



## NSW Legislative Council Hansard

### Shops and Industries Amendment (Special Shop Closures) Bill

Extract from NSW Legislative Council Hansard and Papers Tuesday 15 November 2005.

#### Second Reading

**The Hon. JOHN DELLA BOSCA** (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, Assistant Treasurer, and Vice-President of the Executive Council) [6.06 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

As the second reading speech has been delivered in the other place and is lengthy, I seek leave to have it incorporated in *Hansard*.

#### Leave granted.

The Shops and Industries Amendment (Special Shop Closures) Bill 2005 provides for the closure of general retail shops on Sunday, 25 December 2005, and a limited exemption for certain general shops to open on Monday, 26 December 2005, and Sunday, 1 January 2006.

These restrictions will be effected through the amendment of the Shops and Industries Act 1962 by the insertion of proposed new sections 89E, 89F and 89G.

It gives me considerable pleasure to be able to introduce a Bill which has a policy aim of enabling retail shop employees to celebrate the end-year festive days with their families and friends and so permit them to have a proper holiday respite.

This family-friendly commitment to retail workers is suitably balanced in the Bill's provisions with scope provided also for the everyday consumer needs of holiday travellers in tourist areas to be satisfied.

The Bill is based on precedent 1999 and 2004 legislation which this Parliament passed when there was a similar occurrence of weekend-occurring holidays.

Turning to the Bill –

- Proposed new section 89E requires that all general shops in New South Wales are to remain closed on Sunday, 25 December.
- Proposed new sections 89F and 89G provide that general shops in declared tourist areas which are covered by a Ministerial order under section 89B of the Shops and Industries Act will be permitted to open on 26 December and 1 January if shopkeepers use staff that volunteer to work on those days. Otherwise, except as additionally stated in the proposed section 89G and which I will next explain, general shops throughout the State are to remain closed on these two days.
- Proposed new section 89G also provides that, only in respect of 1 January, general shops in the commercial business districts of the Cities of Sydney, Newcastle and Wollongong and in Cabramatta which are covered by a section 78A exemption under the Shops and Industries Act may open with voluntary labour.

For purposes of their understanding of the intended new provisions, I inform Honourable Members that –

- General shops include furniture, electrical and hardware stores, food supermarkets, department stores, clothing and jewellery shops.
- Scheduled shops satisfying everyday consumer demand (including chemists, newsagencies, take-away food outlets, souvenir shops and video shops) will not be affected by the Bill and will be free to trade unrestrictedly on each of the holidays in the Christmas-New Year period.
- Small shops, being small family-type businesses employing no more than 4 persons, will also not be affected by the Bill.
- Such scheduled shops and small shops are free to trade 7 days a week under the Shops and Industries Act.
- In respect of Sunday and public holiday trading by general shops, sections 84 and 85 of the Shops and Industries Act direct that these general shops be closed. However, exemptions from this prohibition have been

granted to many general shop proprietors in the State under sections 78A (most commonly) and 89B (being limited to particular local government areas outside Sydney, Newcastle and Wollongong declared as holiday resorts).

- The effect of the granted exemptions under sections 78A and 89B is to permit trading by general shops on the two Sundays of 25 December and 1 January in that the Christmas and New Year's Day holidays are officially transferred - under the automatic contingency arrangements of the Banks and Bank Holidays Act 1912 - to the following Mondays. In effect, these two Sundays are rendered as normal Sunday trading days for general shops.

The Bill seeks to correct this present holiday trading situation by crafting a sensible compromise between the commercial interests of shopkeepers and the family commitments of their retail staff.

Accordingly, the Bill caters for the post-Christmas Day trade in tourist areas where the demand by travellers for consumerables (notably, from food supermarkets) is substantial.

Additionally, post-Christmas retail sales in the commercial business districts of the Cities of Sydney, Newcastle and Wollongong and in Cabramatta customarily attract sizeable crowds on New Year's Day. It is recognised in the Bill that their shopping needs should be accommodated in some manner whilst they are in the city centres or the Cabramatta tourist area.

The proposed new section 89G does not afford a right for general shops outside the central areas of the major cities to open on 1 January. Thus, general shops within the large retail complexes of, say, Parramatta, Chatswood and Miranda will remain shut on that day.

In terms of a lawful ability of general shops to trade on 26 December and 1 January, the Bill stipulates that a general shop must have appropriate statutory authority under either section 89B or 78A to open on the day and that it be staffed by employees freely electing to work on that day. It is recognised that certain staff, taking advantage of higher penalty wage rates available on holidays, will want to work on those days.

In enforcement of its 25 December trading prohibition and 26 December and 1 January trading restrictions, the proposed new sections contain provisions overriding current exemptions granted under the Shops and Industries Act whereby general shops would otherwise be allowed to trade on the specified days.

The existing penalty provisions of the Shops and Industries Act will apply to general shop trading on 25 and 26 December and 1 January in contravention of the new provisions.

In conclusion, I advise Honourable Members that under the existing power of section 85 of the Shops and Industries Act I have made an order permitting general shops throughout the State a right to trade on Tuesday, 27 December 2005, and Monday, 2 January 2006. These are the official Boxing Day and New Year's Day holiday observances.

This administrative action taken by the Government accepts that there is a public benefit in general shops being open on those days in full satisfaction of consumer demand. It is not a matter which receives coverage under the Bill presently before the House.

I commend the Bill to the House in furtherance of the Government's commitment to the adoption of family-friendly policies.