

**TO:** CITY MANAGER

1999 MAY 22

**FROM:** DIRECTOR PLANNING AND BUILDING

**SUBJECT: OPERATING HOURS OF PROVINCIALY REGULATED  
BUSINESS ESTABLISHMENTS**

**Purpose:** To provide Council with information regarding the regulation of hours of operation of provincially regulated businesses.

---

**RECOMMENDATION:**

1. **THAT** Council receive this report for information purposes.

**R E P O R T**

On 1999 January 25, a Notice of Motion was introduced to direct staff to investigate and report back on the feasibility and advisability of enacting a bylaw regulating the hours of operation of gaming establishments in Burnaby. This motion was subsequently lost on a tie vote. On 1999 February 8, Mayor Drummond brought back for reconsideration the Notice of Motion. Council then introduced and adopted an amendment which directed staff to include bars, pubs and other provincially regulated business establishments when investigating the feasibility of enacting a bylaw to regulate the hours of operation of gambling establishments.

The authority of municipalities to regulate the hours of operation of businesses is not specifically described in the Municipal Act. The regulation of hours of operation has, however, been considered within the scope of Section 679 (1) of the Municipal Act, as follows:

***Business regulation***

- 679 (1)** *For the purpose of protecting the public or preventing or minimizing nuisances and misleading business practices, a council may, by bylaw, regulate the carrying on of business in the municipality, to the extent not inconsistent with the intent of this or any other Act.*

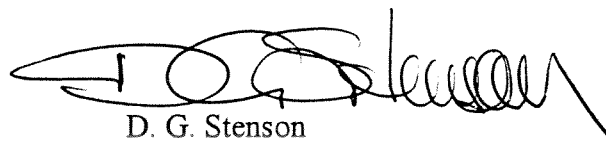
The Notice of Motion was reviewed with the City Solicitor. It was concluded that the regulation of businesses which are provincially regulated businesses, such as those governed by the Liquor Control and Licensing Act and where there are specific regulations on operating hours, would be

subject to the proviso in Section 679 (1) which states "...to the extent not inconsistent with the intent of this or any other Act". In other words, a Municipal bylaw which requires a business to close earlier than is permitted by the governing Provincial Act, or permits a business to stay open past the closing time required by the governing Provincial Act, would be considered ultra vires and unenforceable.

With respect to the regulation of the operating hours of gaming establishments, at this time there is no governing Provincial Act, however, the general parameters for operating hours are provided through Ministerial directive/government policy and with casinos, the operator enters into a contract stipulating the specific operating hours for that facility. Since there is currently no Provincial Act covering gaming, the City Solicitor advises that it is unclear whether the municipality could regulate the hours of operation if the regulation was inconsistent with Provincial government policy. However, it is clear that if the municipality were to attempt to introduce such a bylaw, that the Provincial government could pass the pertinent Act which would ensure the preeminence of the Provincial government in this area. It is also widely anticipated that the Gaming Act which is currently being considered by the Provincial government will include specific provisions to regulate hours of operation.

Therefore, it appears that while the City cannot regulate the hours of operation of business establishments that are regulated by Provincial Act, it may recommend to the Provincial government the appropriate hours of operation for such businesses, based on the local context.

This is for the information of Council.



D. G. Stenson  
Director Planning and Building

BW:gk

cc: City Solicitor  
Chief Licence Inspector  
Director Finance