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The truth as I see it™

Idaho Common Sense™



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Blue laws December 8, 2008

The Founding Fathers built our nation with a religious foundation. I believe they wanted religion in government; but did they want government in religion?

Let us look at the 'blue' laws, created by well-meaning people to enforce moral standards, including keeping Sunday as a day of worship and rest. Most blue laws were passed before the Revolutionary War, before our Declaration of Independence, Constitution, and Bill of Rights. The term 'blue' probably originated sometime later, in the 1700s, when people living rigid moral codes were called blue.

The first blue law, enacted in Virginia in 1617, required all residents to attend church, using the militia to insure attendance. Another blue law, based on the belief that a child was always born on the same day of the week he or she was conceived, punished the parents of a child born on Sunday, because the parents violated the Sabbath nine months earlier.

Some blue laws persist today despite dubious legality and need. In 2005, a Massachusetts grocery store chain planned to keep their stores open on Thanksgiving. The state's Attorney General warned them of the criminal penalties for commercial activity on Thanksgiving, based on a nearly 400-year-old-law. And Bergen County, New Jersey maintains the strictest Sunday blue laws, with a universal ban on all selling.

Some of the most common blue laws continuing today involve alcohol. Sunday liquor laws created uproar in Colorado in 2007 during game four of the World Series. Those watching the game in person or in a sports bar could purchase alcohol, while those viewing the game at home could not, because of Colorado's blue law closing liquor stores on Sunday.

The two businesses that seem to remain a focus of blue laws are auto dealerships and liquor stores. Legislators allow most other businesses to determine when to open and close, but they must think that auto dealers and liquor store owners are simply unable to make those decisions.

Repeals of blue laws, neighboring counties with differing blue laws, the availability of Internet shopping 24 hours a day, and other considerations create some absurd and inconsistent blue laws.

There are places where you can sell pornography on Sunday but cannot take your daughter hunting, where you can purchase and consume alcohol in a restaurant but cannot purchase the same alcohol next door at the liquor store, and where you cannot buy groceries at a grocery store but can buy the same groceries at a drug store. This last blue law is the reason drug stores started selling groceries. Blue laws forbade grocery stores from opening on Sundays but allowed drug stores to stay open because of potential medical needs. Responding to customers' wants, drug stores started selling groceries to consumers on Sundays.

People oppose blue laws on mainly two levels. From a strictly business view, they allow unfair competition. Accessing the Internet, consumers can shop 24 hours a day. To demand a business close on Sunday gives an unfair advantage to those competing businesses that can access customers on Sunday.

The United States Supreme Court has upheld Sunday blue laws as constitutional saying they only mandate Sunday as a day of rest and are not an "establishment of religion." Despite these rulings, the other objection to blue laws is a constitutional argument that selecting Sunday as the "day of rest" intentionally or unintentionally supports those faiths whose Sabbath is Sunday;

ignoring Muslims' Friday Sabbath and Jews' Saturday Sabbath. Depending on their business, some Jews and Muslims are forced to close on the Christian Sabbath; but to honor their own Sabbath, they must close their business a second day of the week, a day their Christian competitors are open.

Are there any reasons to maintain blue laws? Some people argue we need a day of rest each week and the only way to make that happen is for the government to mandate business closures on Sunday. In fact, some business owners support the government forcing their closure on Sundays because they can have a day off knowing their competitors are also closed.

So what do we do with our blue laws? Do we repeal blue laws, abolishing a day of rest from our hectic, non-stop commercial world? Are we incapable of making these choices for ourselves, to take a day off without coercion from the government? Should we allow the government to decide if and when we need a day of rest?

Can the government constitutionally limit activities on Sunday that are legal any other day of the week? Despite Supreme Court support for Sunday blue laws, are they actually a violation of the First Amendment with "an establishment of religion?" If the Supreme court is going to support the constitutionality of legislating a day of rest, should it be a neutral day respectful of all Sabbaths?

Difficult questions. Hard to determine answers.

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