

What Is A Blue Law?

Legal View

By Jeffrey R. Kelley, Esq.

A Blue Law is usually a law passed decades ago that prohibits something on Sunday, usually for religious reasons. In Colorado one of the most infamous Blue Laws that was repealed in 2008 was not being able to buy liquor on Sundays. A Blue Law still in effect in Colorado is that motor vehicle dealerships cannot be open on Sundays. Violation of this law provides serious penalties: “Any person, firm, partnership, or corporation who violates any of the provisions of this part 3 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than seventy-five dollars nor more than one thousand dollars, or by *imprisonment in the county jail for not more than six months*, or the court, in its discretion, may suspend or revoke the Colorado motor vehicle dealer's license... or by such *fine and imprisonment and suspension or revocation*.” How can this still be true and why? Car dealers cannot be open for business on Sundays in Colorado even though Sunday shopping for everything else (even alcohol) is freely allowed. That’s because the Colorado law says, simply, that car dealerships cannot be open on “the first day of the week commonly called Sunday.” Really?

1957 Colorado Supreme Court Decision

In *Mosko v. Dunbar*, 309 P.2d 581 (1957), the Moskos, were owners of a car dealership and were selling cars on Sundays and wanted to continue doing so. They were apparently charged under the statute and after a trial, the court found the Colorado Blue law to be constitutional. The Moskos and State Attorney General Dunbar then brought the case to the Colorado Supreme Court for a declaratory judgement on the constitutional issue. The Mosko’s contended that the Sunday closure law violated their constitutional rights by not allowing their business to be open on Sundays, and that such law violated their rights under the 14th Amendment which provides: “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” Other businesses were able to transact business on Sunday, but not car dealerships. The Colorado Supreme Court, ruled in favor of Attorney General Dunbar, by a slim majority, reaching to great lengths and archaic principals to uphold the long-standing Colorado Blue law that remains to this day.

What Did the Colorado Supreme Court Say?

Basically, since the law treated *all business selling vehicles* the same, the law was found to be constitutional. The court's holding was that: "It is to be observed that the ordinance before us applies alike to all those who are engaged in selling, bartering or exchanging new, used or secondhand motor vehicles.... the business of selling automobiles new or secondhand is as particular and distinct as the *business of barbering*." In 1957, apparently barbering is the reason why we can't buy a car on Sunday in 2018. In 1957 the court relied in part, on a blue law created to protect barbers from being open on Sundays because men commonly procrastinated to get a shave at the last minute and thereby, made barbers work all day Sunday, as well as Saturday. A Sunday blue law was therefore enacted to force men to be clean shaven no later than Saturday night. Apparently by the same logic, car dealers also need a day of rest or possibly, the public needs (and apparently continues to need) protection from car dealers by criminalizing the sale of cars, motorcycles, ATV's, Motorhomes, and trailers on Sundays. One dissenting justice clearly disagreed that the law was constitutional and opined they (the closure laws) "do not in any degree whatever concern the *public health, morals or welfare*...". It is interesting to "google" this topic and read not only the majority opinion in Mosko, but the several scholarly dissenting opinions that trace our Blue Law for historic times, and for historic reasons.

What Do Dealers Say?

Looking around the Internet, you will find pictures of car dealers proudly displaying banners proclaiming "On Sunday We Rest." When looking to other states (we are in the minority) it seems our law is outdated in not permitting cars sales on Sundays. Interestingly, *Internet* "sales offers" are active on Sundays for Colorado dealers and they will "chat" with you electronically, but don't step foot on the lot or there could be jail time involved. Still, car dealers must pay insurance, taxes and utilities for the day of closure, yet do not seem to question this law. The "march of time" has not changed this law, but maybe one day another "Mosko" will refuse to close his or her doors on Sunday and test this form of *legal discrimination* in today's courts, or the state legislature will recognize how this law limits enterprise and profits in Colorado and will act to repeal this unusual restraint on trade.

Do you have a legal question? Send your inquiry question to Jeff@klfpc.com. Appointments are available in both Black Hawk and Denver offices.

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