. The so-called "Blue Laws" gained new force and a different thrust in the late 19th century during the first major wave of labor organization in this country. Rather than being solely tied to religious reasons, the notion of a "day of rest" became a credo of the incipient labor movement of the late 19th and early 20th centuries to permit workers to have a day off from grueling work schedules.

99

66

St. Paul Journal
8-4-83

and partake of liquor later on weekend evenings, and in most states car seekers can shop and buy vehicles on Sundays. But... in Minnesota the credo remains: Never on Sunday.

Minn. Stat. sec. 340A.504, subd. 4(1). Sunday closing times was the ruling by the state Supreme Court in *State v. Target Stores, Inc.*, 156 N.W.2d 908 (1968).

Although the court upheld the constitutionality of the principle underlying a 1967 statute barring certain sales of numerous commercial goods on Sundays, its ruling signaled the demise of the Sunday closing laws. The court ruled that the statutory prohibition did not violate the First Amendment right of religious freedom, but it was impossible "vague and uncertain" in the types of commodities that cannot be sold on Sundays. The ruling effectively ended most Sunday closing laws in Minnesota.

Citadel crumbles In addition to prohibiting liquor sales, one of the remaining rarities of Sunday sales restrictions is in the commercial automobile industry. Under Minn. Stat. sec. 168.27, licensed automobile dealers may not sell vehicles on Sunday, one of the few "Never on Sunday" restrictions still enforced in this state.

Until the 1960s, Blue Laws, whether imposed by legislation or social conventions, proliferated in Minnesota. But the citadel against Sunday sales has crumbled, leaving liquor sales as one of the few business activities subject to Sunday prohibitions.

The courts have uniformly upheld the

prohibition of automobile sales on Sunday, reiterating the reasoning of the *Target Stores* case that Sunday closing laws are not impermissibly religious in nature.

The Minnesota Court of Appeals most recently upheld the restriction on vehicle sales in *Kirk v. Humphrey*, 1997 WL 561249 (Minn. Ct. App. 1997) (unpublished).

The challenge was brought by a seller of classic cars and an orthodox Jewish woman who claimed that their inability to sell or buy cars on Sunday violated various federal constitutional rights and infringed the state constitutional provision against "special" legislation under Article XII, sec. 1, of the Minnesota Constitution.

A Ramsey County District Court judge upheld the Sunday restriction, holding that, as an economical measure, it satisfies the "rational basis" standard and does not violate any federal or state constitutional rights.

The Court of Appeals affirmed, relying in part upon *Target Stores* and other caselaw in the ensuing three decades. It concluded that the prohibition is premised on "decidedly secular" reasons, is "rationally related to a legitimate governmental interest" and is "not arbitrary." Despite changing social mores, the Sunday prohibition on car sales remains in effect, as do similar laws in about 16 other jurisdictions.

The Minnesota Court of Appeals' ruling parallels decisions of courts in several jurisdictions that have upheld Sunday closing laws for car dealerships, although a minority of courts have ruled otherwise, holding the measures unconstitutional under federal and state constitutional provisions. E.g., *Lakeside Imports, Inc. v. State*, 639 So.2d 253, 275-58 (La. 1994) (statute is not discriminatory or arbitrary); *Fair*

Never on Sunday continued on page 9 →

Never on Sunday

Continued from page 8

Cadillac-Oldsmobile Isuzu Partnership v. Bailey, 640 A.2d 101, 107 (Conn. 1994) (forbidding Sunday car sales violates state constitution).

There has been little pressure lately from business interests or the public to modify or repeal the few Sunday closing laws, including those prohibiting the sale of liquor and cars. Although occasionally criticized as a matter of principle for constituting implicit recognition of religion, as well as on the practical grounds of creating inconvenience for those who shop for these goods on Sundays, these restrictions are unlikely to meet their demise in the foreseeable future.

Thus, Minnesotans and others can now purchase and partake of liquor later on weekend evenings, and in most states car seekers can shop and buy vehicles on Sundays. But when it comes to buying alcohol or automobiles, the practice in Minnesota, like the celebrated 1960 Greek movie about prostitutes who refused to work on the Sabbath, the credo remains: Never on Sunday.

Marshall H. Tanick is an attorney with the Twin Cities law firm of Mansfield, Tanick & Cohen, P.A. He is certified as a civil trial specialist by the Minnesota State Bar Association and represents employers and employees in a variety of workplace-related matters.