

# NJ Court Upholds Citywide Business Curfew

by Robert Levy on May 6, 2013

Most businesses in Camden, N.J. must continue to shutter their doors at 11 p.m. Plaintiffs, including 7-Eleven, recently lost a lawsuit challenging the city's curfew, which is established by local ordinance.

Under the city's ordinance, businesses located within residential zones or located in a commercial or mixed zone situated less than 200 feet from a residential zone must be closed from 11 p.m. until 6 a.m. (the curfew is extended to 12 a.m. on Friday and Saturday). There are limited exceptions to the Camden business curfew, including pharmacies and gas stations. Businesses found in violation of the ordinance face suspension or revocation of their business license.

In *7-Eleven Inc. v. City of Camden*, CAM-L-5662-11, Superior Court Judge F.J. Fernandez-Vina refused to strike down the business curfew. He specifically rejected arguments that the ordinance overstepped the municipality's authority, finding that the city's goal of deterring crime around businesses in residential areas "is a valid exercise of police power by the governing body." He specifically cited testimony by defense experts that areas around the city's 26 late-night establishments had violent crime rates that doubled the city's average.

Fernandez-Vina was also not persuaded by arguments that the ordinance threatened the profitability of local businesses. As the New Jersey Law Journal reports, 7-Eleven argued at trial that its two Camden locations would lose 30 percent of their sales, while the owner of two Crown Fried Chicken stores in Camden testified that at least 30 percent of his income came from late-night customers. However, the judge concluded that plaintiffs "failed to show even by a preponderance of the evidence presented that they would suffer a financial loss of any significance if the stores were required to close."

As this case highlights, local ordinances may not always allow a company to operate under its existing business model. Therefore, it is important to thoroughly research all applicable rules and regulations before launching or expanding a New Jersey business.

*If you have any questions about this case or would like to discuss the legal issues involved, please contact me, Robert Levy, or the Scarinci Hollenbeck attorney with whom you work.*